

South Australia

Mining Regulations 1998

under the Mining Act 1971

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Part 1--Preliminary

1--Short title

These regulations may be cited as the Mining Regulations 1998.

4--Interpretation

(1) In these regulations, unless the contrary intention appears--

Act means the Mining Act 1971;

Chief Inspector means the Chief Inspector of Mines;

claim means a mineral claim or an access claim;

company means a company within the meaning of the Corporations Law;

holder, in relation to a mining tenement, means--

(a) in the case of a claim--the owner of the claim;

(b) in the case of a lease--the lessee;

(c) in the case of a licence--the licensee.

(2) The following are prescribed purposes under paragraph (a) of the definition of extractive minerals under the Act, namely chemical, cement, lime and glass manufacture, metallurgical flux, refractories, industrial fillers, and foundries, fertiliser, agricultural, jewellery and crafted ornamental uses.

(3) In these regulations, a reference to a form of a particular number is a reference to the form of that number set out in Schedule 1.

5--Special approval required in certain cases

(1) A person must not, for the purpose of exercising a right under the Act or these regulations, enter on land that constitutes a parkland or recreation ground under the care of a council or on land dedicated or reserved by the Governor under the Crown Lands Act 1929 without the written approval of the Minister.

(2) An application for the approval of the Minister under subregulation (1) must--

(a) be made in writing; and

(b) state the name, nature and locality of the relevant land; and

(c) provide details concerning the proposed operation or activity on the land.

(3) A person must not exercise a right under the Act or these regulations on a public road, street or highway without the written consent of the authority that has control of the road, street or highway.

(4) However, a consent under subregulation (3) is not required to peg out an area for a claim on land consisting (partially or entirely) of a public road, street or highway.

(5) An application to register a claim on land consisting (partially or entirely) of a public road, street or highway must be accompanied by the consent required under subregulation (3).

6--Special conditions for tenements over the sea bed

(1) A person who obtains a mining tenement over a part of the sea bed

declared to be mineral lands under the Act is liable for, and will indemnify and keep indemnified the South Australian Government against, all actions, suits, claims and demands whatsoever resulting from the erection or placing by the person of a structure or object on or over that part of the sea bed, or the escape of a deleterious substance into the sea, while conducting mining operations associated with the mining tenement and, for this purpose, a mining tenement must not be registered or granted over a part of the sea bed unless and until the relevant person has entered into an agreement with the Minister (to the Minister's satisfaction) that complies with the requirements of subregulation (2).

(2) An agreement complies with the requirements of this subregulation if the relevant person agrees--

(a) to indemnify and to keep indemnified the South Australian Government against all actions, suits, claims and demands whatsoever resulting from the erection or placing by the person of a structure or object on or over a part of the sea bed, or the escape of a deleterious substance into the sea, while conducting mining operations associated with the mining tenement; and

(b) to remove any such structure or object if or when directed to do so by a Minister and, in default of so removing it, to pay to the Crown all costs and expenses incurred by a Minister in undertaking its removal.

(3) A person holding a mining tenement must not--

(a) permit the escape of a deleterious substance into the sea; or

(b) fail to remove a structure or object placed on or over a part of the sea bed if directed to do so by a Minister.

(4) In the event of a contravention of subregulation (3)(b), a Minister may take steps to ensure that the structure or object is removed and recover the reasonable costs and expenses incurred in removing it as a debt from the holder of the tenement.

(5) A person who obtains a mining tenement over a part of the sea bed must not commence mining operations associated with the tenement unless or until the Minister for the time being administering the Fisheries Act 1982 certifies that the Minister is satisfied that the operations will not contravene the Fisheries Act 1982.

(6) A reference in this regulation to mining operations associated with a mining tenement includes any activity undertaken for the purposes of, or incidental to, the conduct of mining operations.

(7) In this regulation--

Minister means a Minister of the Crown;

South Australian Government means the Crown in right of the State and includes all Ministers of the Crown.

Part 1A--Royalty

6A--Prescribed costs (section 17)

For the purposes of section 17(8) of the Act, the costs of the

following kinds are prescribed:

(a) costs (including GST) genuinely incurred in transporting the minerals from the relevant tenement to a port (including, for example, packaging, storage, loading, permit, fees and insurance costs);

(b) costs genuinely incurred in shipping the minerals from a port to a genuine purchaser in a sale at arms length;

(c) any other cost determined by the Minister to be a cost of a prescribed kind for the purposes of that section.

6B--Means of payment (section 17G)

For the purposes of section 17G of the Act, royalty may be paid by means of electronic funds transfer to an account nominated by the Minister.

Part 2--Miner's rights

7--Application for a miner's right (section 20)

An application for a miner's right must be in the form of Form 1.

8--Issue of miner's right

A miner's right must not be issued in the name of more than one person.

9--Renewal of miner's right

An application for the renewal of a miner's right must be in the form of Form 2.

10--Issue of duplicate if miner's right lost etc

If--

(a) the holder of a miner's right satisfies a mining registrar, by a declaration in the form of Form 3, that the miner's right has been lost or destroyed; or

(b) a miner's right that has become illegible in a particular is delivered to a mining registrar,

the mining registrar may, on payment of the fee specified in Schedule 2, issue a duplicate of the miner's right (and the former miner's right is null and void).

11--Surrender of miner's right

A person may, by notice in the form of Form 4, surrender a miner's right to the Mining Registrar.

Part 3--Claims

Division 1--Mineral claims

12--Size (section 23)

The maximum permissible area of a mineral claim that can be pegged out is 250 hectares.

13--Shape of claim

(1) Subject to these regulations, the shape of a mineral claim must, as far as practicable, approximate a rectangle, the length of the longer side of which must not exceed five times the length of the shorter side.

(2) The length of the longest side of a mineral claim must not exceed 2 kilometres.

(3) If it is not practicable to comply with subregulation (1) because of the position of adjoining boundaries for other areas, or natural features, an intervening or irregularly shaped piece of land may be pegged out as a mineral claim.

14--Mode of taking possession

(1) This regulation sets out the requirements for a valid pegging of a mineral claim under the Act.

(2) A post must be securely placed in the ground at each corner of the relevant area.

(3) Each post must--

(a) be devoid of marks or writing that refers to a previous pegging; and

(b) have a cross-sectional dimension equal to or exceeding 7 centimetres; and

(c) project at least 75 centimetres above the ground; and

(d) clearly show the number (or numbers) of the miner's right (or rights) by virtue of which the claim is pegged out, together with the date of pegging (either by direct markings on the post or by the secure attachment of a notice to the post), as near to the top of the post as practicable; and

(e) if the person is pegging out more than one claim on the same parcel of land on the same day, clearly show the number of the claim, as pegged out on that land on that day, using consecutive numbers starting with the number 1.

(4) The direction of the boundaries of the claim must be clearly indicated by trenches, piles of stones, or substantial indicator markers fixed to each post.

(5) If it is impracticable to comply with a preceding subregulation, a person may peg out a mineral claim in some other manner but, in such a case, the person must lodge a notice of the manner of pegging at the nearest office of the Mining Registrar to the area that has been pegged out.

(6) A notice under subregulation (5)--

(a) must be in writing; and

(b) must be given within seven days after the pegging.

(7) If the Mining Registrar, or a person authorised by the Mining Registrar for the purposes of this regulation, considers that the method of pegging out an area is unsatisfactory, he or she may order that a different method be used.

(8) A person to whom an order is directed under subregulation (7) must immediately comply with the order.

15--Maintenance of claims

The holder of a mineral claim must maintain all posts, boundary indicator markers and notices on the claim in the positions required by these regulations.

16--Application for registration of claim (section 24)

(1) An application for registration of a mineral claim must be in the form of Form 5.

(2) The application must be accompanied by the appropriate fee prescribed by Schedule 2 and such information (including a survey) as a mining registrar may require.

(3) Subject to the Act, a mining registrar must on the registration of a mineral claim--

(a) complete a certificate of registration to be given to the applicant; and

(b) enter full particulars of the claim in the Mining Register.

17--Display of registration number

The owner of a registered mineral claim must ensure that the registration number for the claim is clearly displayed on each post marking out the area of the claim within 14 days after registration.

18--Cancellation of claim

(1) If the Mining Registrar discovers or determines, after a mineral claim is registered, that the claim should not have been registered on account of a contravention of, or a failure to comply with, a provision or requirement of the Act or these regulations, the Mining Registrar may, by notice in writing to the owner of the claim, give notice of his or her intention to cancel the registration of the claim on a day specified in the notice (which must be at least 21 days after the date of the notice).

