

# Mining Amendment Bill 2021

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Western Australia

LEGISLATIVE ASSEMBLY

## **Mining Amendment Bill 2021**

**A Bill for**

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

The Parliament of Western Australia enacts as follows:

**s. 1**

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1   **1.     Short title**

2           This is the *Mining Amendment Act 2021*.

3   **2.     Commencement**

4           This Act comes into operation as follows —

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

9   **3.     Act amended**

10          This Act amends the *Mining Act 1978*.

11   **4.     Section 6 amended**

12          (1)   In section 6(1c) delete “pursuant to a Government agreement as  
13                defined in section 2 of the *Government Agreements Act 1979*.”  
14                and insert:

15  
16                under a Government agreement.

17  
18          (2)   In section 6(1d):

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

20                                section 103AH(2)(b) or (3); or

21  
22  
23                (b)   in paragraph (b) delete “mining proposal” and insert:

24                                mining development and closure proposal

25  
26

- 1 (c) in paragraph (b) delete “section 82A.” and insert:  
2  
3 section 103AL(2)(b) or (3).  
4

5 **5. Section 8 amended**

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

- 8 (2) In section 8(1) insert in alphabetical order:  
9

10 *approved form* means a form approved by the  
11 Minister;

12 *Government agreement* has the meaning given in the  
13 *Government Agreements Act 1979* section 2;

14 *mining development and closure proposal* means a  
15 mining development and closure proposal —

16 (a) accompanying an application for a mining lease  
17 under section 74(1)(ca); or

18 (b) required in order to comply with a condition  
19 referred to in —

20 (i) section 103AL(2)(b) or (3); or

21 (ii) section 103AM(2)(b) or (3);

22 *prescribed* means prescribed by regulations made  
23 under this Act;  
24

1   **6.       Section 12 replaced**

2           Delete section 12 and insert:

3

4           **12.       Delegation**

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

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

10          (3)   The Director General of Mines may delegate to an  
11          officer of the Department any power or duty of the  
12          Director General of Mines except this power of  
13          delegation.

14          (4)   A delegation under subsection (3) must be in writing  
15          signed by the Director General of Mines.

16          (5)   A person exercising or performing a power or duty that  
17          has been delegated to the person under this section, is  
18          taken to do so in accordance with the terms of the  
19          delegation unless the contrary is shown.

20          (6)   Nothing in this section limits the ability of the Minister  
21          or the Director General of Mines to perform a function  
22          through an officer or agent.

23

24   **7.       Section 17 amended**

25           In section 17(2) before “taken” delete “to be”.



1 **8. Section 20 amended**

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

3

- 4 (i) take all necessary steps to prevent  
5 damage or injury to property or  
6 livestock whether resulting from fire,  
7 the presence of dogs, the discharge of  
8 firearms, the use of vehicles or any  
9 other cause; and  
10

11 **9. Section 40D amended**

12 Delete section 40D(2)(d) and insert:

13

- 14 (d) must take all necessary steps to prevent damage  
15 or injury to property or livestock whether  
16 resulting from fire, the presence of dogs, the  
17 discharge of firearms, the use of vehicles or any  
18 other cause.  
19

20 **10. Section 46 amended**

21 In section 46:

22

- (a) delete “shall be deemed” and insert:

23

24 is taken

25

- 26 (b) delete paragraphs (aa), (b) and (c) and insert:

27

- 28 (b) that all holes, pits, trenches and other  
29 disturbances to the surface of the land the  
30 subject of the prospecting licence that are made  
31 while prospecting, and that are likely to

**s. 11**

---

- 1                                   endanger the safety of any person or animal,  
2                                   will be filled in or otherwise made safe;  
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 52 amended**

- 12           (1) Delete section 52(1a).  
13           (2) In section 52(2) delete “or (1a)”.

14   **13.       Section 55A amended**

- 15           (1) In section 55A(2) delete “a form approved by the Minister” and  
16                   insert:

17  
18                   an approved form  
19

- 20           (2) Delete section 55A(4) and insert:

- 21  
22                   (4) On and from giving notice in writing to the holder of  
23                   the licence of the imposition of the condition, the  
24                   condition has effect for all purposes as a condition to  
25                   which the licence is subject.  
26

1 **14. Section 60 amended**

2 (1) Delete section 60(1a).

3 (2) In section 60(2) delete “or (1a)”.

4 **15. Section 63 amended**

5 In section 63:

6 (a) delete “shall be deemed” and insert:

7

8 is taken

9

10 (b) delete paragraphs (aa), (b) and (c) and insert:

11

12 (b) will fill in or otherwise make safe all holes,  
13 pits, trenches and other disturbances to the  
14 surface of the land the subject of the  
15 exploration licence that are made while  
16 exploring for minerals, and that are likely to  
17 endanger the safety of any person or animal;  
18 and

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

25 Note: The heading to amended 63 is to read:

26 **Conditions attached to exploration licence**

27 **16. Section 63AA deleted**

28 Delete section 63AA.

1     **17.     Section 63A amended**

2             In section 63A:

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

5  
6                    section 65(4), 69E(2), 103AV(1)

7  
8             (b)    delete paragraph (b) and insert:

9  
10            (b)    the terms and conditions of the exploration  
11                    licence are not complied with, including —  
12                    (i)   the prescribed expenditure conditions  
13                        referred to in section 62; and  
14                    (ii)  any conditions to which the licence is  
15                        taken to be subject under section 63,  
16                        103AE(1) or 103AG(3), (4) or (5); and  
17                    (iii) any conditions imposed under  
18                        section 69D(1) or 103AU(1);

19                                or  
20

21     **18.     Section 69D amended**

22            (1)    In section 69D(2) delete “a form approved by the Minister” and  
23                    insert:

24  
25                    an approved form  
26

27            (2)    Delete section 69D(4) and insert:

28  
29            (4)    On and from giving notice in writing to the holder of  
30                    the licence of the imposition of the condition, the

1                    condition has effect for all purposes as a condition to  
2                    which the licence is subject.  
3

4    **19.    Section 70F amended**

- 5            (1) Delete section 70F(2).  
6            (2) In section 70F(3) delete “or (2)”.

