

# Mining Legislation Amendment Bill 2015

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Western Australia

LEGISLATIVE ASSEMBLY

## **Mining Legislation Amendment Bill 2015**

**A Bill for**

**An Act to amend —**

- **the *Mining Act 1978*; and**
- **the *Mining Legislation Amendment Act 2014*; and**
- **the *Environmental Protection Act 1986*; and**
- **the *Mining Rehabilitation Fund Act 2012*.**

The Parliament of Western Australia enacts as follows:

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13

**Part 1 — Preliminary**

**1. Short title**

This is the *Mining Legislation Amendment Act 2015*.

**2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act, other than sections 40(4), 47 and 52(2)(b) — on a day fixed by proclamation, and different days may be fixed for different provisions;
- (c) sections 40(4), 47 and 52(2)(b) — on the day after the period of 2 years beginning on the day on which section 46 comes into operation.

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**Part 2 — *Mining Act 1978* amended**

**3. Act amended**

This Part amends the *Mining Act 1978*.

**4. Section 6 amended**

In section 6(1d):

(a) in paragraph (a) delete “section 82(1)(ca); or” and insert:

section 103AF(2) or (3), or a notice under  
section 103AR(2); or

(b) in paragraph (b) delete “section 82A.” and insert:

section 103AH(2) or (3), or a notice under  
section 103AR(4).

**5. Section 8 amended**

In section 8(1) delete the definition of *ground disturbing equipment*.

**6. Section 12 replaced**

Delete section 12 and insert:

**12. Delegation**

(1) The Minister may delegate to an officer of the Department any power or duty of the Minister except this power of delegation.

(2) A delegation under subsection (1) must be in writing signed by the Minister.

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- 1 (3) The Director General of Mines may delegate to an  
2 officer of the Department any power or duty of the  
3 Director General of Mines except this power of  
4 delegation.
- 5 (4) A delegation under subsection (3) must be in writing  
6 signed by the Director General of Mines.
- 7 (5) A person exercising or performing a power or duty that  
8 has been delegated to the person under this section, is  
9 to be taken to do so in accordance with the terms of the  
10 delegation unless the contrary is shown.
- 11 (6) Nothing in this section limits the ability of the Minister  
12 or the Director General of Mines to perform a function  
13 through an officer or agent.  
14

15 **7. Section 20 amended**

16 Delete section 20(5a)(d)(i) and insert:  
17

- 18 (i) take all necessary steps to prevent  
19 damage or injury to property or  
20 livestock whether resulting from fire,  
21 the presence of dogs, the discharge of  
22 firearms, the use of vehicles or any  
23 other cause; and  
24

25 **8. Section 23A inserted**

26 After section 23 insert:  
27

28 **23A. Forfeiture of mining tenements**

- 29 (1) If a mining tenement is liable to forfeiture under  
30 section 23(3), the Minister may cause the mining  
31 tenement to be forfeited by declaring by notice



- 1 published in the *Gazette* that the mining tenement is  
2 forfeited.
- 3 (2) The Minister may, for any cause that he or she deems  
4 sufficient and subject to subsection (3), by notice  
5 published in the *Gazette* —
- 6 (a) cancel a declaration made under subsection (1);  
7 and
- 8 (b) restore the mining tenement to which the  
9 declaration referred to in paragraph (a) relates  
10 to the holder.
- 11 (3) The Minister may, in effecting the cancellation and  
12 restoration referred to in subsection (2), impose on the  
13 mining tenement restored under that subsection such  
14 conditions as the Minister thinks fit.
- 15 (4) The production of a copy of the *Gazette* containing a  
16 notice published under subsection (1) or (2) is evidence  
17 that the mining tenement concerned has been forfeited  
18 or restored, as the case requires.
- 19 (5) The Minister, as he or she thinks fit in the  
20 circumstances of the case, as an alternative to causing  
21 the mining tenement to be forfeited, may —
- 22 (a) impose on the holder of the mining tenement a  
23 penalty not exceeding \$75 000 if the holder is  
24 an individual or \$150 000 if the holder is a  
25 body corporate; or
- 26 (b) impose no penalty on the holder.
- 27 (6) If a penalty is imposed as an alternative to forfeiture  
28 under subsection (5), the mining tenement is forfeited  
29 if the penalty is not paid —
- 30 (a) within the time specified by the Minister; or  
31 (b) if no other time is specified by the Minister,  
32 within 30 days of written notice of the penalty

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1 being given by the Minister to the holder of the  
2 mining tenement.  
3

4 **9. Section 40D amended**

5 In section 40D(2):

6 (a) in paragraph (c)(i) delete “which are likely to” and  
7 insert:

8

9 may

10

11 (b) delete paragraph (d) and insert:

12

13 (d) must take all necessary steps to prevent damage  
14 or injury to property or livestock whether  
15 resulting from fire, the presence of dogs, the  
16 discharge of firearms, the use of vehicles or any  
17 other cause.  
18

19 **10. Section 46 amended**

20 In section 46:

21 (a) delete paragraph (aa);

22 (b) delete paragraph (b) and insert:

23

24 (b) that all holes, pits, trenches and other  
25 disturbances to the surface of the land the  
26 subject of the prospecting licence that —

27 (i) are made while prospecting; and

28 (ii) may endanger the safety of any person  
29 or animal,

30 will be filled in or otherwise made safe;

31

1 (c) delete paragraph (c) and insert:

2

3 (c) that all necessary steps are taken by the holder  
4 to prevent damage or injury to property or  
5 livestock whether resulting from fire, the  
6 presence of dogs, the discharge of firearms, the  
7 use of vehicles or any other cause.  
8

9 **11. Section 46A deleted**

10 Delete section 46A.

11 **12. Section 48 amended**

12 In section 48(b) and (c) after “25,” insert:

13

14 and the conditions referred to in section 103AE,  
15

16 **13. Section 52 amended**

17 (1) Delete section 52(1a).

18 (2) In section 52(2) delete “or (1a)”.

19 **14. Section 55 amended**

20 After section 55(4) insert:  
21

22 (5) Subsection (1), (2), (3) or (4) does not apply to the  
23 approval of retention status under section 54 for land  
24 unless consent to the carrying out of mining on the land  
25 has previously been given by the Minister under  
26 section 24, 24A or 25, as the case may be.  
27

**s. 15**

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1 **15. Section 55A amended**

2 In section 55A(1) and (2) delete “programme of work” and  
3 insert:

4  
5 works schedule

6  
7 Note: The heading to amended section 55A is to read:

8 **Works schedule**

9 **16. Section 56A amended**

10 In section 56A(6)(b) delete “shall” and insert:

11  
12 subject to the conditions referred to in section 103AE, shall

13  
14 **17. Section 58 amended**

15 Before section 58(2) insert:

16  
17 (1A) Subsection (1B) applies if —

18 (a) a person (the *original applicant*) has lodged an  
19 application referred to in subsection (1) for an  
20 exploration licence in respect of an area (the  
21 *exploration area*); and

22 (b) the Minister has not determined the application  
23 by granting or refusing the exploration licence  
24 under section 59(6),

25 and applies even if the application has been withdrawn.

26 (1B) If this subsection applies, an application referred to in  
27 subsection (1) lodged by the original applicant, or by a  
28 person related to the original applicant, in respect of —

29 (a) the exploration area; or

- 1 (b) an area included in the exploration area; or  
2 (c) an area that includes the exploration area,  
3 cannot be dealt with under section 59 unless the  
4 Minister advises the mining registrar and the warden in  
5 writing that the Minister considers that there are special  
6 circumstances justifying it being so dealt with.

7 (1C) Subsection (1B) has effect despite any other provision  
8 of this Division.  
9

10 **18. Section 60 amended**

- 11 (1) Delete section 60(1a).  
12 (2) In section 60(2) delete “or (1a)”.