(2) A person who receives a notice under subregulation (1) may apply to the Warden's Court to have the decision of the Mining Registrar reviewed.

(3) An application for review must be made within 14 days of service of the notice (unless the Warden's Court allows an extension of time).

(4) Pending the determination of an application for review, the Mining Registrar must not cancel the registration of the claim.

(5) At the conclusion of the review, the Warden's Court may--

(a) confirm the decision of the Mining Registrar; or

(b) cancel the notice.

(6) Subject to a decision of the Warden's Court under this regulation, the Mining Registrar may, after the day specified in a notice under this regulation, cancel the registration of the relevant claim.

19--Surrender of claim (section 26(4))

(1) The owner of a registered mineral claim who wants to surrender the claim must, subject to this regulation--

(a) remove the posts marking out the area of the claim; and

(b) lodge a notice of surrender at an office of the Mining Registrar.

(2) A person is not required to comply with subregulation (1) (a) if an inspector, the Mining Registrar or a person authorised in writing by the Mining Registrar issues a certificate of exemption from the requirement on the basis that it is unreasonable (for reasons of safety or otherwise) to require the posts to be removed.

(3) A notice of surrender must be in the form of Form 6.

(4) A surrender will be taken to be effective when the requirements of the Act, this regulation and any conditions attaching to the claim have been satisfied.

20--Insufficiently defined claims

(1) If a mineral claim is not defined by posts and boundary markers in accordance with the requirements of these regulations, a person authorised by the Director for the purposes of this regulation may, by notice in writing to the owner of the claim, require the owner to rectify the situation within a specified period (of at least seven days).

(2) If a notice under subregulation (1) is not complied with within the time specified by the notice, the Director may apply to the Warden's Court for an order cancelling the claim and for appropriate consequential orders (and the Warden's Court has jurisdiction to make those orders).

21--Reduction in area of a claim

(1) The owner of a mineral claim may, with the approval of a mining registrar, reduce the area of the claim.

(2) An approval under subregulation (1) may be given subject to conditions specified by the mining registrar (and the owner of the claim must, if the area of the claim is reduced, comply with those conditions).

(3) The requirements of regulation 13 relating to the shape of a claim do not apply if the area of a mineral claim is reduced under this regulation.

22--Continuation of claim if application made for lease

A mineral claim will not lapse through the expiry of its registration if at the date on which it would otherwise expire an application has

been made for a mining lease or a retention lease and the application has not been decided.

23--Cessation of claim if lease granted

If the Minister grants a mining lease or a retention lease over the whole or part of the area of a mineral claim, the claim will cease and determine.

Division 2--Access claims

24--Determination of site

The holder of a subsurface stratum mining tenement may prospect and carry out on the surface stratum geophysical surveys approved by the Director in order to determine the site of an access claim.

25--Size

The maximum permissible area of an access claim is 2 500 square metres.

26--Shape of claim

- (1) The shape of an access claim must approximate a square.
- (2) The length of a side of an access claim must not exceed 50 metres in length.

27--Mode of taking possession

(1) This regulation sets out the requirements for a valid pegging of an access claim under the Act.

(2) A post must be securely placed in the ground at each corner of the relevant area.

(3) Each post must--

(a) be devoid of marks or writing that refers to a previous pegging; and

(b) have a cross-sectional dimension equal to or exceeding seven centimetres; and

(c) project at least 75 centimetres from the ground; and

(d) clearly show the number and type of subsurface tenement by virtue of which the claim is pegged out, together with the date of pegging (either by direct markings on the post or by the secure attachment of a notice to the post) as near to the top as practicable; and

(e) if the person is pegging out more than one claim on the same parcel of land on the same day, clearly show the number of the claim, as pegged out on that land on that day, using consecutive numbers starting with the number 1.

(4) The direction of the boundaries of the claim must be clearly indicated by substantial indicator markers fixed to each post.

28--Maintenance of claims

The holder of an access claim must maintain all posts, boundary indicator markers and notices on the claim in the positions required by these regulations.

29--Application for registration of claim (section 63C)

(1) An application for registration of an access claim must be in the form of Form 7.

(2) The application must be accompanied by the appropriate fee prescribed by Schedule 2 and such information (including a survey) as a mining registrar may require.

(3) Subject to the Act, a mining registrar must on the registration of an access claim--

(a) complete a certificate of registration; and

(b) enter full particulars of the claim in the Mining Register.

30--Display of registration number

The owner of a registered access claim must ensure that the registration number for the claim is clearly displayed on each post marking out the area of the claim within seven days after registration.

31--Renewal of access claims (section 63E)

(1) An application for the renewal of an access claim must be made on or before the day on which the registration of the claim is due to expire.

(2) The application must be made in the form of Form 8.

(3) An application must be accompanied by the appropriate fee under Schedule 2.

32--Surrender of claim (section 63E)

(1) The owner of a registered access claim who wants to surrender the claim must--

(a) remove the posts marking out the area of the claim; and

(b) lodge a notice of surrender at an office of the Mining Registrar.

(2) A notice of surrender must be in the form of Form 9.

Part 4--Leases

Division 1--Mining leases

33--Prescribed classes of lease (section 34(3))

The following classes of mining leases are prescribed:

(a) mineral lease;

(b) extractive minerals lease.

34--Nature of lease

(1) Subject to the Act, a mineral lease entitles the lessee to carry out mining operations specified in the lease for the recovery of minerals other than extractive minerals.

(2) Subject to the Act, an extractive minerals lease entitles the lessee to carry out mining operations specified in the lease for the recovery of extractive minerals.

35--Application for a lease (section 35)

(1) An application for a mining lease must be in the form of Form 10.

(2) A statement of the mining operations that the applicant proposes to carry out under the lease and the measures that the applicant proposes to take to remedy damage to land that may result from the proposed mining operations must be in the form of Form 11.

(3) If the owner of a mineral claim is deceased or bankrupt or, the case of a company, is under official management or in liquidation or receivership, an application for a lease may be made by a trustee, manager, receiver or liquidator (as may be appropriate).

36--Display of lease number

(1) An applicant for a lease who is notified that the Minister has approved his or her application must, within 14 days after receipt of the notification, ensure that the number and class of the lease are clearly displayed on each post marking out the relevant area.

(2) For the purposes of subregulation (1), the class of lease must be designated by "ML" for a mineral lease or "EML" for an extractive minerals lease, as appropriate.

(3) The person must ensure that all notices relating to the claim are removed at the time that the information is recorded on the posts under subregulation (1).

(4) If approval is only given for a portion of the land comprised in a claim, the lessee must, within 14 days of the notification referred to in subregulation (1)--

(a) redefine the boundaries of the lease, either by repositioning existing posts or by placing new posts at the corners of the area in respect of which the lease is granted; and

(b) remove any posts outside the area in respect of which the lease is granted.

37--Superimposed leases

(1) If a mining lease of one class is granted over land held as a mining lease of the other class and the lessee is the same person, the lessee need only maintain one post at each corner of the relevant area, but each post must have on it, or have on a notice attached to it, the numbers and classes of both mining leases.

(2) If a superimposed tenement covers a part of the prior tenement, the superimposed tenement must be marked out by independent posts.

(3) The annual rental payable on superimposed leases will be waived for

all leases except the lease with the highest rental.

(4) If a superimposed lease is held by another party, annual rent is payable for both leases.

Division 2--Retention leases

38--Application for a lease (section 41B)

(1) An application for a retention lease must be in the form of Form 12.

(2) If the owner of a mineral claim is deceased or bankrupt or, in the case of a company, is under official management or in liquidation or receivership, an application for a lease may be made by a trustee, manager, receiver or liquidator (as may be appropriate).

39--Display of lease number

(1) An applicant for a lease who is notified that the Minister has approved his or her application must, within 14 days after the receipt of the notification, ensure that the number of the lease and the designation "RL" are clearly displayed on each post marking out the relevant area.

(2) The person must ensure that all notices relating to the claim are removed at the time that the information is recorded on the posts under subregulation (1).

(3) If approval is only given for a portion of the land comprised in a claim, the lessee must, within 14 days of the notification referred to in subregulation (1)--

(a) redefine the boundaries of the lease, either by repositioning existing posts or by placing new posts at the corners of the area in respect of which the lease is granted; and

(b) remove any posts outside the area in respect of which the lease is granted.