7    **20.    Section 70H amended**

8            In section 70H(1):

- 9            (a) delete “shall be deemed” and insert:

10

11                    is taken

12

- 13            (b) delete “shall — ” and insert:

14

15                    must —

16

- 17            (c) delete paragraphs (aa), (a) and (b) and insert:

18

19                    (a) fill in or otherwise make safe all holes, pits,  
20                    trenches and other disturbances to the surface  
21                    of the land the subject of the retention licence  
22                    that are made while exploring for minerals, and  
23                    that are likely to endanger the safety of any  
24                    person or animal; and

25                    (b) take all necessary steps to prevent damage or  
26                    injury to property or livestock whether resulting  
27                    from fire, the presence of dogs, the discharge of  
28                    firearms, the use of vehicles or any other cause;  
29                    and  
30

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---

1   **21.     Section 70I deleted**

2           Delete section 70I.

3   **22.     Section 70IA amended**

4       (1)   In section 70IA(2) delete “a form approved by the Minister” and  
5           insert:

6  
7           an approved form

8  
9       (2)   Delete section 70IA(3) and insert:

10  
11       (3)   A condition imposed under subsection (1) may be  
12           cancelled or varied by the Minister at any time.

13       (3A)  On and from giving notice in writing to the holder of  
14           the licence of the imposition of the condition, the  
15           condition has effect for all purposes as a condition to  
16           which the licence is subject.

17  
18   **23.     Section 70K amended**

19           In section 70K:

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

21  
22           (b)   the terms and conditions of the licence are not  
23           complied with, including —

24               (i)   any conditions to which the licence is  
25               taken to be subject under section 70H,  
26               103AE(1) or 103AG(3), (4) or (5); and

27               (ii)  any conditions imposed under  
28               section 70IA(1) or 103AU(1);

29               or

30

1 (b) in paragraph (bb) delete “section 70F(2)” and insert:

2

3 section 103AV(1)

4

5 **24. Section 70L amended**

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

8

9 section 70IA(1) or 103AU(1); and

10

11 **25. Sections 70O and 70P replaced**

12 Delete sections 70O and 70P and insert:

13

14 **70O. Significant mineralisation**

15 In this Division there is *significant mineralisation* in,  
16 on or under land to which an application for a mining  
17 lease relates if exploration results in respect of a  
18 deposit of minerals located in, on or under that land  
19 indicate that there is a reasonable prospect of minerals  
20 being obtained by mining operations on the land.

21

22 **26. Section 74 amended**

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

24

25 (i) a mining development and closure  
26 proposal lodged in accordance with  
27 section 103AN(2); or

28

**s. 27**

---

1       (2) In section 74(1AA) delete “mining proposal” (each occurrence)  
2       and insert:

3

4               mining development and closure proposal

5

6       **27. Section 82 amended**

7       (1) In section 82(1):

8               (a) delete “shall be deemed to be” and insert:

9

10                       is taken to be

11

12               (b) delete paragraph (ca);

13               (c) delete paragraphs (ga) and (g) and insert:

14

15                       (g) be liable to have the lease forfeited if —

16

17                               (i) the lessee contravenes any of the  
18                               covenants or conditions to which the  
19                               lease is subject; or

19

20                               (ii) the lessee fails to comply with any  
21                               requirement under section 103AV(1) or  
22                               115B(2) in relation to the lease; or

22

23                               (iii) a report required under paragraph (e) or  
24                               section 115A(2) in relation to the land  
25                               the subject of the lease is not filed in  
26                               accordance with this Act.

26

27       (2) Delete section 82(1b).

28       **28. Section 82A deleted**

29               Delete section 82A.



1 **29. Sections 84AA and 84 deleted**

2 Delete sections 84AA and 84.

3 **30. Section 84A amended**

4 (1) Delete section 84A(2).

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

6 **31. Section 90 amended**

7 (1) In section 90(1):

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

9

10 section 6(1a), (1c) and (1d)(b)

11

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

13

14 (b) section 6(1d)(a) were replaced by the  
15 following —

16

17 (a) a programme of work lodged by the holder of  
18 the general purpose lease in compliance with a  
19 condition prescribed for the purposes of  
20 section 89; or

21

22 (2) Delete section 90(2)(b) and insert:

23

24 (b) section 74(1)(ca)(ii) and (iii) were replaced by  
25 the following —

26

27 (ii) a statement in accordance with  
28 subsection (1a);

29

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---

1       (3) In section 90(4) delete “82A, 83, 84, 84A,” and insert:

2

3               83, 84A, 103AL, 103AN, 103AO, 103AP, 103AQ, 103AR,  
4               103AS, 103AT,

5

6       **32. Section 92 amended**

7               In section 92 delete “46A,”.

8       **33. Section 96 amended**

9               In section 96(2):

10              (a) in paragraph (b) delete “subject, including any condition  
11                 referred to in section 46 or section 50,” and insert:

12

13                         subject, including any conditions referred to in  
14                         sections 46, 50, 103AE(1), 103AG(3), (4) and (5),  
15                         103AI(2), (3) and (5), 103AM(2), (3) and (4), 103AO(4)  
16                         and 103AS,

17

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

20

21                         section 55B(2), 103AV(1)

22

---

1 **34. Part 4AA inserted**

2 After section 103 insert:

3

4 **Part 4AA — Conditions and approvals**

5 **Division 1 — Preliminary**

6 **103AA. Terms used**

7 In this Part —

8 *approvals statement* has the meaning given in  
9 section 103AP(1);

10 *closure outcomes* means —

11 (a) in relation to a mining development and closure  
12 proposal — the outcomes, objectives or goals  
13 to be achieved at the completion of the  
14 decommissioning of a proposed mine, and the  
15 rehabilitation of the land, the subject of a  
16 mining lease or a miscellaneous licence to  
17 which the mining development and closure  
18 proposal relates; and

19 (b) in relation to a mine closure plan — the  
20 outcomes, objectives or goals to be achieved at  
21 the completion of the decommissioning of a  
22 mine, and the rehabilitation of the land, in  
23 respect of which a mining lease or a  
24 miscellaneous licence is granted;

25 *eligible mining activity (EMA)* has the meaning given  
26 in section 103AB(1);

27 *EMA notice* has the meaning given in  
28 section 103AF(1);

29 *licensed activity* means an activity authorised by a  
30 miscellaneous licence;

1            *mine closure plan* has the meaning given in  
2            section 103AR;

3            *programme of work* means a programme of work  
4            required in order to comply with a condition referred to  
5            in section 103AG(3)(b) or (4), 103AH(2)(b) or (3) or  
6            103AI(2)(b) or (3);

7            *relevant information* has the meaning given in  
8            section 103AO(6).

9            **Division 2 — Conditions and notices relating to eligible**  
10           **mining activities**

11           **103AB. Eligible mining activities**

- 12           (1) For the purposes of this Part, the regulations may  
13           prescribe an activity done on land the subject of a  
14           mining tenement to be an *eligible mining activity*  
15           (*EMA*) if —
- 16                  (a) the activity uses machinery to disturb the  
17                  surface of the land for the purposes of, or in  
18                  preparation for, mining; and
- 19                  (b) the activity can be carried out with minimal  
20                  disturbance to the surface of the land.
- 21           (2) For the purposes of subsection (1)(b), an EMA is taken  
22           to be carried out with minimal disturbance to the  
23           surface of the land if it is carried out in accordance  
24           with prescribed requirements.

25           **103AC. Excluded area notices**

- 26           (1) The Minister may, by notice (an *excluded area notice*)  
27           in the *Gazette*, declare an area named or described in  
28           the notice as an excluded area for the purposes of this  
29           Part if the Minister is satisfied that it is not appropriate  
30           for an EMA notice to be given in relation to the area.

- 
- 1 (2) An EMA notice cannot be given in relation to an area  
2 that is the subject of an excluded area notice.
- 3 (3) The Minister may, by notice in the *Gazette*, cancel an  
4 excluded area notice.
- 5 (4) The Minister must keep a register of excluded area  
6 notices and make the information on the register  
7 publicly available free of charge —
- 8 (a) by making the register available during normal  
9 office hours at a prescribed place for public  
10 inspection; and
- 11 (b) by making the register available on a website  
12 maintained by the Department.

13 **103AD. Certain lands excluded from EMAs**

- 14 An EMA notice cannot be given in relation to —
- 15 (a) land, or land of a class, to which section 24,  
16 24A or 25 applies; or
- 17 (b) Commonwealth land.

18 **103AE. Condition relating to carrying out EMAs in  
19 accordance with prescribed requirements**

- 20 (1) Subject to subsection (2), it is a condition of every  
21 mining tenement that the holder of the mining  
22 tenement must not carry out an EMA on land the  
23 subject of the mining tenement otherwise than in  
24 accordance with the requirements for carrying out the  
25 EMA prescribed under section 103AB(2).
- 26 (2) The holder of a mining tenement is not required to  
27 comply with subsection (1) in respect of the carrying  
28 out of an EMA if —
- 29 (a) the EMA is proposed in a programme of work  
30 relating to the mining tenement, and approved  
31 under section 103AK(1); or

- 1 (b) the EMA is proposed in a mining development  
2 and closure proposal relating to the mining  
3 tenement and approved under  
4 section 103AO(1).
- 5 (3) Subsection (1) does not affect any obligation the holder  
6 of a mining tenement has to comply with a condition  
7 referred to in section 103AG(5), 103AH(5), 103AI(5),  
8 103AL(4) or 103AM(4) in relation to the carrying out  
9 of an EMA.

10 **103AF. EMA notices and notices of completion**

- 11 (1) A notice (an *EMA notice*) of an EMA required in order  
12 to comply with a condition referred to in  
13 section 103AG(3)(a), 103AH(2)(a), 103AI(2)(a),  
14 103AL(2)(a) or 103AM(2)(a) must be in the approved  
15 form.
- 16 (2) The holder of a mining tenement who gives an EMA  
17 notice under this Part must, on completing the EMA,  
18 give the Minister notice of the completion in the  
19 approved form.
- 20 (3) The regulations must specify —
- 21 (a) the manner in which an EMA notice must be  
22 given; and
- 23 (b) the period within which a notice of completion  
24 must be given under subsection (2).