13 **19. Section 63 amended**

14 In section 63:

- 15 (a) delete paragraph (aa);  
16 (b) delete paragraph (b) and insert:  
17  
18 (b) will fill in or otherwise make safe all holes,  
19 pits, trenches and other disturbances to the  
20 surface of the land the subject of the  
21 exploration licence that —  
22 (i) are made while exploring for minerals;  
23 and  
24 (ii) may endanger the safety of any person  
25 or animal;  
26 and  
27

**s. 20**

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1 (c) delete paragraph (c) and insert:

2

3 (c) will take all necessary steps to prevent damage  
4 or injury to property or livestock whether  
5 resulting from fire, the presence of dogs, the  
6 discharge of firearms, the use of vehicles or any  
7 other cause.  
8

9 **20. Section 63AA deleted**

10 Delete section 63AA.

11 **21. Section 63A amended**

12 In section 63A:

13 (a) in paragraph (aa) delete “section 60(1a), 65(4), 69E(2)”  
14 and insert:

15

16 section 65(4), 69E(2), 103AZB(1)

17

18 (b) in paragraph (b) delete “section 63,” and insert:

19

20 section 63 or 103AE, or any conditions imposed under  
21 section 69D(1) or 103AW(1),  
22

23 **22. Section 66 amended**

24 In section 66(b) and (c) after “25,” insert:

25

26 and the conditions referred to in section 103AE,  
27

1 **23. Section 69C amended**

2 After section 69C(4) insert:

3

- 4 (5) Subsection (1), (2), (3) or (4) does not apply to the  
5 approval of retention status under section 69B for land  
6 unless consent to the carrying out of mining on the land  
7 has previously been given by the Minister under  
8 section 24, 24A or 25, as the case may be.  
9

10 **24. Section 69D amended**

11 In section 69D(1) and (2) delete “programme of work” and  
12 insert:

13

14 works schedule

15

16 Note: The heading to amended section 69D is to read:

17

**Works schedule**

18 **25. Section 70F amended**

19 (1) Delete section 70F(2).

20 (2) In section 70F(3) delete “or (2)”.

21 **26. Section 70H amended**

22 In section 70H(1):

23 (a) delete paragraph (aa);

24 (b) delete paragraph (a) and insert:

25

26 (a) fill in or otherwise make safe all holes, pits,  
27 trenches and other disturbances to the surface  
28 of the land the subject of the licence that —

29 (i) are made while exploring for minerals;  
30 and

**s. 27**

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- 1 (ii) may endanger the safety of any person  
2 or animal;  
3 and  
4
- 5 (c) delete paragraph (b) and insert:  
6
- 7 (b) take all necessary steps to prevent damage or  
8 injury to property or livestock whether resulting  
9 from fire, the presence of dogs, the discharge of  
10 firearms, the use of vehicles or any other cause;  
11 and  
12
- 13 **27. Section 70I deleted**  
14 Delete section 70I.
- 15 **28. Section 70IA amended**  
16 In section 70IA:  
17 (a) in subsections (1) and (2) delete “programme of work”  
18 and insert:  
19  
20 works schedule  
21
- 22 (b) delete subsection (3) and insert:  
23
- 24 (3) A condition imposed under subsection (1) may be  
25 cancelled or varied by the Minister at any time.
- 26 (4A) A condition imposed under subsection (1) may, either  
27 in full or with sufficient particularity as to identify the  
28 recommendation or other source from which it derives,  
29 be endorsed on the licence, for which purpose the  
30 holder of the licence shall produce the licence on  
31 demand.



1           (4B) Whether or not a condition imposed under  
2           subsection (1) is endorsed on the licence, on notice of  
3           the imposition of the condition being given in writing  
4           to the holder of the licence the condition has effect for  
5           all purposes as a condition to which the licence is  
6           subject.  
7

8           Note: The heading to amended section 70IA is to read:

9                       **Works schedule**

10   **29.       Section 70J amended**

11           In section 70J(b) and (c) after “25,” insert:

12

13           and the conditions referred to in section 103AE,

14

15   **30.       Section 70K amended**

16           In section 70K:

17           (a)   in paragraph (b)(i) delete “section 70H; and” and insert:

18

19                       section 70H or 103AE; and

20

21           (b)   in paragraph (b)(ii) delete “section 70I or 70IA,” and  
22           insert:

23

24                       section 70IA(1) or 103AW(1),

25

26           (c)   in paragraph (bb) delete “section 70F(2)” and insert:

27

28                       section 103AZB(1)

29

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1 **31. Section 70L amended**

2 In section 70L(1)(b) delete “section 70I or 70IA; and” and  
3 insert:

4  
5 section 70IA(1) or 103AW(1); and  
6

7 **32. Section 70O amended**

8 Delete section 70O(1).

9 Note: The heading to amended section 70O is to read:

10 **Meaning of significant mineralisation**

11 **33. Section 70P deleted**

12 Delete section 70P.

13 **34. Section 74 amended**

14 (1) Delete section 74(1)(ca)(i) and insert:

15

16 (i) a mining proposal in accordance with  
17 Part IVAA Division 4; or  
18

19 (2) In section 74(1AA) delete “and in the prescribed manner”.

20 **35. Section 82 amended**

21 (1) In section 82(1):

22 (a) delete paragraph (ca);

23 (b) delete paragraph (ga);

24 (c) in paragraph (g) delete “section 84A(2)” and insert:

25

26 section 103AZB(1)  
27

1       (2) Delete section 82(1b).

2       **36. Section 82A deleted**

3       Delete section 82A.

4       **37. Section 84AA deleted**

5       Delete section 84AA.

6       **38. Section 84 deleted**

7       Delete section 84.

8       **39. Section 84A amended**

9       (1) Delete section 84A(2).

10      (2) In section 84A(3) delete “or (2)”.

11      **40. Section 90 amended**

12      (1) In section 90(1):

13          (a) in paragraph (a) delete “subsections” and insert:

14

15              subsections, other than in subsection (1d)(a),

16

17          (b) delete paragraph (b) and insert:

18

19              (b) subsection (1d)(a) were replaced by the  
20              following paragraph —

21

22                  (a) a programme of work lodged by the  
23                  holder of the general purpose lease in  
24                  compliance with a condition prescribed  
25                  by the regulations for the purposes of  
26                  section 89; or

27

**s. 41**

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- 1 (2) Delete section 90(2)(b) and insert:  
2
- 3 (b) subsection (1)(ca)(ii) and (iii) were replaced by  
4 the following subparagraph —  
5
- 6 (ii) a statement in accordance with  
7 subsection (1a);  
8  
9
- 10 (3) In section 90(4) delete “82A, 83, 84, 84A,” and insert:  
11
- 12 83, 84A, 103AH,  
13
- 14 (4) In section 90(4) as amended by subsection (3) after “103AH,”  
15 insert:  
16
- 17 103AZC, 103AZD,  
18
- 19 **41. Section 92 amended**
- 20 In section 92 delete “46A,”.
- 21 **42. Section 96 amended**
- 22 In section 96(2):
- 23 (a) in paragraph (b) delete “section 46 or section 50,” and  
24 insert:  
25
- 26 section 46, 50, 103AE, 103AG or 103AI  
27

1 (b) in paragraph (bb) delete “section 52(1a), 55B(2)” and  
2 insert:

3

4 section 55B(2), 103AZB(1)

5

6 **43. Section 102 amended**

7 (1) Delete section 102(1) and insert:

8

9 (1) An application (an *application for exemption*) may be  
10 made to the mining registrar, as prescribed, by the  
11 holder of a mining tenement (other than a retention  
12 licence), or the holder’s authorised agent, for a total or  
13 partial exemption of the mining tenement from the  
14 prescribed expenditure conditions relating to it in an  
15 amount not exceeding —

16 (a) in the case of any mining tenement, the amount  
17 required to be expended in the year specified in  
18 the application; or

19 (b) in the case of a mining lease, the amount  
20 required to be expended in the period of 5 years  
21 from the commencement of the year specified  
22 in the application.  
23

24 (2) After section 102(1a) insert:

25

26 (1B) An application for exemption must be made before the  
27 end of the year specified in the application, or within  
28 the prescribed period after the end of that year.  
29

30 (3) In section 102(2) delete “A certificate of” and insert:

31

32 An

33

**s. 43**

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- 1 (4) In section 102(3) delete “a certificate of” and insert:  
2
- 3 an  
4
- 5 (5) Delete section 102(5) to (7) and insert:  
6
- 7 (5) A person who wishes to object to the granting of an  
8 exemption shall lodge a notice of objection within the  
9 prescribed time and in the prescribed manner.
- 10 (6) If no notice of objection is lodged within the prescribed  
11 time, or any notice of objection is withdrawn, the  
12 mining registrar shall forward the application for  
13 exemption to the Minister for determination.
- 14 (7) If a notice of objection —  
15 (a) is lodged within the prescribed time; or  
16 (b) where the application for exemption has been  
17 forwarded to the Minister under subsection (6),  
18 is lodged before the Minister has determined  
19 the application for exemption under  
20 subsection (9) and the warden is satisfied that  
21 there are reasonable grounds for late lodgment,  
22 and the notice of objection is not withdrawn, the  
23 warden shall hear the application for exemption on a  
24 day appointed by the warden and may give any person  
25 who has lodged a notice of objection an opportunity to  
26 be heard.
- 27 (8) If an application for exemption is heard by the warden  
28 under subsection (7) the warden shall as soon as  
29 practicable after the hearing of the application transmit  
30 to the Minister —  
31 (a) the notes of evidence given in the hearing; and