40--Cessation if mining lease granted

If the Minister grants a mining lease over the whole or part of the area comprised in a retention lease, the retention lease will cease to operate in relation to the area comprised in the mining lease.

Division 3--Common provisions

41--Notification of proposed terms and conditions

(1) If the Minister determines on application under the Act that he or she is willing to grant to the applicant a mining lease or a retention lease (subject to the operation of the Act and these regulations), the Minister must advise the applicant by notice in writing of the terms and conditions under which the Minister is prepared to do so.

(2) An applicant must, within 21 days after the date of a notice under subregulation (1) or such longer period as the Mining Registrar may allow, notify the Minister in writing as to whether the applicant is willing to accept the terms and conditions notified under subregulation (1).

(3) If an applicant notifies the Minister under subregulation (2) that the applicant accepts the terms and conditions, and pays the appropriate rental under the Act, the Minister will approve the application.

(4) If an applicant fails to provide a notification within the time allowed under subregulation (2), the Minister may assume that the application has been withdrawn.

42--Terms and conditions of a lease

A mining lease or a retention lease is subject to the following terms and conditions:

(a) the lessee must pay all rates, taxes and other imposts that become payable in respect of the land;

(b) --

(i) in the case of a mining lease--the lessee must ensure that mining operations on the land are carried out in an orderly and skilful manner in accordance with a program for mining and rehabilitation of the land approved, from time to time, by the Minister;

(ii) in the case of a retention lease--if the lease stipulates that the lessee has rights to conduct mining operations on the land, the lessee must ensure that the mining operations are carried out in an orderly and skilful manner in accordance with a program for mining and rehabilitation of the land approved, from time to time, by the Minister;

(c) the lessee must submit to the Director, from time to time at the Director's request, a current plan of survey of the land in the form required by the Director;

(d) if the land is subject to a pastoral lease under the Pastoral Land Management and Conservation Act 1989, the lessee must give the pastoral lessee access to the land for domestic purposes and for watering stock (although the lessee is not required to give the pastoral lessee access to water provided or stored by the lessee by artificial means).

43--Conditions to be observed after notification of approval

(1) If or when the applicant for a mining lease or a retention lease receives written notification that the lease has been approved by the Minister, the applicant will, during the period between the date of the notification and the execution of the lease document, be taken to be the lessee of the land in respect of which the lease is sought.

(2) A person who is taken to be a lessee by virtue of subregulation (1) must, during the period that applies under that subregulation, comply with all proposed terms and conditions of the lease as if the lease document had been executed.

(3) If a person fails to execute and return a lease document within 90 days of the document being forwarded to the person for execution as lessee, the Minister may, by notice in the Gazette, withdraw his or her approval of the lease, and the lease will then cease and determine.

44--Annual rent

(1) The rental payable for a mining lease or a retention lease is prescribed by Schedule 3.

(2) The rent payable for a lease will be calculated according to the total amount of land in respect of which the lease is granted, and no allowance will be made for land that is not available for mining or other activities under the lease.

(3) The rent payable for a lease must be paid annually in advance to the Director at the head office of the Mineral Resources Group of the Department of the Minister.

45--Maintenance of leases

(1) The lessee under a mining lease or a retention lease must, during the term of the lease, and any extension or renewal of the lease, maintain all posts, boundary indicator markers and notices in the positions required by these regulations.

(2) However, subregulation (1) does not apply in the case of a retention lease if the lessee furnishes the Director with a survey of the area of the retention lease acceptable to the Director.

(3) A survey accepted under subregulation (2) must be registered in the Mining Register.

46--Transfer of leases

(1) The following procedures apply to the transfer of a mining lease or a retention lease:

(a) an application for the Minister's consent to the transfer of the lease must be made in the form of Form 13 (as part of the proposed instrument of transfer);

(b) the Minister may approve or refuse the application or may require the provision of further information, including particulars of the arrangements that will apply to ensure compliance with requirements of the lease relating to the rehabilitation of land;

(c) the Minister's consent will operate subject to the payment of any outstanding fees or rental with respect to the lease and the resolution of any issues relating to a bond under the Act;

(d) the instrument of transfer, after payment of stamp duty, must be lodged with a mining registrar, together with the transferor's copy of the lease, the fee prescribed by Schedule 2, any other outstanding fees or rentals with respect to the lease, and any bond, within 30 days after the Minister gives his or her consent to the transfer, or such later time as the Mining Registrar may allow;

(e) the late lodgment fee prescribed by Schedule 2 is payable if an instrument of transfer is lodged with a mining registrar later than 30 days after the Minister gives his or her consent to the transfer;

(f) on due receipt of the documents and other items required under paragraphs (d) and (e) (including evidence of the payment of stamp duty), a mining registrar must enter a memorial of the transfer in the Mining Register, endorse particulars of the transfer on the lessee's copy of the lease, and return the lease to the transferee;

(g) a transfer does not take effect until a memorial of the transfer is entered in the Mining Register under paragraph (f).

(2) If application is made to transfer a lease for which a lease document has not yet been issued, the procedure under subregulation (1) must be carried out so far as is practicable with the lease document being issued in the name of the transferee, containing any endorsements considered necessary by the Mining Registrar.

47--Surrender of lease

(1) A lessee may apply for the surrender of all or a portion of a mining lease or a retention lease by making application for the consent of the Minister in the form of Form 14.

(2) The Minister may, after being satisfied that no issues relating to rent, royalties or rehabilitation are outstanding, approve the application.

(3) The Minister may, if the Minister thinks fit, waive compliance with a requirement under subregulation (2).

48--Rights of surrender

A right of surrender under the Act and these regulations are subject to the rights of persons claiming from or under a lessee.

49--Renewal of leases

(1) An application for the renewal of a mining lease must be made in the form of Form 15.

(2) An application for the renewal of a retention lease must be made in the form of Form 16.

(3) An application under subregulation (1) or (2) must be accompanied by the appropriate fee under Schedule 2 and the rental payment required under Schedule 3.

Part 5--General provisions as to claims and leases

50--Working conditions

(1) Unless otherwise determined by the Warden's Court, a mineral claim must, within 30 days after the date of its registration or, if the claim is over native title land, within 30 days after registration of an agreement or determination under Part 9B of the Act, be diligently worked by at least one person on the basis of at least 100 hours of work per calendar month.

(2) However, the holder of a mineral claim is exempt from the operation of subregulation (1) if application is made for a mining lease or a retention lease until the application is determined.

(3) Unless otherwise determined by the Warden's Court, a mining lease must, immediately after the Minister gives notice that the lease has been approved, be diligently worked--

(a) by at least one person on the basis of at least 100 hours of work per calendar month; or

(b) as specified in the lease; or

(c) as approved by the Minister from time to time.

(4) The following will be taken to be within the concept of diligently working a claim or lease--

(a) the performance of mining operations on the claim or lease; and

(b) work associated with the extraction of, or making merchantable, minerals located within, or recovered from, the claim or lease where that work is carried out on site; and

(c) the preparation, erection or maintenance of machinery or equipment used in connection with mining operations where the work is carried out on site.

(5) In the case of a lease, work carried out by the holder of an option to purchase the lease may be counted under this regulation.

(6) The requirements of this regulation do not apply between 15 December in each and 14 March in the following year (both dates inclusive).

51--Amalgamation of working conditions

(1) Subject to this regulation, the working conditions of up to four mineral claims held by the same person may be amalgamated for a period not exceeding two years at any one time under the authority of an order of the Warden's Court.

(2) Subject to this regulation, the working conditions of any number of mining leases of the same class held by the same person may be amalgamated for a period not exceeding seven years at any one time under the authority of an order of the Warden's Court.

(3) The Warden's Court may authorise the amalgamation of the working conditions of one or more claims with the working conditions of one or more leases if--

(a) the holder of the claim or claims and the lessee is the same person; and

(b) the number of claims included in the amalgamation does not exceed the number of leases.

(4) If the Minister grants to the owner of a registered mineral claim a mining lease over the land comprised in the claim and the Warden's Court has previously authorised the amalgamation of the claim with one or more other tenements, the authorisation will continue to apply with respect to the lease (until the date of expiry of the relevant order).

(5) A person may object to an application to amalgamate working conditions and the objection will be heard and determined by the Warden's Court.

(6) The Warden's Court may during the currency of an amalgamation, if satisfied that it is appropriate to do so, on application, cancel an amalgamation.

