

Western Australia

LEGISLATIVE COUNCIL

Mining Amendment Bill 2000

A Bill for

An Act to amend the *Mining Act 1978*.

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Mining Amendment Act 2000*.

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2. Commencement

This Act comes into operation on a day fixed by proclamation.

3. The Act amended

The amendments in this Act are to the *Mining Act 1978**.

5 [* Reprinted as at 26 July 1999.
For subsequent amendments see Acts Nos. 42 and 60 of
1999.]

4. Section 20 amended

10 Section 20(2)(b) is amended by deleting “on Crown land (not
being Crown land that is the subject of a mining tenement) for”
and inserting instead —

“

on —

- 15 (i) Crown land that is not the subject of a
mining tenement; or
(ii) Crown land that is the subject of an
exploration licence if the holder of the
Miner’s Right holds a permit to do so
under section 20A,

20 for

”.

5. Sections 20A, 20B and 20C inserted

After section 20 the following sections are inserted —

“

25 **20A. Permit to prospect on Crown land the subject of an
exploration licence**

- (1) The mining registrar or the holder of a prescribed
office in the Department may issue a permit to prospect

for minerals on Crown land that is the subject of an exploration licence to —

- (a) a natural person who is the holder of a Miner's Right; or
 - 5 (b) 2 or 3 natural persons, each of whom is the holder of a Miner's Right, as joint holders of the permit.
- 10 (2) A permit cannot be issued under subsection (1) if the applicant for the permit is already the holder of a permit under this section in respect of the exploration licence to which his or her application relates.
- (3) An application for a permit —
 - (a) shall be made in the prescribed form;
 - 15 (b) shall be lodged at the office of the mining registrar or the principal office of the Department at Perth; and
 - (c) shall be accompanied by the prescribed application fee (if any).
- 20 (4) The area of land in respect of which a permit is issued is to be specified in the permit in the prescribed manner.
- (5) A permit is subject to such conditions as are imposed in accordance with the regulations and specified in the permit.
- 25 (6) In addition to any conditions that may be imposed under subsection (5) every permit is to be regarded as having been issued subject to conditions that the holder or each holder (in the case of joint holders) —
 - 30 (a) shall not use explosives or tools, other than hand tools, on the land the subject of the permit;
 - (b) shall not prospect below the prescribed depth;

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- (c) shall comply with the prescribed limits referred to in section 20(2)(c);
 - (d) shall not prospect within 100 metres of any activities that are being carried out under the authority of an exploration licence; and
 - (e) shall not prospect on land that is the subject of a special prospecting licence under section 70.

(7) A permit is not transferable.

10 **20B. Power to remove Crown land from the operation of section 20A**

- (1) The Minister may, by notice published in the *Gazette*, declare that section 20A does not apply to Crown land that is —
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- (a) the subject of a specified exploration licence;
 - (b) in a specified block (within the meaning of Division 2 of Part IV); or
 - (c) in a specified area of the State.
- (2) The Minister may, by notice published in the *Gazette*, vary or cancel a notice under subsection (1).
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- (3) A notice under this section takes effect on the day on which the notice is published in the *Gazette* or such later day as is specified in the notice.
- (4) A notice under this section does not affect the operation of a permit issued under section 20A before
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- the day on which the notice takes effect.

20C. Limitation on actions in tort

- (1) The holder of a permit cannot bring an action in tort against the holder of an exploration licence for injury, loss or damage suffered by the holder of the permit as a
- 30
- result of —
- (a) the condition of the permit land; or

- (b) a thing that the holder of the exploration licence has done on the permit land under the authority of that licence.
- (2) Nothing in subsection (1)(b) prevents the bringing of an action in tort if the thing was done —
- (a) with the deliberate intent of causing injury, loss or damage to the holder of the permit; or
- (b) with reckless disregard for the presence of the holder of the permit on the permit land.
- (3) In this section a reference to the doing of a thing includes a reference to an omission to do a thing.
- (4) In this section —
- “**permit**” means a permit under section 20A;
- “**permit land**” means land that is the subject of both the permit and the exploration licence concerned.
- ”.

6. Section 156 amended

- (1) Section 156 is amended by inserting before “A person” the subsection designation “(1)”.
- (2) At the end of section 156 the following subsection is inserted —
- “
- (2) Subsection (1)(a) does not apply to a person who removes a mineral in the exercise of the authorisation conferred by section 20(2)(c).
- ”.

7. Section 160 amended

Section 160(1) is amended by deleting “Nothing” and inserting instead —

“ Subject to section 20C, nothing ”.

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8. Section 162 amended

After section 162(2)(ca) the following paragraph is inserted —

“

- 5 (cb) provide for any matter relating to permits under section 20A, including without limitation —
- (i) the persons or class of persons to whom notice of the issue of permits is to be given;
- 10 (ii) the operation, duration and surrender of permits;
- (iii) the maximum number of permits that may be in force at any time in respect of an exploration licence;
- 15 (iv) the conditions that may be imposed on permits and the variation or cancellation of such conditions;
- (v) the powers of the Minister, in cases of breach of conditions referred to in section 20A(5) or (6) or in other prescribed circumstances —
- 20 (I) to impose on holders of permits monetary penalties not exceeding the prescribed amount;
- 25 (II) to cancel permits; or
- (III) to disqualify holders of permits from again holding or applying for permits for such period not exceeding the prescribed period as the Minister thinks fit;
- 30 (vi) the procedure to be followed before the exercise of a power referred to in subparagraph (v);

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- (vii) the recovery of penalties referred to in subparagraph (v)(I);
- (viii) the prohibition of the use of hand tools of a prescribed kind;
- (ix) the reporting of minerals recovered by the holders of permits; and
- (x) the issuing of guidelines in relation to the operation of the permit system;

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