- 1 (b) any maps or other documents referred to in the  
2 hearing; and
- 3 (c) the warden's report recommending the granting  
4 or refusal of the application and setting out the  
5 reasons for that recommendation.
- 6 (9) If an application for exemption is not heard by the  
7 warden or the Minister receives a report under  
8 subsection (8), the Minister may —
- 9 (a) in the case of an application for exemption  
10 made under subsection (1)(a), grant an  
11 exemption in an amount not exceeding the  
12 amount required to be expended in respect of  
13 the mining tenement in the year specified in the  
14 application; or
- 15 (b) in the case of an application for exemption  
16 made under subsection (1)(b), grant an  
17 exemption in an amount not exceeding the  
18 amount required to be expended in respect of  
19 the mining lease in the period of 5 years from  
20 the commencement of the year specified in the  
21 application,
- 22 or may refuse the application for exemption.
- 23 (10) If the Minister has received a report under  
24 subsection (8), the Minister may grant an exemption  
25 under subsection (9) whether or not the report  
26 recommends the granting of an exemption.  
27

28 **44. Section 102A amended**

29 In section 102A(1) delete “certificate in the prescribed form  
30 totally or partially exempting the holder of that licence” and  
31 insert:

32  
33 total or partial exemption  
34

1 **45. Section 103 deleted**

2 Delete section 103.

3 **46. Part IVAA inserted**

4 Before Part IVA insert:

5

6 **Part IVAA —Environmental management**

7 **Division 1 — Preliminary**

8 **103AA. Terms used**

9 In this Part —

10 *clearing* has the meaning given in the *Environmental*  
11 *Protection Act 1986* section 51A;

12 *environment* means —

- 13 (a) ecosystems and their constituent parts; and  
14 (b) natural physical and biological attributes of  
15 land,

16 but does not include —

- 17 (c) man-made structures or works on land; or  
18 (d) social, economic, heritage and cultural features  
19 of land;

20 *environmental harm* means adverse ecological effects  
21 on the environment;

22 *guidelines* means guidelines approved under  
23 section 103AM;

24 *low-impact activity* means a low-impact activity  
25 prescribed under section 103AC(1);

26 *native vegetation* has the meaning given in the  
27 *Environmental Protection Act 1986* section 51A;



1                    *practicable* means reasonably practicable having  
2                    regard to, among other things, local conditions and  
3                    circumstances (including costs) and to the current state  
4                    of technical knowledge.

5                    **103AB. Object of Part**

6                    The object of this Part is to support the responsible  
7                    environmental management of mining, including land  
8                    rehabilitation and mine closure.

9                    **103AC. Low-impact activities**

- 10                    (1) The regulations may prescribe an activity relating to, or  
11                    connected with, mining to be a low-impact activity for  
12                    the purposes of this Part.
- 13                    (2) Without limiting the generality of subsection (1),  
14                    regulations under that subsection may be made in  
15                    respect of clearing.

16                    **103AD. False or misleading information**

- 17                    (1) A person must not do any of the things set out in  
18                    subsection (2) in or in relation to a document lodged, or  
19                    a notice given, under this Part.  
20                    Penalty: a fine of \$20 000.
- 21                    (2) The things to which subsection (1) applies are —
- 22                    (a) make a statement which the person knows is  
23                    false or misleading in a material particular; or
- 24                    (b) make a statement which is false or misleading  
25                    in a material particular, with reckless disregard  
26                    as to whether or not the statement is false or  
27                    misleading in a material particular; or
- 28                    (c) provide, or cause to be provided, information  
29                    that the person knows is false or misleading in a  
30                    material particular; or

- 1 (d) provide, or cause to be provided, information  
2 that is false or misleading in a material  
3 particular, with reckless disregard as to whether  
4 the information is false or misleading in a  
5 material particular; or  
6 (e) omit, or cause to be omitted, information  
7 without which the document or notice (as the  
8 case may be) is to the person's knowledge  
9 misleading in a material particular.

10 **Division 2 — Programmes of work**

11 **103AE. Conditions attached to prospecting licences,**  
12 **exploration licences and retention licences**

- 13 (1) In this section —  
14 *licence* means —  
15 (a) a prospecting licence; or  
16 (b) an exploration licence; or  
17 (c) a retention licence;  
18 *relevant activity*, done on land the subject of a licence,  
19 means any of the following —  
20 (a) clearing on the land for the purposes of, or in  
21 preparation for, prospecting or exploring for  
22 minerals;  
23 (b) using machinery to disturb the surface of the  
24 land for the purposes of, or in preparation for,  
25 prospecting or exploring for minerals;  
26 (c) prospecting;  
27 (d) exploring for minerals.

- 1           (2) It is a condition of every licence that a relevant activity  
2           that is a low-impact activity must not be done by the  
3           licensee on land the subject of the licence until —
- 4                 (a) the licensee has given a notice of low-impact  
5                 activity in respect of the relevant activity; or
- 6                 (b) the licensee has lodged a programme of work in  
7                 respect of the relevant activity in accordance  
8                 with Division 4, and the relevant activity is  
9                 approved under this Part.
- 10          (3) It is a condition of every licence that a relevant activity  
11          that is not a low-impact activity must not be done by  
12          the licensee on land the subject of the licence until the  
13          licensee has lodged a programme of work in respect of  
14          the relevant activity in accordance with Division 4, and  
15          the relevant activity is approved under this Part.
- 16          (4) It is a condition of every licence that, if a relevant  
17          activity on land the subject of the licence is approved  
18          under this Part, the licensee must not do the relevant  
19          activity on the land otherwise than in accordance with  
20          the approval.

21          **103AF. Conditions attached to mining leases**

- 22          (1) In this section —
- 23                 *relevant activity*, done on land the subject of a mining  
24                 lease, means any of the following —
- 25                     (a) clearing on the land for the purposes of, or in  
26                     preparation for, exploring for minerals;
- 27                     (b) using machinery to disturb the surface of the  
28                     land for the purposes of, or in preparation for,  
29                     exploring for minerals;
- 30                     (c) exploring for minerals.
- 31          (2) It is a condition of every mining lease that a relevant  
32          activity that is a low-impact activity must not be done

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- 1 by the lessee on land the subject of the mining lease  
2 until —
- 3 (a) the lessee has given a notice of low-impact  
4 activity in respect of the relevant activity; or
- 5 (b) the lessee has lodged a programme of work in  
6 respect of the relevant activity in accordance  
7 with Division 4, and the relevant activity is  
8 approved under this Part.
- 9 (3) It is a condition of every mining lease that a relevant  
10 activity that is not a low-impact activity must not be  
11 done by the lessee on land the subject of the mining  
12 lease until the lessee has lodged a programme of work  
13 in respect of the relevant activity in accordance with  
14 Division 4, and the relevant activity is approved under  
15 this Part.
- 16 (4) A lessee of a mining lease is not required to comply  
17 with the condition referred to in subsection (2) or (3) in  
18 respect of a relevant activity that is —
- 19 (a) proposed in a mining proposal relating to the  
20 mining lease and lodged in accordance with  
21 Division 4; and
- 22 (b) approved under this Part.
- 23 (5) It is a condition of every mining lease that, if a relevant  
24 activity on land the subject of the lease is approved  
25 under this Part, the lessee must not do the relevant  
26 activity on the land otherwise than in accordance with  
27 the approval.
- 28 (6) If a mining lease is granted, or held, pursuant to a  
29 Government agreement, as defined in the *Government*  
30 *Agreements Act 1979* section 2, in accordance with  
31 proposals approved, deemed to be approved or  
32 determined under the agreement, this section does not  
33 apply to the mining lease unless the agreement  
34 otherwise provides.

1           **103AG. Conditions attached to miscellaneous licences**

2           (1) In this section —

3           *licensed activity* means an activity authorised by the  
4           miscellaneous licence but does not include prescribed  
5           mining operations as defined in section 103AI(1);

6           *relevant activity*, done on land the subject of a  
7           miscellaneous licence, means any of the following —

- 8           (a) clearing on the land for the purposes of, or in  
9           preparation for, a licensed activity;
- 10           (b) using machinery to disturb the surface of the  
11           land for the purposes of, or in preparation for, a  
12           licensed activity;
- 13           (c) a licensed activity.

14           (2) It is a condition of every miscellaneous licence that a  
15           relevant activity that is a low-impact activity must not  
16           be done by the licensee on land the subject of the  
17           miscellaneous licence until —

- 18           (a) the licensee has given a notice of low-impact  
19           activity in respect of the relevant activity; or
- 20           (b) the licensee has lodged a programme of work in  
21           respect of the relevant activity in accordance  
22           with Division 4, and the relevant activity is  
23           approved under this Part.

24           (3) It is a condition of every miscellaneous licence that a  
25           relevant activity that is not a low-impact activity must  
26           not be done by the licensee on land the subject of the  
27           miscellaneous licence until the licensee has lodged a  
28           programme of work in respect of the relevant activity  
29           in accordance with Division 4, and the relevant activity  
30           is approved under this Part.