25 **Division 3 — Programmes of work**

26 **103AG. Conditions attached to prospecting licences,  
27 exploration licences and retention licences**

- 28 (1) In this section —
- 29 *relevant licence* means —
- 30 (a) a prospecting licence; or

- 
- 1 (b) an exploration licence; or  
2 (c) a retention licence.
- 3 (2) This section applies to an activity done on land the  
4 subject of a relevant licence using machinery to disturb  
5 the surface of the land for the purposes of, or in  
6 preparation for, prospecting or exploring for minerals.
- 7 (3) It is a condition of every relevant licence that an  
8 activity that is an EMA must not be done by the holder  
9 of the relevant licence on land the subject of the  
10 relevant licence unless —
- 11 (a) the holder has given an EMA notice in respect  
12 of the activity; or
- 13 (b) the EMA is proposed in a programme of work  
14 and approved under section 103AK(1).
- 15 (4) It is a condition of every relevant licence that an  
16 activity that is not an EMA must not be done by the  
17 holder of the relevant licence on land the subject of the  
18 relevant licence unless the activity is proposed in a  
19 programme of work and approved under  
20 section 103AK(1).
- 21 (5) It is a condition of every relevant licence that, if an  
22 activity on land the subject of the relevant licence is  
23 proposed in a programme of work and approved under  
24 section 103AK(1), the holder of the relevant licence  
25 must not do the activity on the land otherwise than in  
26 accordance with the approved programme of work for  
27 the activity.

28 **103AH. Conditions attached to mining leases**

- 29 (1) This section applies to an activity done on land the  
30 subject of a mining lease using machinery to disturb  
31 the surface of the land for the purposes of, or in

- 1 preparation for, prospecting or exploring for minerals  
2 but does not apply to mining operations.
- 3 (2) It is a condition of every mining lease that an activity  
4 that is an EMA must not be done by the lessee on land  
5 the subject of the mining lease unless —
- 6 (a) the lessee has given an EMA notice in respect  
7 of the activity; or
- 8 (b) the EMA is proposed in a programme of work  
9 and approved under section 103AK(1).
- 10 (3) It is a condition of every mining lease that an activity  
11 that is not an EMA must not be done by the lessee on  
12 land the subject of the mining lease unless the activity  
13 is proposed in a programme of work and approved  
14 under section 103AK(1).
- 15 (4) A lessee of a mining lease is not required to comply  
16 with the condition referred to in subsection (2) or (3) in  
17 respect of an activity that is proposed in a mining  
18 development and closure proposal relating to the  
19 mining lease and approved under section 103AO(1).
- 20 (5) It is a condition of every mining lease that, if an  
21 activity on land the subject of the lease is proposed in a  
22 programme of work and approved under  
23 section 103AK(1), the lessee must not do the activity  
24 on the land otherwise than in accordance with the  
25 approved programme of work for the activity.
- 26 (6) Unless a Government agreement provides otherwise,  
27 this section does not apply to a mining lease granted or  
28 held under the agreement in accordance with proposals  
29 approved, taken to be approved or determined under  
30 the agreement.



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**103AI. Conditions attached to miscellaneous licences**

- 1
- 2 (1) This section applies to an activity done on land the  
3 subject of a miscellaneous licence using machinery to  
4 disturb the surface of the land for the purposes of, or in  
5 preparation for, a licensed activity but does not apply  
6 to mining operations.
- 7 (2) It is a condition of every miscellaneous licence that a  
8 licensed activity that is an EMA must not be done by  
9 the holder of the miscellaneous licence on land the  
10 subject of the miscellaneous licence unless —
- 11 (a) the holder has given an EMA notice in respect  
12 of the activity; or
- 13 (b) the EMA is proposed in a programme of work  
14 and approved under section 103AK(1).
- 15 (3) It is a condition of every miscellaneous licence that a  
16 licensed activity that is not an EMA must not be done  
17 by the holder of the miscellaneous licence on land the  
18 subject of the miscellaneous licence unless the licensed  
19 activity is proposed in a programme of work and  
20 approved under section 103AK(1).
- 21 (4) A holder of a miscellaneous licence is not required to  
22 comply with a condition referred to in subsection (2)  
23 or (3) in respect of a licensed activity that is proposed  
24 in a mining development and closure proposal relating  
25 to the miscellaneous licence and approved under  
26 section 103AO(1).
- 27 (5) It is a condition of every miscellaneous licence that, if  
28 a licensed activity on land the subject of the  
29 miscellaneous licence is proposed in a programme of  
30 work and approved under section 103AK(1), the holder  
31 of the miscellaneous licence must not do the activity on  
32 the land otherwise than in accordance with the  
33 approved programme of work for the activity.

- 1           (6) Unless a Government agreement provides otherwise,  
2           this section does not apply to a miscellaneous licence  
3           granted or held under the agreement in accordance with  
4           proposals approved, taken to be approved or  
5           determined under the agreement.

6           **103AJ. Lodgment of programmes of work**

- 7           (1) In this section —  
8           *relevant lodging party* means —  
9           (a) in relation to a programme of work lodged for  
10           an activity on land the subject of a prospecting  
11           licence, an exploration licence or a retention  
12           licence — the holder of the licence, or a person  
13           authorised by the holder of the licence; or  
14           (b) in relation to a programme of work lodged for  
15           an activity on land the subject of a mining  
16           lease — the lessee of the mining lease, or a  
17           person authorised by the lessee of the mining  
18           lease; or  
19           (c) in relation to a programme of work lodged for a  
20           licensed activity on land the subject of a  
21           miscellaneous licence — the holder of the  
22           miscellaneous licence, or a person authorised  
23           by the holder of the miscellaneous licence.
- 24           (2) A programme of work required in order to comply with  
25           a condition referred to in section 103AG(3)(b) or (4),  
26           103AH(2)(b) or (3) or 103AI(2)(b) or (3) must be  
27           lodged with the Minister by the relevant lodging party  
28           in accordance with subsection (3).
- 29           (3) The programme of work must —  
30           (a) be lodged in the prescribed manner; and  
31           (b) be in the approved form; and

