

**WESTERN AUSTRALIA**

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# **Mining Amendment (Procedures and Validation) Bill 2018**

<b>DRAFT BILL AS TABLED IN THE LEGISLATIVE ASSEMBLY</b>
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**Mining Amendment (Procedures and  
Validation) Bill 2018**

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Western Australia

LEGISLATIVE ASSEMBLY

**Mining Amendment (Procedures and  
Validation) Bill 2018**

**A Bill for**

**An Act to amend the *Mining Act 1978*.**

The Parliament of Western Australia enacts as follows:

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1     **1.       Short title**

2               This is the *Mining Amendment (Procedures and Validation)*  
3               *Act 2018*.

4     **2.       Commencement**

5               This Act comes into operation as follows —

- 6               (a)   sections 1 and 2 — on the day on which this Act  
7                    receives the Royal Assent (*assent day*);  
8               (b)   sections 3 and 18 — on the day after assent day;  
9               (c)   the rest of the Act — on a day fixed by proclamation,  
10                  and different days may be fixed for different provisions.

11    **3.       Act amended**

12               This Act amends the *Mining Act 1978*.

13    **4.       Section 6 amended**

14               In section 6(1a) delete “accompanied by the documentation  
15               referred to in section 74(1)(ca)(ii) —” and insert:  
16

17                       in respect of which the documents referred to in  
18                       section 74(1AA)(b) or (c) have been lodged —  
19

20    **5.       Section 58 amended**

21               In section 58(1):

- 22               (a)   delete paragraph (b)(i);  
23               (b)   in paragraph (b)(ii) delete “such area; and” and insert:  
24                       the first year of the term of the licence; and  
25                       the first year of the term of the licence; and  
26               (c)   in paragraph (b)(iii) delete “exploration; and” and insert:  
27                       exploration in the first year of the term of the licence;  
28                       and  
29                       exploration in the first year of the term of the licence;  
30                       and  
31

**6. Section 59 amended**

Delete section 59(5) and insert:

- (5) The warden must as soon as practicable after the hearing of the application forward to the Minister for the Minister's consideration a report which recommends the grant or refusal of the exploration licence and sets out the reasons for that recommendation.

**7. Section 70D amended**

Delete section 70D(5) and insert:

- (5) The warden must as soon as practicable after the hearing of the application forward to the Minister for the Minister's consideration a report which recommends the grant or refusal of the retention licence and sets out the reasons for that recommendation.

**8. Section 70O amended**

In section 70O in the definition of *relevant mining proposal* delete paragraph (a) and insert:

- (a) a mining proposal lodged in respect of the application for the mining lease; or

**9. Section 74 amended**

- (1) Delete section 74(1)(ca).

- (2) Delete section 74(1AA) and insert:

- (1AA) An application for a mining lease is not to be dealt with or determined under section 75 (except under section 75(1B)) unless the applicant has lodged in respect of the application within the prescribed time and in the prescribed manner —

- (a) a mining proposal; or

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- 1 (b) a statement in accordance with subsection (1a)  
2 and a mineralisation report; or
- 3 (c) a statement in accordance with subsection (1a)  
4 and a resource report.
- 5 (1AB) Subsection (1AA) does not prevent a notice of  
6 objection to the granting of the application from being  
7 lodged before the lodgment of a document or  
8 documents as referred to in that subsection.  
9
- 10 (3) In section 74(1a):
- 11 (a) delete “subsection (1)(ca)(ii) and (iii)” and insert:  
12  
13 subsection (1AA)(b) and (c)  
14
- 15 (b) delete paragraph (c) and insert:  
16
- 17 (c) the location of those mining operations and the  
18 location and area of land that is likely to be  
19 required for any infrastructure associated with  
20 those mining operations.  
21
- 22 (4) Delete section 74(5)(a) and insert:  
23
- 24 (a) any document referred to in subsection (1AA)  
25 that is lodged in respect of the application; and  
26
- 27 (5) In section 74(7) delete the definition of **JORC Code**.
- 28 (6) In section 74(7) insert in alphabetical order:  
29
- 30 **ASX** means Australian Securities Exchange Limited;  
31 **current JORC Code** means the *Australasian Code for*  
32 *Reporting of Exploration Results, Mineral Resources*  
33 *and Ore Reserves* prepared by the Joint Ore Reserves  
34 Committee of the Australasian Institute of Mining and  
35 Metallurgy, the Australian Institute of Geoscientists  
36 and the Minerals Council of Australia in the form most  
37 recently adopted by ASX before the application is  
38 made;  
39