- 1 (4) A licensee is not required to comply with the condition  
2 referred to in subsection (2) or (3) in respect of a  
3 relevant activity that is —
- 4 (a) proposed in a mining proposal relating to the  
5 miscellaneous licence and lodged in accordance  
6 with Division 4; and  
7 (b) approved under this Part.
- 8 (5) It is a condition of every miscellaneous licence that, if  
9 a relevant activity on land the subject of the  
10 miscellaneous licence is approved under this Part, the  
11 licensee must not do the relevant activity on the land  
12 otherwise than in accordance with the approval.
- 13 (6) If a miscellaneous licence is granted, or held, pursuant  
14 to a Government agreement, as defined in the  
15 *Government Agreements Act 1979* section 2, in  
16 accordance with proposals approved, deemed to be  
17 approved or determined under the agreement, this  
18 section does not apply to the miscellaneous licence  
19 unless the agreement otherwise provides.

### **Division 3 — Mining proposals**

#### **103AH. Conditions attached to mining leases**

- 21 (1) In this section —
- 22 *prescribed mining operations* means mining  
23 operations prescribed for the purposes of this  
24 definition;  
25 *relevant activity*, done on land the subject of a mining  
26 lease, means any of the following —  
27 (a) clearing on the land for the purposes of, or in  
28 preparation for, prescribed mining operations;  
29 (b) using machinery to disturb the surface of the  
30 land for the purposes of, or in preparation for,  
31 prescribed mining operations;  
32

- 1                   (c) prescribed mining operations.
- 2           (2) It is a condition of every mining lease that a relevant  
3 activity that is a low-impact activity must not be done  
4 by the lessee on land the subject of the mining lease  
5 until —
- 6                   (a) the lessee has given a notice of low-impact  
7 activity in respect of the relevant activity; or
- 8                   (b) the lessee has lodged a mining proposal in  
9 respect of the relevant activity in accordance  
10 with Division 4, and the relevant activity is  
11 approved under this Part.
- 12           (3) It is a condition of every mining lease that a relevant  
13 activity that is not a low-impact activity must not be  
14 done by the lessee on land the subject of the mining  
15 lease until the lessee has lodged a mining proposal in  
16 respect of the relevant activity in accordance with  
17 Division 4, and the relevant activity is approved under  
18 this Part.
- 19           (4) It is a condition of every mining lease that, if a relevant  
20 activity on land the subject of the lease is approved  
21 under this Part, the lessee must not do the relevant  
22 activity on the land otherwise than in accordance with  
23 the approval.
- 24           (5) If a mining lease is granted, or held, pursuant to a  
25 Government agreement, as defined in the *Government*  
26 *Agreements Act 1979* section 2, in accordance with  
27 proposals approved, deemed to be approved or  
28 determined under the agreement, this section does not  
29 apply to the mining lease unless the agreement  
30 otherwise provides.

- 1           **103AI. Conditions attached to miscellaneous licences**
- 2           (1) In this section —
- 3                 *prescribed mining operations* means mining  
4                 operations prescribed for the purposes of this  
5                 definition;
- 6                 *relevant activity*, done on land the subject of a  
7                 miscellaneous licence, means any of the following —
- 8                     (a) clearing on the land for the purposes of, or in  
9                     preparation for, prescribed mining operations;
- 10                    (b) using machinery to disturb the surface of the  
11                    land for the purposes of, or in preparation for,  
12                    prescribed mining operations;
- 13                    (c) prescribed mining operations.
- 14           (2) It is a condition of every miscellaneous licence that a  
15           relevant activity that is a low-impact activity must not  
16           be done by the licensee on land the subject of the  
17           miscellaneous licence until —
- 18                    (a) the licensee has given a notice of low-impact  
19                    activity in respect of the relevant activity; or
- 20                    (b) the licensee has lodged a mining proposal in  
21                    respect of the relevant activity in accordance  
22                    with Division 4, and the relevant activity is  
23                    approved under this Part.
- 24           (3) It is a condition of every miscellaneous licence that a  
25           relevant activity that is not a low-impact activity must  
26           not be done by the licensee on land the subject of the  
27           miscellaneous licence until the licensee has lodged a  
28           mining proposal in respect of the relevant activity in  
29           accordance with Division 4, and the relevant activity is  
30           approved under this Part.
- 31           (4) It is a condition of every miscellaneous licence that, if  
32           a relevant activity on land the subject of the  
33           miscellaneous licence is approved under this Part, the



1 licensee must not do the relevant activity on the land  
2 otherwise than in accordance with the approval.

3 (5) If a miscellaneous licence is granted, or held, pursuant  
4 to a Government agreement, as defined in the  
5 *Government Agreements Act 1979* section 2, in  
6 accordance with proposals approved, deemed to be  
7 approved or determined under the agreement, this  
8 section does not apply to the miscellaneous licence  
9 unless the agreement otherwise provides.

10 **103AJ. Review of mine closure plans: condition attached to**  
11 **mining leases**

- 12 (1) In this section —  
13 *commencement day* means the day of the coming into  
14 operation of the *Mining Legislation Amendment*  
15 *Act 2015* section 36;  
16 *former section 82A(2)(b)* means section 82A(2)(b) as  
17 in force immediately before commencement day;  
18 *relevant mining proposal*, in relation to a mining lease,  
19 means a mining proposal in respect of activities —  
20 (a) on land the subject of the mining lease; and  
21 (b) approved under this Part.
- 22 (2) It is a condition of every mining lease that the lessee  
23 must, in accordance with this section and Division 4 —  
24 (a) review the mine closure plan contained in a  
25 relevant mining proposal and lodge a reviewed  
26 mine closure plan; and  
27 (b) obtain the written approval of the reviewed  
28 mine closure plan from the Director General of  
29 Mines.

- 1 (3) A mine closure plan contained in a relevant mining  
2 proposal must be reviewed and a reviewed mine  
3 closure plan lodged —
- 4 (a) if the mining proposal accompanied the  
5 application for the mining lease under  
6 section 74(1)(ca), no later than 3 years after the  
7 mining lease is granted; or
- 8 (b) if there was, immediately before  
9 commencement day, approval of the mining  
10 proposal as described in former  
11 section 82A(2)(b), no later than 3 years after  
12 the approval; or
- 13 (c) in each other case, no later than 3 years after  
14 the day on which an activity proposed in the  
15 mining proposal is approved under this Part.
- 16 (4) In addition to the requirement in subsection (3), a mine  
17 closure plan contained in a relevant mining proposal  
18 must be reviewed, and a reviewed mine closure plan  
19 lodged, no later than 3 years after its most recent  
20 review was approved.
- 21 (5) The Director General of Mines may, by notice in  
22 writing to the lessee of a mining lease, extend the time  
23 by which a mine closure plan must be reviewed, and a  
24 reviewed mine closure plan lodged, under  
25 subsection (3) or (4).

26 **103AK. Review of mine closure plans: condition attached to**  
27 **miscellaneous licences**

- 28 (1) In this section —
- 29 *relevant mining proposal*, in relation to a  
30 miscellaneous licence, means a mining proposal in  
31 respect of activities —
- 32 (a) on land the subject of the miscellaneous  
33 licence; and

- 1                   (b) approved under this Part.
- 2           (2) It is a condition of every miscellaneous licence that the  
3 licensee must, in accordance with this section and  
4 Division 4 —
- 5                   (a) review the mine closure plan contained in a  
6 relevant mining proposal and lodge a reviewed  
7 mine closure plan; and
- 8                   (b) obtain the written approval of the reviewed  
9 mine closure plan from the Director General of  
10 Mines.
- 11           (3) A mine closure plan contained in a relevant mining  
12 proposal must be reviewed, and a reviewed mine  
13 closure plan lodged, no later than 3 years after the day  
14 on which an activity proposed in the mining proposal is  
15 approved under this Part.
- 16           (4) In addition to the requirement in subsection (3), a mine  
17 closure plan contained in a relevant mining proposal  
18 must be reviewed, and a reviewed mine closure plan  
19 lodged, no later than 3 years after its most recent  
20 review was approved.
- 21           (5) The Director General of Mines may, by notice in  
22 writing to the licensee, extend the time by which a  
23 mine closure plan must be reviewed, and a reviewed  
24 mine closure plan lodged, under subsection (3) or (4).