(7) The cancellation or expiry of a tenement that has been amalgamated does not cancel an amalgamation if two or more tenements remain and those tenements are contiguous.

(8) The Warden's Court may determine that an order of the court under this regulation will be taken to have had effect from the date on which the relevant application was received by the court.

(9) If the working conditions of two or more tenements are amalgamated, the total working conditions of those tenements will be taken to have been complied with if the total number of hours required to be worked on the individual tenements are worked anywhere within the boundaries of the amalgamated tenements.

52--Suspension of working conditions

(1) The owner of a mineral claim or the lessee under a lease may apply to the Warden's Court for the suspension of working conditions on the claim or lease.

(2) A person may object to an application under subregulation (1) and the objection will be heard and determined in the Warden's Court.

(3) The Warden's Court may, after considering the application and any objection under subregulation (2)--

(a) by order, approve the suspension of working conditions; or

(b) reject the application.

(4) An order under subregulation (3) (a)--

(a) may be given subject to conditions determined by the Warden's Court and specified in the order; and

(b) will operate for a period, not exceeding six months at any one time, specified in the order.

(5) The Warden's Court may determine that the order will be taken to have had effect from the date on which the relevant application was received by the court.

(6) If--

(a) an order under subregulation (3) (a) is given subject to conditions; and

(b) the person who obtained the order contravenes, or fails to comply with, a condition,

the Warden's Court may, on application by the Director or the holder of a miner's right, revoke the order.

(7) The operation of an order for the suspension of working conditions is not affected by a transfer of the relevant claim or lease.

(8) If the Minister grants to the owner of a registered mineral claim a mining lease over the land comprised in the claim and the Warden's Court has previously approved the suspension of working conditions on the claim, the approval will continue to apply with respect to the lease (until the date of expiry of the relevant order).

(9) A person who has obtained an order approving the suspension of working conditions may place a notice on the tenement stating that the working conditions have been suspended.

(10) This regulation does not affect the exemption from the requirement to work a tenement between 15 December in each year and 14 March in the following year but an application for the suspension of working conditions will (insofar as is relevant to the particular time of the year) be taken to include the period running between those two dates (inclusive).

53--Exemptions

(1) The owner of a mineral claim or the lessee under a lease will not be liable to a penalty, or to the forfeiture of the tenement, on account of a failure to comply with the requirements of these regulations relating to working conditions if--

(a) the failure is due to illness, or absence on urgent work in the public interest; or

(b) the failure is due to flood, drought or other act of nature; or

(c) the failure is due to an order of a court that specifically prevents the person working the claim or lease.

(2) However--

(a) subregulation (1)(a) or (b) will only apply for two months in respect of a particular event or circumstance; and

(b) subregulation (1)(a) and (b) do not apply in respect of a particular event or circumstance that occurred or existed before the area for the claim or lease was pegged out.

54--Roads and pipelines across tenements

(1) The Warden's Court may, on application, approve the making, laying or use of a road or pipeline on or over a claim or lease if the Warden's Court is satisfied that the road or pipeline is necessary for the efficient working of another tenement, or for use by the public.

(2) An approval under subregulation (1) may be given subject to directions or conditions specified by the Warden's Court (which may include provision for the payment of compensation to the holder of the tenement that will be affected by the making, laying or use of the road or pipeline).

(3) A person must not breach, or fail to comply with, a direction or condition under subregulation (2).

Part 6--Licences

Division 1--Exploration licences

55--Notification of proposed terms and conditions

(1) If the Minister determines on application under the Act that he or she is willing to grant to the applicant an exploration licence (subject to the operation of the Act and these regulations), the

Minister must advise the applicant by notice in writing of the terms and conditions under which the Minister is prepared to do so.

(2) An applicant must, within 21 days after the date of a notice under subregulation (1) or such longer period as the Mining Registrar may allow, notify the Minister in writing as to whether the applicant is willing to accept the terms and conditions notified under subregulation (1).

(3) If an applicant notifies the Minister under subregulation (2) that the applicant accepts the terms and conditions, and pays the appropriate fee under section 31 of the Act, the Minister will approve the application.

(4) If an applicant fails to provide a notification within the time allowed under subregulation (2), the Minister may assume that the application has been withdrawn.

56--Conditions of an exploration licence

An exploration licence is subject to the following conditions:¹

(a) the licensee must, as soon as reasonably practicable, report to the Director the discovery on the land of minerals potentially capable of economic production;

(b) the licensee must conduct operations under the licence (including managing waste resulting from mining operations) in accordance with a program approved, from time to time, by the Minister designed to--

(i) prevent pollution to or contamination of surface or underground waters; and

(ii) minimise surface damage to the land; and

(iii) ensure that, in drilling or other underground investigations, no interconnection between groundwater aquifers occurs;

(c) the licensee must obtain the approval of the Director before any of the following occurs (or begins) in connection with operations conducted under the licence:

(i) construction of a major campsite or new track; or

(ii) upgrading of a track;

(d) the licensee must ensure that the use of vehicles in connection with operations conducted under the licence off existing roads or tracks or tracks approved by the Director, is kept to a minimum;

(e) the licensee must give written notice of the following matters to the Director:

(i) a proposal to carry out an airborne survey of the land (including details of the type of survey, the area to be surveyed, flight line spacing and flight height); or

(ii) a proposal to investigate the use of groundwater on the land for the purpose of water supplies, de-watering, in-site leaching, waste disposal or other purpose;

(f) the licensee must allow an inspector or authorised person under the Act, at any reasonable time, to enter and remain on the land for the purpose of surveying the land and examining the condition of the land;

(g) the licensee must within 60 days after making a request to the Minister for a reduction in the area of the land in respect of which the licence operates submit to the Minister a technical report of the exploratory operations carried out in the area sought to be excluded from the licence;

(h) exploration or other reports, and geological data and samples, required to be submitted under the Act to the Minister or the Director must be submitted by times, and in a manner and form, determined by the Director.

Note--

1 Expenditure obligations will be included in conditions imposed by the Minister under section 30(1)(b) of the Act.

57--Annual fee

(1) The annual fee for an exploration licence under section 31 of the Act is prescribed by Schedule 3.

(2) The fee payable will be calculated according to the nominal area of the licence, and no allowance will be made for land that is not available for exploration.

58--Cessation of tenement or private mine

If a mining tenement or private mine within the area of an exploration licence ceases to exist, the area of land within the mining tenement or private mine will be incorporated into the area of the licence.

Division 2--Miscellaneous purposes licences

59--Application for a licence (section 53)

An application for a miscellaneous purposes licence must be in the form of Form 17.

60--Notification of proposed terms and conditions

(1) If the Minister determines on application under the Act that he or she is willing to grant to the applicant a miscellaneous purposes licence (subject to the operation of the Act and these regulations), the Minister must advise the applicant by notice in writing of the terms and conditions under which the Minister is prepared to do so.

(2) An applicant must, within 21 days after the date of a notice under subregulation (1) or such longer period as the Mining Registrar may allow, notify the Minister in writing as to whether the applicant is willing to accept the terms and conditions notified under subregulation (1).

(3) If an applicant notifies the Minister under subregulation (2) that the applicant accepts the terms and conditions, and pays the appropriate rental under the Act, the Minister will approve the application.

(4) If an applicant fails to provide a notification within the time allowed under subregulation (2), the Minister may assume that the application has been withdrawn.

61--Size

The maximum permissible area of a miscellaneous purposes licence is 250 hectares.

62--Mode of taking possession

(1) The applicant for a miscellaneous purposes licence must peg out the area of the licence in accordance with the requirements of this regulation.

(2) A post must be securely placed in the ground at each corner of the relevant area.

(3) Each post must--

(a) be devoid of marks or writing that refers to a previous pegging; and

(b) have a cross-sectional dimension equal to or exceeding 7 centimetres; and

(c) project not less than 75 centimetres above the ground; and

(d) clearly display a notice of the person's intention to apply for a miscellaneous purposes licence.

(4) The direction of the boundaries of the area must be clearly indicated by trenches, piles of stones, or substantial indicator markers fixed to each post.

(5) A person who has pegged out an area for a miscellaneous purposes licence must lodge an application for the licence within 14 days after the pegging.

63--Display of licence number

(1) An applicant for a miscellaneous purposes licence who is notified that the Minister has approved his or her application must, within 14 days after the receipt of the notification, ensure that the number of the licence and the designation "MPL" are clearly displayed on each post marking out the relevant area.