- (7) In section 74(7) in the definition of *mineralisation report* after “a report” insert:

prepared by a qualified person

- (8) In section 74(7) in the definition of *resource report*:

- (a) in paragraph (b) before “JORC Code” insert:

current

- (b) delete paragraph (c) and insert:

- (c) that has been given to ASX.

**10. Section 74A amended**

- (1) Delete section 74A(1), (2), (3) and (4) and insert:

- (1) If the documents referred to in section 74(1AA)(b) are lodged in respect of an application for a mining lease, the Director, Geological Survey must prepare a report as to whether or not there is significant mineralisation in, on or under the land to which the application relates.
- (2) For the purposes of preparing the report, the Director, Geological Survey may request the applicant to provide further information in relation to matters dealt with in the documents referred to in section 74(1AA)(b) and the applicant must provide that information within the prescribed time.
- (3) The report must be based solely on information contained in the documents referred to in section 74(1AA)(b) and any further information provided by the applicant in response to a request under subsection (2).
- (4) If the report is needed by the mining registrar or the warden in order to perform functions under section 75, the Director, Geological Survey must cause a copy of the report to be given to the mining registrar or the warden, as the case may be.

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1           (4A) If the report states that there is no significant  
2           mineralisation in, on or under the land to which the  
3           application relates, the Director, Geological Survey  
4           must cause a copy of the report to be given to the  
5           Minister.  
6

7           (2) Delete section 74A(7).

8   **11. Section 75 amended**

9           (1) Before section 75(1) insert:  
10

11           (1AA) This section is about how an application for a mining  
12           lease (the *application*) is dealt with and determined.  
13

14           (2) In section 75(1) delete “an application for a mining lease shall”  
15           and insert:  
16

17           the application must  
18

19           (3) After section 75(1a) insert:  
20

21           (1B) If compliant information is not lodged in respect of the  
22           application within the compliance time, the mining  
23           registrar must refuse the application.  
24

25           (4) Delete section 75(2) and (2a) and insert:  
26

27           (2) Subject to subsection (2A), if compliant information is  
28           lodged in respect of the application within the  
29           compliance time and no notice of objection is lodged  
30           within the objection time, or any notice of objection is  
31           withdrawn, the mining registrar must, unless  
32           subsection (3A)(b)(ii) applies, forward to the Minister  
33           a report which recommends the grant or refusal of the  
34           mining lease and sets out the reasons for that  
35           recommendation.

36           (2A) If the compliant information lodged in respect of the  
37           application consists of or includes the documents  
38           referred to in section 74(1AA)(b), the mining registrar

1 must not forward a report under subsection (2)  
2 unless —

- 3 (a) the mining registrar has received a copy of the  
4 section 74A report in relation to the application;  
5 and  
6 (b) the section 74A report states that there is  
7 significant mineralisation in, on or under the  
8 land to which the application relates.

9 (2B) If subsection (2A) applies and the mining registrar  
10 forwards a report under subsection (2), the mining  
11 registrar must also forward to the Minister a copy of  
12 the section 74A report in relation to the application.  
13

14 (5) Delete section 75(4), (4a) and (5) and insert:  
15

16 (3A) Subsection (4) applies to the application if —

- 17 (a) compliant information is lodged in respect of  
18 the application within the compliance time; and  
19 (b) a notice of objection —  
20 (i) is lodged within the objection time; or  
21 (ii) is not lodged within the objection time  
22 but is lodged before the mining registrar  
23 has forwarded a report to the Minister  
24 under subsection (2) and the warden is  
25 satisfied that there are reasonable  
26 grounds for late lodgment;  
27 and  
28 (c) the notice of objection is not withdrawn.