25                   **Division 4 — Programmes of work and mining**  
26                   **proposals: requirements and approvals**

27           **103AL. Terms used**

28                   In this Division —

29                   ***lodging party*** means —

- 30                   (a) in relation to a programme of work lodged  
31 under section 103AO, the holder of a mining  
32 tenement who lodged the programme of work;  
33 or

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- 1 (b) in relation to a mining proposal lodged under  
2 section 103AP, the holder of a mining tenement  
3 who lodged the mining proposal;

4 ***mining proposal*** means a mining proposal —

- 5 (a) accompanying an application for a mining lease  
6 under section 74(1)(ca); or  
7 (b) required in order to comply with a condition  
8 referred to in section 103AH or 103AI, or a  
9 notice under section 103AR(4);

10 ***programme of work*** means a programme of work  
11 required in order to comply with a condition referred to  
12 in section 103AE, 103AF or 103AG, or a notice under  
13 section 103AR(2);

14 ***proposed activity*** —

- 15 (a) in relation to a programme of work, means a  
16 relevant activity (as defined in  
17 section 103AE(1), 103AF(1) or 103AG(1))  
18 proposed in the programme of work; and  
19 (b) in relation to a mining proposal, means a  
20 relevant activity (as defined in  
21 section 103AH(1) or 103AI(1)) proposed in the  
22 mining proposal.

23 **103AM. Guidelines**

- 24 (1) The Director General of Mines may approve guidelines  
25 for the purposes of this Part.  
26 (2) Without limiting the matters that may be included in  
27 guidelines, they may —  
28 (a) require a programme of work, or a mining  
29 proposal, to identify the following —  
30 (i) clearing proposed to be done on land the  
31 subject of a mining tenement;

- 1                                   (ii) each type of native vegetation proposed  
2                                   to be cleared;
- 3                                   (iii) the condition of the native vegetation  
4                                   proposed to be cleared;
- 5                                   (iv) the biological significance of the native  
6                                   vegetation proposed to be cleared;
- 7                                   (v) the likely environmental impacts  
8                                   resulting from the proposed clearing;
- 9                                   (vi) the amount of land proposed to be  
10                                  cleared;
- 11                                  (vii) the manner of the proposed clearing;
- 12                                  (viii) the extent to which the proposed  
13                                  clearing would accord with or be  
14                                  inconsistent, or at variance, with the  
15                                  clearing principles set out in the  
16                                  *Environmental Protection Act 1986*  
17                                  Schedule 5;
- 18                                  (ix) practicable measures proposed to be  
19                                  undertaken to manage clearing that will  
20                                  promote the rehabilitation and  
21                                  restoration of the land proposed to be  
22                                  cleared;
- 23                                  and
- 24                                  (b) require a programme of work, or a mining  
25                                  proposal, to identify the following —
- 26                                   (i) the foreseeable risk of environmental  
27                                   harm resulting from a proposed activity;
- 28                                   (ii) practicable measures proposed to be  
29                                   undertaken to avoid or minimise the risk  
30                                   of environmental harm resulting from a  
31                                   proposed activity;
- 32                                  and

- 1 (c) require the holder of a mining tenement to  
2 consult with persons likely to be affected by a  
3 proposed activity; and
- 4 (d) require a programme of work, or a mining  
5 proposal, to demonstrate that any consultation  
6 required under the guidelines has been  
7 undertaken; and
- 8 (e) require a programme of work, or a mining  
9 proposal, to be accompanied by a management  
10 plan, maps or any other documents or  
11 information.
- 12 (3) The Director General of Mines must ensure that  
13 guidelines approved under this section are made  
14 available, without charge, for public inspection in the  
15 prescribed manner.

16 **103AN. Requirements as to form and content**

- 17 (1) A programme of work must —
- 18 (a) be in the form required by the guidelines; and  
19 (b) contain information of the kind required by the  
20 guidelines.
- 21 (2) A mining proposal must —
- 22 (a) be in the form required by the guidelines; and  
23 (b) contain information of the kind required by the  
24 guidelines; and  
25 (c) contain a mine closure plan that complies with  
26 subsection (3).
- 27 (3) A mine closure plan referred to in subsection (2)(c) and  
28 section 103AT(1) must —
- 29 (a) be in the form required by the guidelines; and  
30 (b) contain information of the kind required by the  
31 guidelines about the decommissioning of each

1                                    proposed mine and the rehabilitation of land the  
2                                    subject of a mining tenement.

3                    **103AO. Lodging and approving programmes of work**

- 4                    (1) A programme of work must —
- 5                                    (a) be lodged in the prescribed manner; and
- 6                                    (b) be accompanied by the prescribed assessment  
7                                    fee.
- 8                    (2) Before the Director General of Mines has, under this  
9                                    section, approved or refused to approve proposed  
10                                    activities in a programme of work —
- 11                                    (a) the lodging party may, with the written  
12                                    permission of the Director General of Mines,  
13                                    lodge a substitute programme of work; and
- 14                                    (b) the Director General of Mines may, as he or she  
15                                    thinks fit, request the lodging party to lodge a  
16                                    substitute programme of work.
- 17                    (3) The proposed activities in a substitute programme of  
18                                    work must not be substantially different to the  
19                                    proposed activities in the programme of work it is  
20                                    intended to replace.
- 21                    (4) A substitute programme of work must be lodged in the  
22                                    prescribed manner.
- 23                    (5) Subject to subsection (6), the Director General of  
24                                    Mines may approve, or refuse to approve, a proposed  
25                                    activity in a programme of work.
- 26                    (6) The Director General of Mines must not approve a  
27                                    proposed activity in a programme of work if, in his or  
28                                    her opinion, carrying out the activity in the manner  
29                                    proposed will have an unacceptable impact on the  
30                                    environment.

- 1 (7) In deciding whether or not to approve a proposed  
2 activity in a programme of work, the Director General  
3 of Mines —
- 4 (a) must have regard to the matters set out in  
5 section 103AQ(1); and
- 6 (b) may have regard to other matters, including the  
7 effect the proposed activity may have on  
8 man-made structures on land and the social,  
9 economic and cultural attributes of land; and
- 10 (c) may request the lodging party to furnish such  
11 further information as the Director General of  
12 Mines may require for the purposes of making  
13 the decision.
- 14 (8) An approval must be given in writing.
- 15 (9) An approval takes effect when notice of it is given to  
16 the holder of the mining tenement.
- 17 **103AP. Lodging and approving mining proposals**
- 18 (1) A mining proposal must —
- 19 (a) be lodged in the prescribed manner; and  
20 (b) be accompanied by the prescribed assessment  
21 fee.
- 22 (2) Before the Director General of Mines has, under this  
23 section, approved or refused to approve proposed  
24 activities in a mining proposal —
- 25 (a) the lodging party may, with the written  
26 permission of the Director General of Mines,  
27 lodge a substitute mining proposal; and
- 28 (b) the Director General of Mines may, as he or she  
29 thinks fit, request the lodging party to lodge a  
30 substitute mining proposal.



- 1           (3) The proposed activities in a substitute mining proposal  
2           must not be substantially different to the proposed  
3           activities in the mining proposal it is intended to  
4           replace.
- 5           (4) A substitute mining proposal must be lodged in the  
6           prescribed manner.
- 7           (5) Subject to subsection (6), the Director General of  
8           mines may approve, or refuse to approve, a proposed  
9           activity in a mining proposal.
- 10          (6) The Director General of Mines must not approve a  
11          proposed activity in a mining proposal if, in his or her  
12          opinion, carrying out the activity in the manner  
13          proposed will have an unacceptable impact on the  
14          environment.
- 15          (7) In deciding whether or not to approve a proposed  
16          activity in a mining proposal, the Director General of  
17          Mines —
- 18               (a) must have regard to the matters set out in  
19               section 103AQ(2); and
- 20               (b) may have regard to other matters, including the  
21               effect the proposed activity may have on  
22               man-made structures on land and the social,  
23               economic and cultural attributes of land; and
- 24               (c) may request the lodging party to furnish such  
25               further information as he or she may require for  
26               the purposes of making the decision.
- 27          (8) An approval must be in writing.
- 28          (9) An approval takes effect when notice of it is given to  
29          the holder of the mining tenement.

- 1           **103AQ. Matters to be considered when assessing**  
2           **programmes of work or mining proposals**
- 3           (1) The matters referred to in section 103AO(7)(a) are —
- 4               (a) the effect the proposed activity may have on the  
5               environment; and
- 6               (b) if clearing is proposed in the programme of  
7               work, the extent to which it would accord with  
8               or be inconsistent, or at variance, with the  
9               clearing principles set out in the *Environmental*  
10              *Protection Act 1986* Schedule 5; and
- 11              (c) whether the programme of work adequately  
12              identifies the foreseeable risk of environmental  
13              harm resulting from the proposed activity; and
- 14              (d) whether the programme of work adequately  
15              identifies measures to be undertaken to avoid or  
16              minimise the risks referred to in paragraph (c).
- 17           (2) The matters referred to in section 103AP(7)(a) are —
- 18               (a) the effect the proposed activity may have on the  
19               environment; and
- 20               (b) if the clearing is proposed in the mining  
21               proposal, the extent to which it would accord  
22               with or be inconsistent, or at variance, with the  
23               clearing principles set out in the *Environmental*  
24               *Protection Act 1986* Schedule 5; and
- 25               (c) whether the mining proposal adequately  
26               identifies the foreseeable risk of environmental  
27               harm resulting from the proposed activity; and
- 28               (d) whether the mining proposal adequately  
29               identifies measures to be undertaken to avoid or  
30               minimise the risks referred to in paragraph (c).