(2) The person must ensure that all notices relating to the intention to apply for the licence are removed at the time that the information is recorded on the posts under subregulation (1).

64--Annual rent

(1) The annual rental for a miscellaneous purposes licence is prescribed by Schedule 3.

(2) The rent payable will be calculated according to the nominal area of the licence, and no allowance will be made for land that is not available for use under the licence.

(3) The rent payable for the licence must be paid annually in advance

to the Director at the head office of the Mineral Resources Group of the Department of the Minister.

65--Maintenance of licence

The licensee under a miscellaneous purposes licence must, during the term of the licence, and any extension or renewal of the licence, maintain all posts, boundary indicator markers and notices in the positions required by these regulations.

66--Renewal of licence

(1) An application for the renewal of a miscellaneous purposes licence must be in the form of Form 18.

(2) An application under subregulation (1) must be accompanied by the appropriate fee under Schedule 2 and the rental payment required under Schedule 3.

Division 3--Common provisions

67--Conditions to be observed after notification of approval

(1) If or when the applicant for an exploration licence or a miscellaneous purposes licence receives written notification that the licence has been approved by the Minister, the applicant will, during the period between the date of the notification and the execution of the licence document, be taken to be the licensee of the land in respect of which the licence is sought.

(2) A person who is taken to be a licensee by virtue of subregulation (1) must, during the period that applies under that subregulation, comply with all proposed terms and conditions of the licence as if the licence document had been executed.

(3) If a person fails to execute and return a licence document within 90 days of the document being forwarded to the person for execution as licensee, the Minister may, by notice in the Gazette, withdraw his or her approval of the licence, and the licence will then cease and determine.

68--Transfer of licences

(1) The following procedures apply to the transfer of an exploration licence or a miscellaneous purposes licence:

(a) an application for the Minister's consent to the transfer of the licence must be made in the form of Form 19 (as part of the proposed instrument of transfer);

(b) the Minister may approve or refuse the application or may require the provision of further information, including particulars of the arrangements that will apply to ensure compliance with requirements of the licence relating to the rehabilitation of land;

(c) the Minister's consent will operate subject to the payment of any outstanding fees or rental with respect to the licence and the resolution of any issues relating to a bond under the Act;

(d) the instrument of transfer, after payment of stamp duty, must be lodged with a mining registrar, together with the transferor's copy of

the licence, the fee prescribed by Schedule 2, any outstanding fees or rentals with respect to the licence, and any bond, within 30 days after the Minister gives his or her consent to the transfer, or such later time as the Mining Registrar may allow;

(e) the late lodgment fee prescribed by Schedule 2 is payable if an instrument of transfer is lodged with a mining registrar later than 30 days after the Minister gives his or her consent to the transfer;

(f) on due receipt of the documents and other items required under paragraphs (d) and (e) (including evidence of the payment of stamp duty), a mining registrar must enter a memorial of the transfer in the Mining Register, endorse particulars of the transfer on the licensee's copy of the licence, and return the licence to the transferee;

(g) a transfer does not take effect until a memorial of the transfer is entered in the Mining Register under paragraph (f).

(2) If application is made to transfer a licence for which a licence document has not yet been issued, the procedure under subregulation (1) must be carried out so far as is practicable with the licence document being issued in the name of the transferee, containing any endorsements considered necessary by the Mining Registrar.

69--Surrender of licence

(1) A licensee may apply for the surrender of all or a portion of an exploration licence or miscellaneous purposes licence by making application to the Minister in the form of Form 20.

(2) The Minister may, after being satisfied that no rent, royalties or fees are outstanding, approve the application.

(3) The Minister may, if the Minister thinks fit, waive compliance with a requirement under subregulation (2).

Part 7--Entry on land

70--Notice of entry

(1) The notice of entry required under sections 58 and 58A of the Act must be in the form of Form 21.

(2) A mining operator must ensure that a duplicate copy of each notice of entry served under section 58A of the Act is retained by or on behalf of the operator.

(3) A person must, on serving a notice of entry under section 58A of the Act, immediately record information about the service of the notice by completing on the duplicate copy of the notice the appropriate part of the form that relates to service of the notice.

(4) An agreement between a mining operator and an owner of land that provides that a prescribed notice of entry is not required under section 58A of the Act must--

(a) be in writing; and

(b) be signed by the parties to the agreement.

71--Use of declared equipment

The notice of an intention to use declared equipment required under section 59(2) of the Act must be in the form of Form 22.

72--Lapse of notices

If--

(a) notice of entry is given under section 58 and 58A or notice of an intention to use declared equipment is given under section 59; and

(b) no objection is made; and

(c) the mining operator does not enter the land, or does not use the declared equipment (as the case may be) within 12 months of the service of the notice,

the notice lapses (but not so as to prevent the service of a new notice).

73--Objection to entry or use of declared equipment

If the Warden's Court receives a notice of objection to entry to land, or to the use of declared equipment, under the Act, the court may order that the mining operator not enter or use the land, or not use the declared equipment, until the objection is determined.

74--Waiver of exemption

A waiver of an exemption under section 9 of the Act must be in the form of Form 23.

75--Copy of exemption to be lodged with Mining Registrar

(1) The holder of a mining tenement (or an applicant for a mining tenement) who has negotiated an exemption under section 9 of the Act must ensure that a copy of the waiver of exemption is lodged with the Mining Registrar--

(a) if the waiver is negotiated prior to an application to register the tenement--at the time of making the application;

(b) if the waiver is negotiated at any time thereafter--within 21 days after the negotiations are completed.

(2) Subregulation (1) does not apply with respect to an exploration licence.

76--Conditions of entry not affected by transfer

An order of the Warden's Court relating to conditions of entry to land or the occupation of a tenement will, if the tenement is transferred, bind the transferee.

Part 8--Registration of documents

77--Caveats

A caveat must be in the form of Form 24 or 25 (as appropriate).

78--Tenement documents to be issued in duplicate

A lease or licence granted under the Act must be issued in duplicate, one copy being delivered by a mining registrar to the lessee or licensee and the other retained and registered in the Mining Register by a mining registrar.

79--Consent of Minister

(1) An application for the consent of the Minister under section 83 of the Act must be--

(a) lodged with the Director; and

(b) accompanied by the appropriate fee prescribed by Schedule 2.

(2) A mining registrar must enter a memorial in the Mining Register of a consent of the Minister under section 83 of the Act and register a copy of any instrument submitted for the purposes of an application under that section specified by the Minister.

(3) Any additional copies of an instrument registered under subregulation (2) must be endorsed by a mining registrar to the effect that a copy has been registered and then the mining registrar must return the endorsed copies to the applicant.

80--Status of unregistered instruments

(1) An instrument required to be registered by the Act or these regulations has no force or effect unless or until it is registered.

(2) However, an approval of the Minister or an order of an appropriate court will be effective from the date specified in the approval or order.

81--Amendment of register

Subject to the provisions of the Act, the appropriate court may order--

(a) that an entry in the Mining Register be made, amended or cancelled; or

(b) that an instrument be registered or that the registration of an instrument be cancelled.

82--Searches

Subject to the Act, a person may, on payment of the appropriate fee prescribed by Schedule 2, during the hours, and on the days, specified by the Director, inspect--

(a) the Mining Register; and

(b) all registered instruments under the Act held by the Department of the Minister; and

(c) the tenement databases.

83--Divesting of right to claim royalty

(1) If a person divests himself or herself of an actual or potential right to claim royalty--

(a) the person must lodge a copy of the instrument of divestment with the Director together with the appropriate fee prescribed by Schedule 2; and

(b) the parties to an instrument evidencing further dealings or charges relating to the instrument of divestment must lodge a copy of that instrument with the Director together with the appropriate fee prescribed by Schedule 2.

(2) The Director must maintain a register of these instruments and a person may, on payment of the appropriate fee prescribed by Schedule 2, during the hours, and on the days, specified by the Director, inspect the register and all registered instruments.

Part 9--Extractive Areas Rehabilitation Fund

84--Interpretation

In this Part--

fund means the Extractive Areas Rehabilitation Fund;

land means land which, or part of which, has been disturbed by mining operations for the recovery of extractive minerals.