- 1 (c) be accompanied by the prescribed assessment  
2 fee; and  
3 (d) include any prescribed information.
- 4 (4) Before the Minister approves or refuses to approve an  
5 activity proposed in a programme of work under  
6 section 103AK(1) —
- 7 (a) the Minister may request the relevant lodging  
8 party —
- 9 (i) to lodge a substitute programme of  
10 work; or  
11 (ii) to provide such further information as  
12 the Minister may require for the  
13 purposes of making the decision;
- 14 or
- 15 (b) the relevant lodging party may, with the written  
16 permission of the Minister, lodge a substitute  
17 programme of work.
- 18 (5) The activity proposed in a substitute programme of  
19 work must not be substantially different to the activity  
20 proposed in the programme of work it is intended to  
21 replace.
- 22 (6) A relevant lodging party who has lodged a programme  
23 of work or a substitute programme of work may  
24 withdraw it, by written notice to the Minister, at any  
25 time before the Minister approves or refuses to approve  
26 the activity proposed in the programme of work under  
27 section 103AK(1).

28 **103AK. Approval of activities in programmes of work**

- 29 (1) The Minister must approve, or refuse to approve, an  
30 activity proposed in a programme of work or a  
31 substitute programme of work (if any).

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- 1           (2) The Minister must —
- 2                   (a) notify the holder of the mining tenement to
- 3                           which the programme of work relates in writing
- 4                           of the Minister's decision under subsection (1);
- 5                           and
- 6                   (b) if the decision is to refuse to approve the
- 7                           activity, include in the notification the reasons
- 8                           for the refusal.
- 9           (3) An approval takes effect when notice of it is given to
- 10                   the holder of the mining tenement to which the
- 11                           programme of work relates.

12                           **Division 4 — Mining development and closure**

13   **proposals**

14           **103AL. Conditions relating to mining operations on land**

15                           **subject of mining leases**

- 16           (1) This section applies to the following activities done on
- 17                   land the subject of a mining lease —
- 18                           (a) using machinery to disturb the surface of the
- 19                                   land for the purposes of, or in preparation for,
- 20                                   mining operations;
- 21                           (b) carrying out mining operations.
- 22           (2) It is a condition of every mining lease that an activity
- 23                   that is an EMA must not be done by the lessee on land
- 24                           the subject of the mining lease unless —
- 25                                   (a) the lessee has given an EMA notice in respect
- 26   of the activity; or
- 27                                   (b) the EMA is proposed in a mining development
- 28   and closure proposal and approved under
- 29   section 103AO(1).
- 30           (3) It is a condition of every mining lease that an activity
- 31                   that is not an EMA must not be done by the lessee on

- 1 land the subject of the mining lease unless the activity  
2 is proposed in a mining development and closure  
3 proposal and approved under section 103AO(1).
- 4 (4) It is a condition of every mining lease that, if an  
5 activity on land the subject of the lease is proposed in a  
6 mining development and closure proposal and  
7 approved under section 103AO(1), the lessee must not  
8 do the activity on the land otherwise than in accordance  
9 with the approvals statement for the lease.
- 10 (5) Unless a Government agreement provides otherwise,  
11 this section does not apply to a mining lease granted or  
12 held under the agreement in accordance with proposals  
13 approved, taken to be approved or determined under  
14 the agreement.

15 **103AM. Conditions relating to mining operations on land**  
16 **subject of miscellaneous licences**

- 17 (1) This section applies to the following licensed activities  
18 done on land the subject of a miscellaneous licence —
- 19 (a) using machinery to disturb the surface of the  
20 land for the purposes of, or in preparation for,  
21 mining operations;
- 22 (b) carrying out mining operations.
- 23 (2) It is a condition of every miscellaneous licence that a  
24 licensed activity that is an EMA must not be done by  
25 the holder of the miscellaneous licence on land the  
26 subject of the miscellaneous licence unless —
- 27 (a) the holder has given an EMA notice in respect  
28 of the activity; or
- 29 (b) the EMA is proposed in a mining development  
30 and closure proposal and approved under  
31 section 103AO(1).

- 1           (3) It is a condition of every miscellaneous licence that a  
2 licensed activity that is not an EMA must not be done  
3 by the holder of the miscellaneous licence on land the  
4 subject of the miscellaneous licence unless the licensed  
5 activity is proposed in a mining development and  
6 closure proposal and approved under  
7 section 103AO(1).
- 8           (4) It is a condition of every miscellaneous licence that, if  
9 a licensed activity on land the subject of the  
10 miscellaneous licence is proposed in a mining  
11 development and closure proposal and approved under  
12 section 103AO(1), the holder of the miscellaneous  
13 licence must not do the activity on the land otherwise  
14 than in accordance with the approvals statement for the  
15 miscellaneous licence.
- 16           (5) Unless a Government agreement provides otherwise,  
17 this section does not apply to a miscellaneous licence  
18 granted or held under the agreement in accordance with  
19 proposals approved, taken to be approved or  
20 determined under the agreement.