1           **103AR. Director General of Mines may require revised**  
2           **programme of work or mining proposal to be**  
3           **lodged**

- 4           (1) Subsection (2) applies if —
- 5               (a) a proposed activity in a programme of work is  
6               approved under this Part; and
- 7               (b) the Director General of Mines is of the opinion  
8               that the risk of environmental harm from  
9               carrying out the activity in the manner proposed  
10              in the programme of work is significantly  
11              different to any previous assessment of that  
12              risk.
- 13          (2) If this subsection applies, the Director General of  
14          Mines may, by notice in writing given to the holder of  
15          the mining tenement to which the programme of work  
16          relates, require the holder to lodge, in the time and in  
17          the manner directed in the notice, a revised programme  
18          of work.
- 19          (3) Subsection (4) applies if —
- 20               (a) a proposed activity in a mining proposal is  
21               approved under this Part; and
- 22               (b) the Director General of Mines is of the opinion  
23               that the risk of environmental harm from  
24               carrying out the activity in the manner proposed  
25               in the mining proposal is significantly different  
26               to any previous assessment of that risk.
- 27          (4) If this subsection applies, the Director General of  
28          Mines may, by notice in writing given to the holder of  
29          the mining tenement to which the mining proposal  
30          relates, require the holder to lodge, in the time and in  
31          the manner directed in the notice, a revised mining  
32          proposal.

1 **103AS. Replacement or change of approvals under this Part**

- 2 (1) An approval under this Part of a proposed activity in a  
3 programme of work may be replaced, or have its  
4 operation affected, by another approval under this Part.
- 5 (2) An approval under this Part of a proposed activity in a  
6 mining proposal may be replaced, or have its operation  
7 affected, by another approval under this Part.

8 **103AT. Lodging reviewed mine closure plans and approvals**

- 9 (1) A reviewed mine closure plan required in order to  
10 comply with the condition referred to in  
11 section 103AJ(2) or 103AK(2) —
- 12 (a) must be lodged in the prescribed manner; and  
13 (b) must comply with section 103AN(3).
- 14 (2) On receipt of a reviewed mine closure plan lodged in  
15 accordance with this section, the Director General of  
16 Mines may approve, or refuse to approve, the reviewed  
17 mine closure plan.

18 **Division 5 — Low-impact activities**

19 **103AU. Giving notice of low-impact activity and notice of**  
20 **completion of low-impact activity**

- 21 (1) A notice of low-impact activity required in order to  
22 comply with the condition referred to in  
23 section 103AE(2), 103AF(2), 103AG(2), 103AH(2) or  
24 103AI(2) —
- 25 (a) must be given to the Director General of Mines  
26 within the time, and in the manner and form,  
27 prescribed; and
- 28 (b) must specify the nature and extent of the  
29 proposed low-impact activity.

- 1           (2) The holder of a mining tenement who gives notice of a  
2           proposed low-impact activity under this Part must, on  
3           completing the activity, give the Director General of  
4           Mines notice of the fact in accordance with  
5           subsection (3).
- 6           (3) A notice under subsection (2) must be given within the  
7           time, and in the manner and form, prescribed.

8           **103AV. When prescribed requirements for carrying out**  
9           **low-impact activities must be followed**

- 10           (1) It is a condition of every mining tenement that the  
11           holder of the mining tenement must not carry out a  
12           low-impact activity on land the subject of the mining  
13           tenement otherwise than in accordance with the  
14           prescribed requirements for carrying out that  
15           low-impact activity.
- 16           (2) The holder of a mining tenement is not required to  
17           comply with subsection (1) in respect of the carrying  
18           out of a low-impact activity that —
- 19                   (a) is a proposed activity in a programme of work,  
20                   or a proposed activity in a mining proposal,  
21                   relating to the tenement; and
- 22                   (b) is approved under this Part.
- 23           (3) Subsection (1) does not affect the obligation the holder  
24           of a mining tenement may have to comply with a  
25           condition referred to in section 103AE(4), 103AF(5),  
26           103AG(5), 103AH(4) or 103AI(4) in relation to the  
27           carrying out of a low-impact activity.

**Division 6 — Other conditions**

**103AW. Conditions for preventing, reducing or remediating  
environmental harm and for other purposes**

- (1) Reasonable conditions may be imposed on a mining tenement for the following purposes —
- (a) preventing, reducing or remediating environmental harm on land the subject of the mining tenement or other land;
  - (b) preventing or reducing the impact of mining on man-made structures or works on land the subject of the mining tenement or other land, or remediating such structures or works;
  - (c) preventing or reducing the impact of mining on the statutory or public purposes for which land to which section 24 or 24A applies is reserved or managed, or remediating such land.
- (2) A condition may be imposed under subsection (1) —
- (a) in the case of a prospecting licence —
    - (i) by the mining registrar, or the warden, on the granting of the licence; or
    - (ii) by the Minister on the granting of the licence or at any subsequent time;
  - and
  - (b) in any other case, by the Minister on the granting of the mining tenement or at any subsequent time.
- (3) A condition imposed under subsection (1) may be cancelled or varied by the Minister at any time.
- (4) A condition imposed under subsection (1) may, either in full or with sufficient particularity as to identify the recommendation or other source from which it derives, be endorsed on the mining tenement, for which purpose

1           the holder of the mining tenement must produce the  
2           mining tenement on demand.

3           (5) Whether or not a condition imposed under  
4           subsection (1) is endorsed on the mining tenement, on  
5           notice of the imposition of the condition being given in  
6           writing to the holder of the mining tenement, the  
7           condition has effect for all purposes as a condition to  
8           which the tenement is subject.

9           **103AX. Conditions relating to mining operations within**  
10           **specified distance of natural surface of land**

11           Without limiting section 103AW(1), a condition may  
12           be imposed under that section for the purpose of  
13           preventing mining operations being carried out within  
14           such distance of the natural surface of land the subject  
15           of a mining tenement as is specified in the condition.

16           **103AY. Conditions relating to clearing of native vegetation**

- 17           (1) Without limiting section 103AW(1), a condition  
18           imposed under that section —
- 19                   (a) may be for the purpose of preventing, reducing  
20                   or remediating environmental harm from  
21                   clearing or of offsetting the loss of cleared  
22                   vegetation; and
  - 23                   (b) may require the holder of a mining tenement to  
24                   establish and maintain native vegetation on  
25                   land, other than land cleared by the holder, to  
26                   offset the loss of the cleared vegetation; and
  - 27                   (c) may require the holder of a mining tenement to  
28                   make monetary contributions to a fund  
29                   maintained for the purpose of establishing or  
30                   maintaining native vegetation on any land.
- 31           (2) In imposing a condition under section 103AW(1) in  
32           relation to clearing, the Minister, warden or registrar

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1 (as the case may be) must have regard to the extent to  
2 which the proposed clearing would accord with or be  
3 inconsistent, or at variance, with the clearing principles  
4 set out in the *Environmental Protection Act 1986*  
5 Schedule 5.

6 **103AZA. Conditions relating to monitoring and reporting of**  
7 **operations and environmental harm**

8 Without limiting section 103AW(1), a condition  
9 imposed under that section may require the holder of a  
10 mining tenement to monitor operations (including  
11 remediation and offset operations) or environmental  
12 harm, conduct analysis of monitoring data, and provide  
13 reports on monitoring data, and analysis of it, to the  
14 Director General of Mines.

15 **103AZB. Security for compliance with conditions for**  
16 **preventing, reducing or remediating environmental**  
17 **harm**

- 18 (1) The Minister may require the holder of a mining  
19 tenement to lodge a security for compliance with any  
20 condition imposed on the mining tenement under  
21 section 103AW(1).
- 22 (2) A security referred to in subsection (1) —
- 23 (a) must be lodged in the prescribed manner and  
24 within such period as the Minister specifies in  
25 writing; and
- 26 (b) is subject to the provisions of section 126.  
27



1   **47.     Sections 103AZC and 103AZD inserted**

2           At the end of Part IVAA as inserted by section 46 insert:

3

4           **103AZC. Environmental management systems**

5           (1) In this section —

6                 *environmental management system*, in relation to  
7                 carrying out mining operations on land the subject of a  
8                 mining lease or a miscellaneous licence, means a  
9                 system of procedures and practices relating to —

10                 (a) the identification and assessment of the risk of  
11                 environmental harm occurring as a result of the  
12                 carrying out of the mining operations; and

13                 (b) the implementation of practicable measures to  
14                 avoid or minimise the risk of such  
15                 environmental harm occurring, or reduce such  
16                 environmental harm if it occurs.