85--Application

A person who has paid to the Minister royalty for extractive minerals--

(a) who submits a plan for the rehabilitation of land that has been approved by the Chief Inspector in accordance with the provisions of the regulations under the Mines and Works Inspection Act 1920; or

(b) on whom an order has been made by the Chief Inspector in accordance with the provisions of the regulations under the Mines and Works Inspection Act 1920 requiring that person to rehabilitate any land; or

(c) who, as a condition of an extractive minerals lease, has carried out rehabilitation work on the land,

may apply to the Minister for a payment from the fund.

86--Progressive payments

(1) The Minister may approve progressive payments to an applicant from the fund.

(2) However, progressive payments must not be made unless the Director has certified to the Minister--

(a) that satisfactory rehabilitation work has been carried out; or

(b) that rehabilitation work is proceeding in a satisfactory manner and that a progress payment is justified.

87--Payments to support rehabilitation of land

(1) The Minister may also make payments out of the fund to a person who satisfies the Minister that he or she has executed or intends to execute work which has or will, wholly or partially, rehabilitate land.

(2) A payment may be made under this regulation either in respect of all or any of the expenses incurred in the rehabilitation or by way of an advance of moneys to be used to pay all or any of the estimated expenses expected to be incurred in the rehabilitation of land.

(3) If the Minister makes an advance of moneys pursuant to this regulation and any of those moneys remain unexpended one year after the time at which the advance was made, the Minister may request the unexpended moneys to be repaid to the fund and the person to which the advance was made must immediately repay the unexpended moneys.

88--Conditions

(1) The Minister may impose conditions relating to a payment of money from the fund.

(2) A person to whom a payment is made must comply with any relevant condition.

Part 9A--Private mines

88A--Liability for royalty

For the purposes of section 73E(3) (b) of the Act, the form set out as Form 28 is prescribed.

88B--Prescribed requirements for mine operations plans

(1) This regulation sets out prescribed requirements relating to mine operations plans for the purposes of section 73G of the Act.

(2) A mine operations plan must include a description of the nature and character of the environment (including physical and biological features) that can reasonably be expected to be affected by operations carried out at the private mine¹.

(3) The objectives included as part of a mine operations plan must at least relate to each of the following matters²:

(a) the construction and operation of the mine and any related facilities; and

(b) the management of potential impacts on the environment, including (so far as is relevant) impacts relating to the following:

(i) erosion;

(ii) noise;

(iii) dust;

(iv) visual effects;

(v) vegetation clearance or disturbance;

(vi) habitat clearance or disturbance;

(vii) silt;

(viii) stormwater;

(ix) topsoil management;

(x) waste management; and

(c) ongoing and final rehabilitation of the site, site closure, and future use of the site; and

(d) the action to be taken in the event of an emergency situation at the site of the mine.

(4) The following provisions apply with respect to the criteria for measuring the objectives³:

(a) the criteria must be described in specific terms which clearly define the outcomes upon which achievement of the objectives can be measured (including, if appropriate, timelines and sequences of events);

(b) outcomes may be expressed in quantitative or qualitative terms;

(c) if the measurement of the achievement of an objective is to be undertaken by the acquisition of field data over time, the criteria must indicate (subject to possible changes in circumstances)--

(i) the type of study, monitoring or other activity to be undertaken to acquire the data; and

(ii) the type of information to be gathered; and

(iii) the timelines that are to apply to acquiring, interpreting and publishing the data.

(5) A mine operations plan must also describe, or include information about⁴--

(a) the material to be recovered at the mine; and

(b) the geological environment, and estimated reserves, of the mine; and

(c) the type or types of mining operation to be carried out at the mine; and

(d) the sequence of operations at the mine; and

(e) the hours of operation that are to apply at the mine; and

(f) plans for the use of explosives at the mine; and

(g) plans for any silt retention; and

(h) plans for any stockpiling at the mine; and

(i) any processing plant located (or to be located) at the mine; and

(j) the services and utilities that are to be used at, or supplied to, the mine; and

(k) the procedures to be followed in the event of an incident or situation which gives rise to, or could adversely affect, a matter of

environmental significance.

(6) A person submitting a draft to the Director under section 73G(4) of the Act must provide--

(a) three copies of the draft in written form; or

(b) an electronic version of the draft in a form (and format) approved by the Minister.

Notes--

1 This description must constitute part of the first component of the mine operations plan.

2 These objectives must constitute part of the second component of the mine operations plan.

3 These criteria must constitute part of the second component of the mine operations plan.

4 The matters required under this subregulation must constitute the third component of the mine operations plan.

88C--Consultation on mine operations plans

(1) For the purposes of section 73G(9) of the Act, the Director must publish a notice in a newspaper circulating generally throughout the State--

(a) identifying the location of the mine; and

(b) stating that a mine operations plan has been prepared for the mine and that the relevant objectives and criteria may be inspected at a nominated address; and

(c) inviting written submissions from interested persons on the draft objectives and criteria within a period ending on a date at least 20 business days after publication of the notice.

(2) The Director must also invite written submissions on the draft objectives and criteria from--

(a) if the relevant mine is located on land vested in fee simple in a person other than the proprietor of the mine--that person; and

(b) if the relevant mine is located within the area of a council--that council; and

(c) if the relevant mine is located within a part of the State described in Schedule 20 of the Development Regulations 1993--the Development Assessment Commission.

(3) The period for making a written submission under subregulation (2) must be at least 20 business days after the Director has served a written notice inviting the submission.

(4) The Director may, after consultation with the person who submitted the relevant draft to the Director, extend a period allowed under subregulation (1) or (3) for an additional period not exceeding 15 business days.

(5) The Director must, within 15 business days after the expiration of all time periods that apply under this regulation, provide to the person who submitted the relevant draft copies of any submissions that have been received by the Director in order to enable compliance with section 73G(10) of the Act.

(6) The report required for the purposes of section 73G(10) of the Act must be submitted to the Director within 20 business days after copies of the submissions are provided under subregulation (5), or within such longer period as the Director may allow.

88D--Review of mine operations plans

(1) For the purposes of section 73G(16) of the Act, a review of a mine operations plan must consist of the preparation of a report which includes--

(a) an assessment of the achievement of the objectives in the mine operations plan when measured against the criteria; and

(b) to the extent that the objectives have not been met taking into account the assessment under paragraph (a), an analysis or explanation of what has occurred; and

(c) an analysis of whether the objectives and criteria are still, and will continue to be, appropriate; and

(d) details about any proposals for alterations to the objectives or criteria; and

(e) if alterations are proposed, an analysis of the impacts (if any) that those alterations may have on the environment and, if so required by the Director, any information that may be reasonably required in order to assist the Director in deciding whether the alterations are appropriate; and

(f) information on any action that has been taken, or is proposed to be taken, as the result of a report from an inspector or other authorised person concerning operations at the mine during the period to which the review relates.

(2) If a mine operations plan is in the form of a development programme and a review is being conducted under clause 2(2) of Schedule 2 of the Mining (Private Mines) Amendment Act 1999, the review must also include the preparation of a plan that complies with the requirements of regulation 88B.

(3) A report must be furnished to the Director within one month after the completion of the review.

(4) A person furnishing a report must provide--

(a) three copies of the report in written form; or

(b) an electronic version of the report in a form (and format) approved by the Minister.

88E--Variation or revocation of declaration

(1) For the purposes of section 73M(4) (a) of the Act, a report required

from the proprietor of a private mine must include--

(a) a description of the topography and geological environment of the relevant land; and

(b) reasonable estimates of the quantity, quality, distribution, depth and marketability of the minerals situated within the mine; and

(c) details of any mining operation proposed to be carried out at the mine, including the type of operation and the anticipated date for commencement of the operation; and

(d) details of any agreement relating to future mining at the mine; and

(e) details of any agreement between the proprietor of the mine and another person concerning the future use or development of the relevant land for a purpose other than mining; and

(f) details of any mining or exploration operations carried out on land adjoining the mine that could be relevant to assessing the potential of the mine; and

(g) information on the purposes for which land adjoining the mine is used.

(2) If the Director issues a notice under section 73M(4) (a) of the Act, the Director must send copies of the notice to--

(a) the South Australian Chamber of Mines and Energy Inc.; and

(b) the Extractive Industries Association of South Australia Inc.

(3) For the purposes of section 73M(4) (b) (ii) of the Act, the form set out as Form 29 is prescribed.

Part 10--Miscellaneous

89--Removal of posts

(1) If a post is in a place that interferes with the working of a mining tenement, the holder of the tenement may apply to--

(a) a mining registrar; or

(b) an inspector; or

(c) a person authorised by the Mining Registrar for the purposes of this subregulation,

for approval to remove the post.