29 (4) Subject to subsection (4A), if this subsection applies to  
30 the application the warden must hear the application on  
31 a day appointed by the warden and may give any  
32 person who has lodged a notice of objection an  
33 opportunity to be heard.

34 (4A) If the compliant information lodged in respect of the  
35 application consists of or includes the documents  
36 referred to in section 74(1AA)(b), the warden must not  
37 hear the application unless —

- 38 (a) the warden has received a copy of the  
39 section 74A report in relation to the application;  
40 and

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- 1 (b) the section 74A report states that there is  
2 significant mineralisation in, on or under the  
3 land to which the application relates.
- 4 (5) The warden must as soon as practicable after the  
5 hearing of the application forward to the Minister for  
6 the Minister's consideration —
- 7 (a) a report which recommends the grant or refusal  
8 of the mining lease and sets out the reasons for  
9 that recommendation; and
- 10 (b) if subsection (4A) applies, a copy of the  
11 section 74A report in relation to the application.  
12
- 13 (6) In section 75(6) after “a report” insert:  
14
- 15 or reports  
16
- 17 (7) In section 75(7) delete “In the case of an application for a  
18 mining lease” and insert:  
19
- 20 If the application is  
21
- 22 (8) Delete section 75(8) and insert:  
23
- 24 (8) If the compliant information lodged in respect of the  
25 application consists of or includes the documents  
26 referred to in section 74(1AA)(b), the Minister must  
27 refuse to grant the mining lease if the section 74A  
28 report states that there is no significant mineralisation  
29 in, on or under the land to which the application  
30 relates.  
31
- 32 (9) In section 75(9):  
33 (a) delete “an application for a mining lease” and insert:  
34  
35 the application  
36

(b) delete “that” and insert:

the

(10) Delete section 75(10) and insert:

(10) The power in section 162B(1) to extend the compliance time may only be exercised by the Minister.

(11) In this section —

**compliance time** means the time prescribed under section 74(1AA) for lodging compliant information or, if that time is extended under section 162B, that time as so extended;

**compliant information** means —

(a) the document referred to in section 74(1AA)(a);  
or

(b) the documents referred to in section 74(1AA)(b); or

(c) the documents referred to in section 74(1AA)(c);

**objection time** means the time prescribed under subsection (1) for lodging a notice of objection or, if that time is extended under section 162B, that time as so extended;

**section 74A report** means the report prepared if and as required under section 74A(1).

## 12. Section 82A amended

(1) Before section 82A(1) insert:

(1A) In this section —

**mineralisation report** and **resource report** have the meanings given in section 74(7).

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- 1       (2) Delete section 82A(1)(b) and insert:  
2
- 3               (b) the following were lodged in respect of the  
4                       application for the mining lease —  
5                               (i) a statement in accordance with  
6                                       section 74(1a), as in force at the time of  
7                                       the application; and  
8                               (ii) a mineralisation report or a resource  
9                                       report.  
10
- 11   **13.       Section 84AA amended**
- 12               In section 84AA(1)(a) delete “accompanied the application for  
13               the mining lease under section 74(1)(ca),” and insert:  
14
- 15                       was lodged under section 74 in respect of the  
16                       application for the mining lease,  
17
- 18   **14.       Section 90 amended**
- 19               Delete section 90(2)(b) and insert:  
20
- 21                       (b) in subsection (1AA)(b) “and a mineralisation  
22                               report” was deleted.  
23
- 24   **15.       Section 97A amended**
- 25       (1) Delete section 97A(7)(b) and insert:  
26
- 27                       (b) in any other case, must as soon as practicable  
28                               after the hearing of the application transmit to  
29                               the Minister for the Minister’s consideration a  
30                               report recommending the granting or refusal of  
31                               the application together with the warden’s  
32                               reasons for the recommendation.  
33
- 34       (2) In section 97A(8) delete “notes of evidence and any maps or  
35       documents transmitted to him” and insert:  
36
- 37               a report transmitted  
38

**16. Section 98 amended**

In section 98(6) delete “the notes of evidence, with”.