21           **103AN. Lodgment of mining development and closure**  
22           **proposal**

- 23           (1) In this section —  
24           *relevant lodging party* means —
- 25           (a) in relation to a mining development and closure  
26 proposal lodged for an activity on land the  
27 subject of a mining lease — the lessee of the  
28 mining lease, or a person authorised by the  
29 lessee of the mining lease; or
- 30           (b) in relation to a mining development and closure  
31 proposal lodged for a licensed activity on land  
32 the subject of a miscellaneous licence — the  
33 holder of the miscellaneous licence, or a person

- 1 authorised by the holder of the miscellaneous  
2 licence.
- 3 (2) A mining development and closure proposal required  
4 in order to comply with a condition referred to in  
5 section 103AL(2)(b) or (3) or 103AM(2)(b) or (3) must  
6 be lodged with the Minister by the relevant lodging  
7 party in accordance with subsection (3).
- 8 (3) The mining development and closure proposal must —  
9 (a) be lodged in the prescribed manner; and  
10 (b) be in the approved form; and  
11 (c) be accompanied by the prescribed assessment  
12 fee; and  
13 (d) include detailed information regarding —  
14 (i) the proposed mining operations to be  
15 carried out; and  
16 (ii) the decommissioning of any proposed  
17 mine to which the mining development  
18 and closure proposal relates; and  
19 (iii) the rehabilitation of land the subject of  
20 the mining tenement to which the  
21 mining development and closure  
22 proposal relates; and  
23 (iv) the closure outcomes;  
24 and  
25 (e) include any prescribed information.
- 26 (4) Before the Minister approves, or refuses to approve, an  
27 activity proposed in a mining development and closure  
28 proposal under section 103AO(1) —  
29 (a) the Minister may request the relevant lodging  
30 party —  
31 (i) to lodge a substitute mining  
32 development and closure proposal; or

- 1 (ii) to provide such further information as  
2 the Minister may require for the  
3 purposes of making the decision;  
4 or  
5 (b) the relevant lodging party may, with the written  
6 permission of the Minister, lodge a substitute  
7 mining development and closure proposal.
- 8 (5) The activity proposed in a substitute mining  
9 development and closure proposal must not be  
10 substantially different to the activity proposed in the  
11 mining development and closure proposal it is intended  
12 to replace.
- 13 (6) A relevant lodging party who has lodged a mining  
14 development and closure proposal or a substitute  
15 mining development and closure proposal may  
16 withdraw it, by written notice to the Minister, at any  
17 time before the Minister approves or refuses to approve  
18 the activity proposed in the mining development and  
19 closure proposal under section 103AO(1).

20 **103AO. Approval of activities in mining development and**  
21 **closure proposals**

- 22 (1) The Minister must approve, or refuse to approve, an  
23 activity proposed in a mining development and closure  
24 proposal or a substitute mining development and  
25 closure proposal (if any).
- 26 (2) If the Minister approves an activity under  
27 subsection (1), the Minister must —
- 28 (a) record the approval on an approvals statement  
29 for the mining lease or the miscellaneous  
30 licence to which the mining development and  
31 closure proposal relates; and



- 1                   (b) give a copy of the approvals statement to the  
2                   lessee of the mining lease or the holder of the  
3                   miscellaneous licence to which the mining  
4                   development and closure proposal relates.
- 5           (3) If the decision is to refuse to approve the activity, the  
6           Minister must notify the lessee of the mining lease or  
7           the holder of the miscellaneous licence to which the  
8           mining development and closure proposal relates in  
9           writing of the Minister's decision and include in the  
10          notification the reasons for the refusal.
- 11          (4) The Minister may impose conditions on an approval  
12          and those conditions must be recorded on the approvals  
13          statement.
- 14          (5) A condition recorded on an approvals statement has  
15          effect for all purposes as a condition to which the  
16          mining lease or the miscellaneous licence is subject.
- 17          (6) The Minister may record information (the *relevant*  
18          *information*) provided in a mining development and  
19          closure proposal, that is relevant to the nature and  
20          extent of the activity in the proposal, on the approvals  
21          statement for the mining lease or the miscellaneous  
22          licence to which the mining development and closure  
23          proposal relates.
- 24          (7) An approvals statement takes effect when it is given to  
25          the holder of the mining lease or the miscellaneous  
26          licence to which it relates and remains in force until it  
27          is cancelled by the Minister.

1           **103AP. Approvals statements**

- 2           (1) An *approvals statement* is a document that, in relation  
3           to a mining lease or a miscellaneous licence, records  
4           the following information —
- 5               (a) an approval given to an activity on land the  
6               subject of the mining lease or the miscellaneous  
7               licence proposed in a mining development and  
8               closure proposal;
- 9               (b) any conditions attached to the approval;
- 10              (c) any relevant information;
- 11              (d) the closure outcomes included in a mining  
12              development and closure proposal relating to  
13              the mining lease or the miscellaneous licence;
- 14              (e) the date by which a mine closure plan for the  
15              land the subject of the mining lease or the  
16              miscellaneous licence must be lodged.
- 17           (2) An approvals statement must be —
- 18               (a) in writing; and
- 19               (b) signed by the Minister.
- 20           (3) The Minister must make an approvals statement  
21           available for public inspection in accordance with the  
22           regulations.

23           **103AQ. Cancellations and variations recorded on approvals**  
24           **statements**

- 25           (1) The Minister may, on the Minister's own initiative or  
26           by application in writing by the lessee of a mining  
27           lease or the holder of a miscellaneous licence to which  
28           an approvals statement relates —
- 29               (a) cancel an approval given to an activity under  
30               section 103AO(1); or

- 1 (b) cancel or vary a condition that is recorded on  
2 the approvals statement under  
3 section 103AO(4); or
- 4 (c) vary any relevant information that is recorded  
5 on the approvals statement under  
6 section 103AO(6).
- 7 (2) The Minister must —
- 8 (a) record a cancellation or a variation made under  
9 subsection (1) on the approvals statement to  
10 which the cancellation or variation relates; and
- 11 (b) give a copy of the amended approvals statement  
12 to the lessee of the mining lease or the holder of  
13 the miscellaneous licence to which the  
14 approvals statement relates.
- 15 (3) A cancellation or a variation made under subsection (1)  
16 takes effect on the day recorded on the amended  
17 approvals statement.