(2) A person to whom an application is made under subregulation (1) may, if satisfied that it is appropriate to do so, authorise the removal of the post.

(3) An authorisation under subregulation (2)--

(a) may include directions to ensure the proper definition of the boundaries of the tenement while the post is removed; and

(b) may be given on conditions specified in the authorisation.

(4) A person who has the benefit of an authorisation under subregulation (2) must comply with any directions or conditions under subregulation (3).

(5) A person (other than the holder of the relevant tenement) must not remove a post placed in the ground in order to mark a mining tenement (or an area for a mining tenement).

(6) Subregulation (5) does not apply to--

(a) a person acting with the written permission of the holder of the tenement; or

(b) a mining registrar, an inspector, or a person authorised by the Mining Registrar for the purposes of this subregulation, removing a post from a tenement (or the area for a tenement) if--

(i) it appears that there has been a failure to comply with a requirement of the Act or these regulations; or

(ii) it appears that the tenement (or any pegging) may have lapsed, or been surrendered or cancelled.

(7) A post removed under subregulation (6) (b) must be stored at the nearest office of the Mining Registrar to the tenement.

(8) The owner of a post stored under subregulation (7) may, within one month after the post was removed under subregulation (6) (b), on payment of the appropriate fee prescribed by Schedule 2, recover the post (and, if appropriate, any identification plate or marker attached to the post).

(9) If a post is not recovered under subregulation (8)--

(a) the post becomes the property of the Crown; and

(b) the Minister may dispose of the post as the Minister thinks fit.

90--Rectification of boundaries

(1) If--

(a) the holder of a mining tenement discovers that the area, shape or dimensions of the tenement do not conform with these regulations; or

(b) the holder of a mining tenement discovers that a portion of another tenement has been included within the boundaries of the tenement,

the person may apply to the Warden's Court for an order rectifying the error.

(2) The Warden's Court may, on application under subregulation (1), if satisfied that it is appropriate to do so--

(a) make the orders necessary to rectify the error;

(b) determine, or realign, the boundaries of the tenement, and determine the manner in which those boundaries are to be delineated.

(3) However, an application cannot be made under this regulation if

proceedings for forfeiture of the tenement or otherwise concerning the validity of the tenement have already been commenced (and have not been determined).

91--Superimposed tenements--consent

(1) If a class of mining tenement is granted over land already held as a tenement of a different class, and the holder of the tenement is the same person, the person need maintain only one post at each corner of the area, but each post must have on it, or on a notice attached to it, the numbers and classes of all the tenements.

(2) If the superimposed tenement covers a part of the prior tenement, the superimposed tenement must be marked out by independent posts.

(3) The annual rental payable on the tenements are to be waived except for the one with the highest rental.

(4) If a superimposed lease is held by another party, the annual rental must be payable for the superimposed tenement.

(5) If application is made to register a tenement superimposed on an existing tenement, the applicant must lodge with the application a consent in writing under section 80(2) of the Act, together with particulars in writing of the agreement of the parties.

92--Action to comply

(1) A liability to the forfeiture of a mining tenement on account of failure to comply with a requirement of these regulations will cease on subsequent compliance by the holder of the tenement.

(2) However--

(a) the obtaining of an order for the suspension of working conditions does not constitute compliance with the regulations for the purposes of subregulation (1);

(b) subregulation (1) does not apply if proceedings for forfeiture of the tenement are commenced under the Act within one month after the liability to forfeiture arises and before the holder of the tenement takes steps to rectify the non-compliance.

(3) If--

(a) a person applies to the Warden's Court for an order--

(i) cancelling a pegging; or

(ii) for the forfeiture of a tenement,

on the ground that a requirement of the Act or these regulations has not been complied with; and

(b) the Warden's Court finds that there has been non-compliance with the Act or these regulations but that in the circumstances an order for cancellation or forfeiture should not be made,

the court may nevertheless order the person in default to take steps to rectify the non-compliance.

(4) A person to whom an order is directed under subregulation (3) must comply with the terms of the order.

93--Offices of Mining Registrar

For the purposes of the Act, the following are offices of the Mining Registrar:

(a) the offices of the Mineral Resources Group of the Department of the Minister at Andamooka, Coober Pedy and Mintabie; and

(b) the head office of the Mineral Resources Group of the Department of the Minister at Adelaide.

94--False information

(1) A person who by false statement or misrepresentation, obtains or attempts to obtain registration of a mining tenement, or an instrument or certificate under the Act or these regulations--

(a) forfeits all rights in relation to the relevant tenement; and

(b) is guilty of an offence.

Maximum penalty: \$1 000.

(2) A person who, in furnishing information required under the Act or these regulations, makes a statement that is false or misleading in a material particular is guilty of an offence.

Maximum penalty: \$1 000.

95--Change of name or address

The holder of a miner's right or a mining tenement must notify the Mining Registrar in writing of a change in name or address within 30 days of the change.

97--Records and samples

The holder of a mining tenement must maintain records of geological mapping, surveys of workings, logs of drill holes, location and type of samples taken, results of analyses and testing of samples, and results of geophysical surveys.

98--Duplicate tenement document

An application for the issue of a duplicate copy of a lease or licence under section 84 of the Act must be accompanied by the appropriate fee prescribed by Schedule 2.

100--Declaration

If application is made to the Warden's Court for a declaration of invalidity of a mining tenement on the grounds that the tenement has not been lawfully acquired in accordance with these regulations, the declaration must not be made unless the Court is satisfied that a breach of these regulations is a breach in a material respect and that the matter is of sufficient gravity to justify the making of the declaration, but the Court may order the rectification of any non-compliance with these regulations.

101--Power of court to award costs

The Warden's Court is vested with jurisdiction to award reasonable costs.

102--Recording of proceedings

The Warden's Court must give written notice to the Mining Registrar of any proceedings before the Warden's Court relating to a mining tenement, and a note of the proceedings must be entered in the Mining Register against the entry of the relevant mining tenement.

103--Application for native title declaration

An application under section 63J of the Act for a declaration that land is not subject to native title is to be made as an application for a native title declaration under the Native Title (South Australia) Act 1994.

104--Approved associations for umbrella authorisations

For the purposes of section 63L of the Act, the following associations are approved as associations that may be proponents of native title mining agreements conferring umbrella authorisations:

- (a) South Australian Opal Miner's Association Inc.;
- (b) Coober Pedy Miner's Association Inc.;
- (c) Andamooka Progress and Opal Miners Association Inc.;
- (d) Mintabie Miners and Progress Association Inc.

105--Notice initiating negotiations with native title parties

A notice under section 63M of the Act given by a proponent initiating negotiations for a native title mining agreement under Part 9B of the Act must be in the form of Form 27.

106--Execution and return of renewal documents

If the Mining Registrar requests the holder of a tenement in writing to execute and return documents related to the renewal of the mining tenement within a specified period, the holder of the tenement must comply with the request.

107--Service of documents

A notice or document required or authorised by or under the Act or these regulations to be given to or served on a person (other than a person who holds or may hold native title in land¹) may--

- (a) be served on the person personally; or
- (b) be posted in an envelope addressed to the person--
 - (i) at the person's last known address; or
 - (ii) if the person has an address for correspondence or service--at that address; or

(c) transmitted by facsimile transmission to a facsimile number provided by the person (in which case the notice or document will be taken to have been given or served at the time of transmission).

Note--

1 Part 5 Native Title (South Australia) Act 1994 sets out the method of service on all who hold or may hold native title in land.

108--Forms

A form under these regulations may be varied or modified according to the exigencies of a particular case.

109--Execution of forms

(1) Unless otherwise provided, a form under the Act must be signed personally or, in the case of a body corporate, executed under seal or by a duly authorised attorney.

(2) A notice of entry or a notice to use declared equipment under the Act may be signed (and given) by an agent of a mining operator.

110--Fees

(1) The fees set out in Schedule 2 are payable as specified in that Schedule.

(2) The Director may, on application, in his or her discretion, waive payment of the whole or a part of a fee, or refund a fee (in whole or in part).

111--Damage to posts

A person must not damage or deface a post or notice under these regulations, or alter a notice or date found on a mining tenement.

112--Offences

(1) A person who contravenes or fails to comply with a provision of these regulations is guilty of an offence.

(2) A person who is guilty of an offence against these regulations for which no penalty is specifically prescribed is liable to a fine not exceeding \$1 000.