17           (2) It is a condition of every mining lease that the lessee —

18                 (a) must maintain an environmental management  
19                 system in relation to the carrying out of mining  
20                 operations on land the subject of the mining  
21                 lease at all times while an approval of those  
22                 operations is in effect under this Part; and

23                 (b) must ensure that the environmental  
24                 management system is reviewed and revised as  
25                 and when necessary to ensure that, at any time,  
26                 it is relevant to operations and operating  
27                 conditions on the land at that time.

28           (3) It is a condition of every miscellaneous licence that the  
29           licensee —

30                 (a) must maintain an environmental management  
31                 system in relation to the carrying out of the

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- 1 mining operations on land the subject of the  
2 miscellaneous licence at all times while an  
3 approval of those operations is in effect under  
4 this Part; and
- 5 (b) must ensure that the environmental  
6 management system is reviewed and revised as  
7 and when necessary to ensure that, at any time,  
8 it is relevant to operations and operating  
9 conditions on the land at that time.
- 10 (4) An environmental management system must deal with  
11 matters that the guidelines require it to deal with but  
12 may also deal with other matters.
- 13 (5) The obligations under this section of the holder of a  
14 mining tenement may be affected by directions given  
15 by an inspector under regulations referred to in  
16 section 162(2)(aa)(xv).
- 17 (6) If a mining lease or miscellaneous licence is granted, or  
18 held, pursuant to a Government agreement, as defined  
19 in the *Government Agreements Act 1979* section 2, in  
20 accordance with proposals approved, deemed to be  
21 approved or determined under the agreement, this  
22 section does not apply to the mining lease or  
23 miscellaneous licence unless the agreement otherwise  
24 provides.
- 25 **103AZD. Duty to prevent or reduce environmental harm**
- 26 (1) It is a condition of every mining lease that, if mining  
27 operations on land the subject of the mining lease are  
28 approved under this Part, the lessee must, in carrying  
29 out the mining operations, take all reasonable and  
30 practicable measures to avoid or minimise the risk of  
31 environmental harm occurring as a result of the mining  
32 operations.

- 1           (2) A lessee is taken to have complied with the condition  
2           referred to in subsection (1) in respect of mining  
3           operations carried out in accordance with an  
4           environmental management system —  
5                 (a) relating to the mining lease; and  
6                 (b) kept and reviewed by the lessee in accordance  
7                 with section 103AZC.
- 8           (3) It is a condition of every miscellaneous licence that, if  
9           mining operations on land the subject of the  
10           miscellaneous licence are approved under this Part, the  
11           licensee must, in carrying out the mining operations,  
12           take all reasonable and practicable measures to avoid  
13           or minimise the risk of environmental harm occurring  
14           as a result of the mining operations.
- 15           (4) A licensee is taken to have complied with the condition  
16           referred to in subsection (3) in respect of mining  
17           operations carried out in accordance with an  
18           environmental management system —  
19                 (a) relating to the miscellaneous licence; and  
20                 (b) kept and reviewed by the licensee in  
21                 accordance with section 103AZC.
- 22           (5) This section does not affect —  
23                 (a) the obligations the lessee of a mining lease may  
24                 have to comply with any condition imposed on  
25                 the mining lease under section 103AW(1); or  
26                 (b) the obligations the holder of a miscellaneous  
27                 licence may have to comply with any condition  
28                 imposed on the miscellaneous licence under  
29                 section 103AW(1).  
30

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1 **48. Section 114B amended**

2 (1) In section 114B:

3 (a) delete “The expiry, surrender” and insert:

4

5 The expiry, surrender in whole or in part

6

7 (b) in paragraphs (a) and (b) delete “tenement; or” and  
8 insert:

9

10 tenement or, in the case of a surrender in part, the part of  
11 the mining tenement that was surrendered; or

12

13 (c) in paragraph (c) delete “tenement.” and insert:

14

15 tenement or, in the case of a surrender in part, the part of  
16 the mining tenement that was surrendered.

17

18 **49. Section 126 amended**

19 In section 126(1):

20 (a) delete “section 26, 52, 60, 70F or 84A —” and insert:

21

22 section 26, 52(1), 60(1), 70F(1), 84A(1) or  
23 103AZB(1) —

24

25 (b) in paragraph (a)(i) delete “section 26, 52(1a), 60(1a),  
26 70F(2) or 84A(2),” and insert:

27

28 section 26 or 103AZB(1),

29

1   **50.   Section 156 amended**

2           In section 156(1):

3           (a)   in paragraph (b) before “resists” insert:

4

5                   hinders,

6

7           (b)   in paragraph (b)(i) before “officer” insert:

8

9                   inspector or other

10

11   **51.   Section 158 amended**

12       (1)   Delete section 158(2) and (3) and insert:

13

14       (2)   If a requirement is made under subsection (1), a person  
15           who —

16           (a)   refuses or fails to comply with the requirement;  
17                   or

18           (b)   obstructs or hinders the person making the  
19                   requirement; or

20           (c)   knowingly misleads or deceives the person  
21                   making the requirement,

22                   commits an offence.

23                   Penalty: a fine of \$10 000.

24       (3)   If a person who makes a requirement under  
25           subsection (1) is not satisfied with any evidence or  
26           explanation given pursuant to a requirement made  
27           under that subsection, the person may orally or by  
28           notice in writing direct the person to whom the  
29           requirement is made to cease mining on the land  
30           referred to in the direction.

31

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- 1 (2) In section 158(4) delete “request” and insert:  
2  
3 direction  
4
- 5 (3) Delete section 158(5).
- 6 (4) After section 158(6) insert:  
7
- 8 (7) Nothing in this section limits or otherwise affects —  
9 (a) the effect or operation of regulations relating to  
10 the administration and enforcement of the  
11 provisions of this Act relating to mining on  
12 land without authority under this Act; or  
13 (b) the performance by inspectors appointed under  
14 section 11 of functions conferred on them by  
15 the regulations.  
16

17 **52. Section 162 amended**

- 18 (1) In section 162(1) delete “he” and insert:  
19  
20 the Governor  
21
- 22 (2) In section 162(2):  
23 (a) delete paragraph (aa)(i) to (iii) and insert:  
24  
25 (i) to enter upon land where the inspector  
26 has reason to suspect that mining  
27 operations are or have been carried out  
28 for the purpose of ascertaining whether  
29 those mining operations are or were  
30 carried out with authority under this  
31 Act;

- 1 (ii) to give directions to a person requiring  
2 the person to cease mining operations  
3 carried out without authority under this  
4 Act;
- 5 (iii) to enter upon land on which there is a  
6 mining tenement for the purpose of  
7 inspecting mining operations;
- 8 (iv) to give directions to the holder of a  
9 mining tenement requiring the holder to  
10 modify or cease mining operations in  
11 prescribed circumstances;
- 12 (v) when entering land, to take with the  
13 inspector such persons, equipment and  
14 materials as the inspector considers  
15 appropriate;
- 16 (vi) to conduct such examination and  
17 inquiry as the inspector considers  
18 necessary to ascertain whether the  
19 provisions of this Act have been and are  
20 being complied with in respect of  
21 mining operations;
- 22 (vii) to take and remove samples of any  
23 substance or thing whatsoever at a mine  
24 without paying for them;
- 25 (viii) to take possession of any plant,  
26 equipment or other thing for further  
27 examination or testing or for use as  
28 evidence;
- 29 (ix) to take photographs and measurements,  
30 and make sketches and recordings;
- 31 (x) to require the production of, examine,  
32 and take copies of or extracts from, any  
33 document;

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- 1 (xi) to interview any person who the  
2 inspector has reasonable grounds to  
3 believe may be able to provide  
4 information relevant to a matter about  
5 which the inspector is inquiring and to  
6 record the interview with or without the  
7 person's consent;
- 8 (xii) to require the attendance of any person  
9 for an interview referred to in  
10 subparagraph (xi);
- 11 (xiii) to require any person whom the  
12 inspector interviews as referred to in  
13 subparagraph (xi) to answer any  
14 question put to that person;
- 15 (xiv) to require any person to state his or her  
16 name and address;
- 17
- 18 (b) after paragraph (aa)(xiv) as inserted by paragraph (a)  
19 insert:  
20
- 21 (xv) to give directions to the holder of a  
22 mining tenement —
- 23 (I) specifying the time within  
24 which the holder of the mining  
25 tenement is to prepare or revise  
26 an environmental management  
27 system under section 103AZC;  
28 or
- 29 (II) requiring the holder of the  
30 mining tenement to deal with  
31 specific matters in an  
32 environmental management  
33 system maintained under  
34 section 103AZC; or