## 18 Division 5 — Mine closure plans

### 19 103AR. Contents of mine closure plan

- 20 A *mine closure plan*, for land the subject of a mining  
21 lease or a miscellaneous licence, is a planning and  
22 reporting document that provides for —
- 23 (a) the decommissioning of each mine on the land;  
24 and
- 25 (b) the rehabilitation of the land; and
- 26 (c) the closure outcomes; and
- 27 (d) any other prescribed information.

1           **103AS. Conditions relating to mine closure plans**

2                   It is a condition of every mining lease or miscellaneous  
3                   licence that the lessee of the mining lease or the holder  
4                   of the miscellaneous licence must lodge a mine closure  
5                   plan for land the subject of the mining lease or the  
6                   miscellaneous licence in compliance with  
7                   section 103AT(1).

8           **103AT. Lodgment of mine closure plans**

- 9           (1) The lessee of a mining lease or the holder of a  
10           miscellaneous licence, or a person authorised by the  
11           lessee of the mining lease or the holder of the  
12           miscellaneous licence (as the case requires) must lodge  
13           a mine closure plan required in order to comply with  
14           the condition referred to in section 103AS —
- 15                   (a) with the Minister in the prescribed manner; and
  - 16                   (b) on or before the date recorded on the approvals  
17                   statement for the mining lease or the  
18                   miscellaneous licence, as the date required for  
19                   lodgment of the mine closure plan.
- 20           (2) The mine closure plan must be in the approved form.
- 21           (3) The Minister may extend or vary the date recorded on  
22           the approvals statement by which a mine closure plan  
23           must be lodged.
- 24           (4) If the Minister extends or varies the date under  
25           subsection (3), the Minister must —
- 26                   (a) give the lessee of the mining lease or the holder  
27                   of the miscellaneous licence (as the case  
28                   requires) written notice that the date has been  
29                   extended or varied; and
  - 30                   (b) amend the date recorded on the approvals  
31                   statement accordingly.

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**Division 6 — Other conditions****103AU. Conditions for preventing, reducing or remediating injury to land and for other purposes**

- 1
- 2
- 3
- 4 (1) The Minister may impose a condition on a mining
- 5 tenement for the following purposes —
- 6 (a) preventing, reducing or remediating injury to
- 7 land the subject of the mining tenement or other
- 8 land;
- 9 (b) preventing or reducing the impact of mining on
- 10 the statutory or public purposes for which land
- 11 to which section 24 or 24A applies is reserved
- 12 or managed, or remediating such land.
- 13 (2) The condition may be imposed —
- 14 (a) in the case of a prospecting licence or a
- 15 miscellaneous licence —
- 16 (i) by the mining registrar, or the warden,
- 17 on the granting of the licence; or
- 18 (ii) by the Minister on the granting of the
- 19 licence or at any subsequent time;
- 20 and
- 21 (b) in any other case, by the Minister on the
- 22 granting of the mining tenement or at any
- 23 subsequent time.
- 24 (3) A condition imposed under subsection (1) may be
- 25 cancelled or varied by the Minister at any time.
- 26 (4) The condition has effect for all purposes, whether or
- 27 not the condition is endorsed on the mining tenement,
- 28 on notice of the imposition of the condition being given
- 29 in writing to the holder of the mining tenement.
- 30 (5) Without limiting subsection (1), a condition may be
- 31 imposed for the purpose of preventing mining

1 operations being carried out within a specified distance  
2 of the natural surface of the land the subject of a  
3 mining tenement.

4 **Division 7 — Securities**

5 **103AV. Security for compliance with conditions**

- 6 (1) The Minister may require the holder of a mining  
7 tenement to lodge a security for compliance with any  
8 conditions imposed under section 103AO(4)  
9 or 103AU(1).
- 10 (2) A security referred to in subsection (1) —
- 11 (a) must be lodged in the prescribed manner and  
12 within the period specified in writing by the  
13 Minister; and
- 14 (b) is subject to the provisions of section 126.  
15

16 **35. Section 103EA amended**

17 In section 103EA(3) before “taken” delete “to be”.

18 **36. Section 105A amended**

19 In section 105A(6) delete “to be”.

20 **37. Section 122C amended**

21 In section 122C before “taken” delete “to be”.

22 **38. Section 126 amended**

23 In section 126(1):

- 24 (a) delete “section 26, 52, 60, 70F or 84A —” and insert:  
25  
26 section 26, 52(1), 60(1), 70F(1), 84A(1) or 103AV(1) —  
27

1 (b) in paragraph (a)(i) delete “section 26, 52(1a), 60(1a),  
2 70F(2) or 84A(2),” and insert:  
3  
4 section 26 or 103AV(1),  
5

6 **39. Section 140 amended**

7 In section 140(4) and (5) before “taken” delete “to be”.

8 **40. Section 162 amended**

9 (1) In section 162(1) delete “he deems” and insert:  
10

11 the Governor thinks  
12

13 (2) In section 162(2)(eb) delete “to be”.