113--Special mining enterprises

The requirements imposed by the provisions of the Act and these regulations listed in the first column of Schedule 4 (a description of which is provided in the second column for convenience of reference only) are prescribed for the purposes of section 56C(2)(g) of the Act.

114--Transitional regulation

(1) This regulation is made in connection with the commencement of the Mining (Private Mines) Amendment Act 1999.

(2) If, after the relevant day--

(a) an application is made to the Minister by a person who is, for the time being, a successor in title (being not necessarily an immediate successor in title) of a person who has been in receipt of royalty pursuant to an application under section 19(17) of the Mining Act 1971 (as in existence before the relevant day) made before 1 March 1980; and

(b) the application under this regulation is made within 60 days after the person becomes such a successor in title,

then the Minister will pay royalty under section 19(17) of the Act (as in existence immediately before the relevant day) to that successor in title as if section 19 of the Act had not been repealed.

(3) This regulation does not operate so as to confer a right to the payment of royalty collected under the Act before the date of the relevant application under subregulation (2).

(4) In this regulation--

relevant day means the day on which the Mining (Private Mines) Amendment Act 1999 comes into operation.

Schedule 1--Forms

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Schedule 2--Fees

| | |
|--------------------------------------------------------------|---------|
| 1 Application for issue or renewal of miner's right | \$54.00 |
| 2 Declaration of loss | \$12.20 |
| 3 Application for registration of mineral claim | \$30.75 |
| 4 Application for registration or renewal of access claim | \$54.00 |
| 5 Mining lease-- (a) application fee (per lease) | \$81.00 |
| (b) preparation fee (per lease) | \$81.00 |
| (c) renewal fee (per lease) | \$81.00 |
| 6 | |

| | |
|-------------------------------------------------------------------------------------------------------------------------------------|----------|
| Miscellaneous purposes licence-- | |
| (a) application fee (per licence) | \$81.00 |
| (b) preparation fee (per licence) | \$81.00 |
| (c) renewal fee (per licence) | \$81.00 |
| 7 | |
| Retention lease-- | |
| (a) application fee (per lease) | \$81.00 |
| (b) preparation fee (per lease) | \$81.00 |
| (c) renewal fee (per lease) | \$81.00 |
| 8 | |
| Exploration licence-- | |
| (a) application fee (per licence)-- | |
| (i) base component | \$234.00 |
| (ii) advertising component | \$520.00 |
| (b) renewal fee (per licence) | \$79.50 |
| 9 | |
| Application for variation of condition of a tenement, working conditions or special approval to undertake a particular work program | \$131.00 |
| 10 | |
| Inspection of register-- | \$33.00 |
| (a) extract of lease or licence | \$8.40 |
| (b) extract of claim | \$5.15 |

| | | |
|----|----------------------------------------------------------------------------------------------|------------------------------|
| 11 | Search of tenement database-- | |
| | (a) standard report | \$32.50 plus \$1.00 per page |
| | (b) non-standard report | \$65.00 plus \$1.00 per page |
| 12 | Application for Ministerial consent to dealing with the following: | |
| | (a) exploration licence | \$340.00 |
| | (b) mining lease | \$67.50 |
| | (c) retention lease | \$67.50 |
| | (d) miscellaneous purposes licence | \$67.50 |
| 13 | Registration of Ministerial consent (in respect of each tenement affected by the instrument) | \$12.20 |
| 14 | Application for issue of duplicate lease | \$82.50 |
| 15 | Application for issue of duplicate licence | \$82.50 |
| 16 | Late lodgment of transfer | \$30.75 |
| 17 | Further fee for late lodgment of transfer, if lodged more than 90 days late | \$8.45 |
| 18 | Lodgment of an agreement or determination with the Mining Registrar under Part 9B of Act | \$131.00 |

| | | |
|----|-----------------------------------------------------------------|----------|
| 19 | Lodgment of caveat--per tenement | \$54.00 |
| 20 | Withdrawal of caveat | \$54.00 |
| 21 | Registration of any other document | \$12.20 |
| 22 | Application for a safety net agreement under section 84A of Act | \$65.00 |
| 23 | Exemption from removing posts | \$8.45 |
| 24 | Administrative fee for late lodgment of return | \$167.00 |

Schedule 3--Annual fees and rents

| | | |
|---|--------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| 1 | Annual rental for mining lease | \$81.00 or \$31.25 per hectare or part of a hectare in the area of the lease, whichever is the greater |
| 2 | Annual rental for retention lease | \$81.00 or \$15.80 per hectare or part of a hectare in the area of the lease, whichever is the greater |
| 3 | Annual rental for miscellaneous purposes licence | \$72.50 or \$15.80 per hectare or part of a hectare in the area of the licence, whichever is the greater |
| 4 | Annual fee for exploration licence | \$318.00 or \$6.15 per square kilometre or part of a square kilometre in the area of the licence, whichever is the greater |

Schedule 4--Prescribed requirements

| | Section of Act |
|-------------|----------------|
| | Description |
| Section 35A | |

Representations in relation to grant of lease
Section 53
Application for licence
Section 54
Compensation
Section 58
How entry on land may be authorised
Section 58A
Notice of entry
Section 61
Compensation

Regulation
Description

Regulation 5
Special approval required in certain cases
Regulation 42
Terms and conditions of a lease
Regulation 50
Working conditions
Regulation 62
Mode of taking possession
Regulation 63
Display of licence number
Regulation 65
Maintenance of licence

Legislative history

Notes

o Please note--References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.

o Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.

o For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation revoked by principal regulations

The Mining Regulations 1998 revoked the following:

All regulations previously made under the Mining Act 1971

Principal regulations and variations

New entries appear in bold.

Year

No

Reference

Commencement

1998

170

Gazette 21.8.1998 p476

1.9.1998: r 2

1999
43
Gazette 27.5.1999 p2779
1.7.1999: r 2
1999
143
Gazette 1.7.1999 p55
1.7.1999: r 2
2000
44
Gazette 25.5.2000 p2678
1.7.2000: r 2
2000
197
Gazette 31.8.2000 p971
1.9.2000: r 2
2001
117
Gazette 31.5.2001 p2096
1.7.2001: r 2
2002
105
Gazette 20.6.2002 p2619
1.7.2002: r 2
2003
64
Gazette 29.5.2003 p2173
1.7.2003: r 2
2004
40
Gazette 27.5.2004 p1418
1.7.2004: r 2
2005
50
Gazette 26.5.2005 p1394
1.7.2005: r 2
2005
277
Gazette 15.12.2005 p4360
1.1.2006: r 2
2006
163
Gazette 15.6.2006 p1958
1.7.2006: r 2
2007
68
Gazette 7.6.2007 p2285
1.7.2007: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision
How varied

Commencement

Pt 1
rr 2 and 3
omitted under the Legislation Revision and Publication Act 2002

1.7.2004

Pt 1A
inserted by 277/2005 r 4

1.1.2006

Pt 9A
inserted by 197/2000 r 3

1.9.2002

r 99
deleted by 197/2000 r 4

1.9.2002

r 114
inserted by 197/2000 r 5

1.9.2002

Pt 10
r 96
deleted by 277/2005 r 5

1.1.2006

Sch 1
varied by 143/1999 r 3 (Sch cl 16)

1.7.1999

Forms 28 and 29
inserted by 197/2000 r 6

1.9.2002

Sch 2
substituted by 43/1999 r 3

1.7.1999

substituted by 44/2000 r 3

1.7.2000

substituted by 117/2001 r 3

1.7.2001

substituted by 105/2002 r 3

1.7.2002

substituted by 64/2003 r 4

1.7.2003
substituted by 40/2004 r 4
1.7.2004
substituted by 50/2005 r 4
1.7.2005
varied by 277/2005 r 6
1.1.2006
substituted by 163/2006 r 4
1.7.2006
substituted by 68/2007 r 4
1.7.2007
Sch 3
substituted by 43/1999 r 3
1.7.1999
substituted by 44/2000 r 3
1.7.2000
substituted by 117/2001 r 3
1.7.2001
substituted by 105/2002 r 3
1.7.2002
substituted by 64/2003 r 4
1.7.2003
substituted by 40/2004 r 4
1.7.2004
substituted by 50/2005 r 4
1.7.2005
substituted by 163/2006 r 4
1.7.2006
substituted by 68/2007 r 4
1.7.2007

Historical versions

1.7.2004
1.7.2005
1.1.2006
1.7.2006