**17. Section 102 amended**

Delete section 102(6) and insert:

- (6) The warden must as soon as practicable after the hearing of the application transmit to the Minister for the Minister’s consideration a report which recommends the grant or refusal of the application and sets out the reasons for that recommendation.

**18. Section 116 amended**

(1) In section 116(2):

- (a) delete “fraud, a mining tenement granted or renewed” and insert:

fraud or as mentioned in subsections (4) to (7), a mining tenement granted, amended or renewed

- (b) delete “any informality or irregularity in the application or in the proceedings previous to the grant or renewal” and insert:

any failure to comply with a provision of this Act or any informality or irregularity in, or in relation to, the application or the proceedings previous to the grant, amendment or renewal

(2) After section 116(3) insert:

- (4) Subsection (2) does not apply to a mining tenement to the extent, if any, that the tenement was granted in respect of private land if —

- (a) under this Act the grant required the consent in writing of the owner and the occupier of the private land concerned; and  
(b) those consents were not given.

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- 1           (5) Subsection (2) does not apply to the amendment of the  
2           land the subject of a mining tenement to include private  
3           land if —
- 4               (a) under this Act the amendment required the  
5               consent in writing of the owner and the  
6               occupier of the private land concerned; and  
7               (b) those consents were not given.
- 8           (6) Subsection (2) does not apply to the amalgamation of a  
9           mining tenement with another mining tenement if —
- 10               (a) either of the mining tenements has been  
11               forfeited; and  
12               (b) an application for the restoration of that mining  
13               tenement is made before the application to  
14               amalgamate is granted; and  
15               (c) the application for the restoration of that mining  
16               tenement is granted.
- 17           (7) Subsection (2) does not affect the operation of the  
18           condition imposed on the grant of a mining tenement  
19           by section 105B.
- 20           (8) If a mining tenement was granted, amended or renewed  
21           under this Act before the coming into operation of the  
22           *Mining Amendment (Procedures and Validation)*  
23           *Act 2018* section 18 the following are taken to be, and  
24           to have always been, valid and effective to the same  
25           extent as they would have been if that section had  
26           come into operation on 1 January 1982 —
- 27               (a) the grant, amendment or renewal of the mining  
28               tenement;  
29               (b) anything done or purportedly done under the  
30               mining tenement or in relation to the mining  
31               tenement.
- 32           (9) A reference in this section to the amendment of a  
33           mining tenement is a reference to —
- 34               (a) the amendment of the land the subject of a  
35               mining tenement to include private land; or  
36               (b) the amalgamation of a mining tenement with  
37               another mining tenement; or  
38               (c) the surrender as required by this Act, or by the  
39               repealed Act as continued by the *Mining*

1                                    *Amendment Act 2004* section 19, of blocks that  
2                                    are subject to an exploration licence.

3                    (10) A reference in this section to the renewal of a mining  
4                                    tenement is a reference to —

5                                    (a) the renewal or restoration of a mining  
6                                    tenement; or

7                                    (b) the extension of the term of a mining tenement;  
8                                    or

9                                    (c) the approval of retention status for land the  
10                                    subject of a mining tenement.

11                    (11) A reference in this section to the grant, amendment or  
12                                    renewal of a mining tenement includes a reference to  
13                                    the purported grant, amendment or renewal of a mining  
14                                    tenement.

16    **19.        Section 162B amended**

17                    After section 162B(2) insert:

18  
19                    (3) The regulations may regulate —

20                                    (a) applications for the extension of prescribed  
21                                    periods or prescribed times;

22                                    (b) the exercise of the power in subsection (1).  
23

24