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(III) requiring the holder of the mining tenement to provide information about an environmental management system maintained under section 103AZC and allow the inspector to examine it and take copies of or extracts from any document that forms part of it;

(c) in paragraph (ab) delete “paragraph (aa)(iii)” and insert:

paragraph (aa)(iv)

(d) after paragraph (ab) insert:

(ac) provide for an interview referred to in paragraph (aa)(xi) to be conducted in private in circumstances specified in the regulations;

(e) in paragraph (ka)(iii) delete “pegs” insert:

pegs, marks or poles

(f) after paragraph (ka) insert:

(la) without limiting paragraph (ka), provide for the resolution of uncertainty or disputes as to the location of the boundaries of tenements;

(lb) without limiting paragraph (ka) or (la), provide that any peg, survey peg, mark, post, cairn of stones or pole purporting to indicate the boundary of a tenement is to be taken to do so unless the contrary is shown;

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- 1 (g) after paragraph (n) insert:  
2  
3 (oa) provide for recording and reporting to the  
4 Director General of Mines by the holder of a  
5 mining tenement prescribed incidents that pose,  
6 or are likely to pose, a risk of environmental  
7 harm (as defined in section 103AA);  
8 (ob) provide for the lodging with the Director  
9 General of Mines by the holder of a mining  
10 tenement an environmental report in respect of  
11 mining operations carried out during a  
12 prescribed period;  
13

14 **53. Second Schedule amended**

15 After Second Schedule Division 2 insert:  
16

17 **Division 3 — Provisions relating to *Mining Legislation***  
18 ***Amendment Act 2015***

19 **20. Term used: commencement day**

20 In this Division —  
21 *commencement day* means the day of the coming into  
22 operation of the *Mining Legislation Amendment Act 2015*  
23 section 46.

24 **21. Continuation of conditions for prevention or reduction**  
25 **of injury to land**

- 26 (1) In this clause —  
27 *former provision* means  
28 (a) section 46A as in force immediately before  
29 commencement day; or  
30 (b) section 63AA as in force immediately before  
31 commencement day; or

- 1 (c) section 70I as in force immediately before  
2 commencement day; or  
3 (d) section 84 as in force immediately before  
4 commencement day.
- 5 (2) A condition that was, immediately before commencement  
6 day, imposed on the holder of a mining tenement under a  
7 former provision has effect, on and from commencement  
8 day, as if it were a condition imposed on the mining  
9 tenement under section 103AW(1) whether or not it is a  
10 condition of a kind that, on or after commencement day,  
11 could be imposed on the tenement under section 103AW(1).
- 12 **22. Continuation of securities**
- 13 (1) In this clause —  
14 *former provision* means  
15 (a) section 52(1a) as in force immediately before  
16 commencement day; or  
17 (b) section 60(1a) as in force immediately before  
18 commencement day; or  
19 (c) section 70F(2) as in force immediately before  
20 commencement day; or  
21 (d) section 84A(2) as in force immediately before  
22 commencement day.
- 23 (2) A security that was, immediately before commencement  
24 day, required to be lodged by the holder of a mining  
25 tenement under a former provision is, on and from  
26 commencement day, to be taken to be a security required to  
27 be lodged by the holder of the mining tenement under  
28 section 103AZB(1).

- 1           **23. Transitional provisions for programmes of work**
- 2           (1) In this clause —
- 3           *existing undetermined programme of work* means a
- 4           programme of work that —
- 5           (a) was lodged before commencement day in
- 6           accordance with a former provision; and
- 7           (b) was not, before commencement day, approved or
- 8           refused to be approved as described in that former
- 9           provision;
- 10          *former provision* means —
- 11          (a) section 46(aa) as in force immediately before
- 12          commencement day; or
- 13          (b) section 63(aa) as in force immediately before
- 14          commencement day; or
- 15          (c) section 70H(1)(aa) as in force immediately before
- 16          commencement day; or
- 17          (d) section 82(1)(ca) as in force immediately before
- 18          commencement day;
- 19          *previously approved programme of work* means a
- 20          programme of work referred to in a former provision for
- 21          which there was, immediately before commencement day,
- 22          approval as described in that former provision.
- 23          (2) On and from commencement day —
- 24          (a) a previously approved programme of work is to be
- 25          taken to be a programme of work lodged in
- 26          accordance with Part IVAA Division 4; and
- 27          (b) an activity proposed in a previously approved
- 28          programme of work is to be taken to be approved
- 29          under Part IVAA.
- 30          (3) On and from commencement day, an existing undetermined
- 31          programme of work —
- 32          (a) is to be taken to be a programme of work lodged in
- 33          accordance with Part IVAA Division 4; and

- 1                                   (b) is to be dealt with by the Director General of Mines  
2                                   in accordance with Part IVAA Division 4.

3           **24. Transitional provisions for mining proposals**

- 4           (1) In this clause —
- 5                                   ***existing undetermined mining proposal*** means —
- 6                                   (a) a mining proposal that accompanied, under  
7                                   section 74(1)(ca), the application for a mining lease  
8                                   that was made, but not finally determined, before  
9                                   commencement day; or
- 10                                  (b) a mining proposal that was lodged before  
11                                  commencement day in accordance with former  
12                                  section 82A and was not, before commencement  
13                                  day, approved or refused to be approved as  
14                                  described in former section 82A;
- 15                                  ***former section 82A*** means section 82A as in force  
16                                  immediately before commencement day;
- 17                                  ***previously approved mining proposal*** means —
- 18                                  (a) a mining proposal that accompanied, under  
19                                  section 74(1)(ca), the application for a mining lease  
20                                  that was granted before commencement day; or
- 21                                  (b) a mining proposal for which there was, immediately  
22                                  before commencement day, approval as described  
23                                  in former section 82A;
- 24                                  ***transition period*** means the period beginning on  
25                                  commencement day and ending 6 years after that day.
- 26           (2) During the transition period —
- 27                                  (a) a previously approved mining proposal is to be  
28                                  taken to be a mining proposal lodged in accordance  
29                                  with Part IVAA Division 4; and
- 30                                  (b) the mining operations proposed in a previously  
31                                  approved mining proposal are to be taken to be  
32                                  approved under Part IVAA.

**s. 53**

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- 1                   (3) On and from commencement day, an existing undetermined  
2                   mining proposal —  
3                   (a) is to be taken to be a mining proposal lodged in  
4                   accordance with Part IVAA Division 4; and  
5                   (b) is to be dealt by the Director General of Mines in  
6                   accordance with Part IVAA Division 4.  
7

1                    **Part 3 — *Mining Legislation Amendment***  
2    ***Act 2014* amended**

3    **54.    Act amended**

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

5    **55.    Section 8 deleted**

6                    Delete section 8.

1 **Part 4 — *Environmental Protection Act 1986* amended**

2 **56. Act amended**

3 This Part amends the *Environmental Protection Act 1986*.

4 **57. Schedule 6 amended**

5 After Schedule 6 item 14 insert:

6

7 15. Clearing that is —

8 (a) a proposed activity in a programme of work or a  
9 mining proposal, within the meaning of the *Mining*  
10 *Act 1978*, and approved under Part IVAA of that  
11 Act; and

12 (b) done in accordance with that approval.

13 16. Clearing that is —

14 (a) required for the purposes of carrying out a  
15 low-impact activity, as defined in the *Mining*  
16 *Act 1978* section 103AA, in respect of which a  
17 notice of low-impact activity has been given under  
18 Part IVAA of that Act; and

19 (b) done in accordance with the requirements of  
20 Part IVAA of that Act.  
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**Part 5 — Mining Rehabilitation Fund  
Act 2012 amended**

**58. Act amended**

This Part amends the *Mining Rehabilitation Fund Act 2012*.

**59. Section 3 amended**

(1) In section 3 insert in alphabetical order:

*register* means the register kept under the *Mining Act 1978* section 103F.

(2) In section 3 in the definition of *record* paragraph (b) delete “means.” and insert:

means;

**60. Section 12 amended**

(1) In section 12:

(a) delete “holder of the mining authorisation” and insert:

person who,

(b) delete “year.” and insert:

year, is shown on the register as the holder of the mining authorisation.

**s. 61**

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1 **61. Section 15 amended**

2 Delete section 15(2) and insert:

3

4 (2) The person who, on the prescribed day in a year, is  
5 shown on the register as the holder of a mining  
6 authorisation must, on or before that day, give to the  
7 CEO assessment information in the form and manner  
8 approved by the CEO.

9 Penalty: a fine of \$20 000.

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