14 (3) In section 162(2)(ga) delete “section” and insert:  
15

16 sections  
17

18 **41. Second Schedule Division 3 inserted**

19 At the end of the Second Schedule insert:  
20

21 **Division 3 — Provisions relating to *Mining Amendment***  
22 ***Act 2021***

23 **20. Terms used**

24 In this Division —

25 ***commencement day*** means the day on which the *Mining*  
26 *Amendment Act 2021* section 34 comes into operation;

27 ***former***, in relation to a provision, means the provision as in  
28 force immediately before commencement day.

- 1           **21. Continuation of conditions for prevention or reduction**  
2           **of injury to land**
- 3           (1) In this clause —  
4           *former provision* means —  
5           (a) former section 46A; or  
6           (b) former section 63AA; or  
7           (c) former section 70I; or  
8           (d) former section 84.
- 9           (2) A condition that was, immediately before commencement  
10           day, imposed on the holder of a mining tenement under a  
11           former provision has effect, on and from commencement  
12           day, as if it were a condition imposed on the mining  
13           tenement under section 103AU(1).
- 14           (3) Subclause (2) applies whether or not the condition is of a  
15           kind that, on or after commencement day, could be imposed  
16           on the mining tenement under section 103AU(1).
- 17           **22. Continuation of securities**
- 18           (1) In this clause —  
19           *former provision* means —  
20           (a) former section 52(1a); or  
21           (b) former section 60(1a); or  
22           (c) former section 70F(2); or  
23           (d) former section 84A(2).
- 24           (2) A security that was, immediately before commencement  
25           day, required to be lodged by the holder of a mining  
26           tenement under a former provision is, on and from  
27           commencement day, taken to be a security required to be  
28           lodged by the holder of the mining tenement under  
29           section 103AV(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) former section 46(aa); or
- 12          (b) former section 63(aa); or
- 13          (c) former section 70H(1)(aa); or
- 14          (d) former section 82(1)(ca)(i);
- 15          *previously approved programme of work* means a
- 16          programme of work referred to in a former provision for
- 17          which there was, immediately before commencement day,
- 18          approval as described in that former provision.
- 19          (2) On and from commencement day —
- 20               (a) a previously approved programme of work is taken
- 21               to be a programme of work lodged in accordance
- 22               with section 103AJ(2); and
- 23               (b) an activity proposed in a previously approved
- 24               programme of work is taken to be approved under
- 25               section 103AK(1).
- 26          (3) On and from commencement day, an existing undetermined
- 27          programme of work is taken to be a programme of work
- 28          lodged in accordance with section 103AJ(2).

- 1           **24. Transitional provisions for existing undetermined**  
2           **mining proposals**
- 3           (1) In this clause —
- 4                 *existing undetermined mining proposal* means —
- 5                     (a) a mining proposal that accompanied, under former  
6                         section 74(1)(ca)(i), the application for a mining  
7                         lease that was lodged, but not finally determined,  
8                         before commencement day; or
- 9                     (b) a mining proposal that was lodged before  
10                        commencement day in accordance with former  
11                        section 82A(2)(a) and written approval for the  
12                        mining proposal was not obtained before  
13                        commencement day, as described in former  
14                        section 82A(2)(b); or
- 15                     (c) a mining proposal that was lodged before  
16                        commencement day in accordance with a condition  
17                        imposed under former section 84 and was not,  
18                        before commencement day, approved or refused to  
19                        be approved as described in the condition;
- 20           (2) On and from commencement day —
- 21                     (a) an existing undetermined mining proposal is taken  
22                         to be a mining development and closure proposal  
23                         lodged in accordance with section 103AN(2); and
- 24                     (b) a mine closure plan contained in an existing  
25                         undetermined mining proposal is taken to be  
26                         information required under section 103AN(3)(d)(ii),  
27                         (iii) and (iv) to be included in a mining  
28                         development and closure proposal lodged in  
29                         accordance with section 103AN(2).
- 30           **25. Transitional provisions for previously approved mining**  
31           **proposals**
- 32           (1) In this clause —
- 33                 *previously approved mining proposal* means —
- 34                     (a) a mining proposal that accompanied, under former  
35                         section 74(1)(ca)(i), the application for a mining

- 1 lease that was granted before commencement day;  
2 or
- 3 (b) a mining proposal for which there was, immediately  
4 before commencement day, approval as described  
5 in former section 82A(2)(b); or
- 6 (c) a mining proposal for which there was, immediately  
7 before commencement day, approval as described  
8 in a condition imposed under former section 84;
- 9 ***transition period*** means the period beginning on  
10 commencement day and ending —
- 11 (a) 10 years after that day; or
- 12 (b) on a later day approved by —
- 13 (i) the Minister; or
- 14 (ii) if the Minister does not approve a later  
15 day — the Director General of Mines.
- 16 (2) During the transition period, a copy of an approvals  
17 statement may be given to the holder of a mining tenement  
18 in accordance with section 103AO(2)(b).
- 19 (3) If an approvals statement is given under subclause (2) —
- 20 (a) a previously approved mining proposal for the  
21 mining tenement is taken to be a mining  
22 development and closure proposal lodged in  
23 accordance with section 103AN(2); and
- 24 (b) the mining operations proposed in the previously  
25 approved mining proposal for the mining tenement  
26 is taken to be an activity (a ***transitioned activity***)  
27 approved under section 103AO(1); and
- 28 (c) the mine closure plan contained in the previously  
29 approved mining proposal for the mining tenement  
30 is taken to be a mine closure plan lodged in  
31 accordance with section 103AT(1).

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- 1           (4) An approval of a transitioned activity must be recorded on  
2           the approvals statement in accordance with  
3           section 103AO(2)(a).  
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