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

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

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

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

7. **Section 20 amended**

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

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

8. **Section 23A inserted**

After section 23 insert:

23A. **Forfeiture of mining tenements**

(1) If a mining tenement is liable to forfeiture under section 23(3), the Minister may cause the mining tenement to be forfeited by declaring by notice
published in the *Gazette* that the mining tenement is forfeited.

(2) The Minister may, for any cause that he or she deems sufficient and subject to subsection (3), by notice published in the *Gazette* —

(a) cancel a declaration made under subsection (1); and

(b) restore the mining tenement to which the declaration referred to in paragraph (a) relates to the holder.

(3) The Minister may, in effecting the cancellation and restoration referred to in subsection (2), impose on the mining tenement restored under that subsection such conditions as the Minister thinks fit.

(4) The production of a copy of the *Gazette* containing a notice published under subsection (1) or (2) is evidence that the mining tenement concerned has been forfeited or restored, as the case requires.

(5) The Minister, as he or she thinks fit in the circumstances of the case, as an alternative to causing the mining tenement to be forfeited, may —

(a) impose on the holder of the mining tenement a penalty not exceeding $75,000 if the holder is an individual or $150,000 if the holder is a body corporate; or

(b) impose no penalty on the holder.

(6) If a penalty is imposed as an alternative to forfeiture under subsection (5), the mining tenement is forfeited if the penalty is not paid —

(a) within the time specified by the Minister; or

(b) if no other time is specified by the Minister, within 30 days of written notice of the penalty.
being given by the Minister to the holder of the mining tenement.

9. **Section 40D amended**

In section 40D(2):

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

\[ \text{may} \]

(b) delete paragraph (d) and insert:

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

10. **Section 46 amended**

In section 46:

(a) delete paragraph (aa);

(b) delete paragraph (b) and insert:

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

(i) are made while prospecting; and

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

will be filled in or otherwise made safe;
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(c) delete paragraph (c) and insert:

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

11. Section 46A deleted
Delete section 46A.

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

and the conditions referred to in section 103AE,

13. Section 52 amended
(1) Delete section 52(1a).
(2) In section 52(2) delete “or (1a)”.

14. Section 55 amended
After section 55(4) insert:

(5) Subsection (1), (2), (3) or (4) does not apply to the approval of retention status under section 54 for land unless consent to the carrying out of mining on the land has previously been given by the Minister under section 24, 24A or 25, as the case may be.
15. **Section 55A amended**

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

works schedule

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

*Works schedule*

16. **Section 56A amended**

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

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

17. **Section 58 amended**

Before section 58(2) insert:

(1A) Subsection (1B) applies if —

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

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

and applies even if the application has been withdrawn.

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

(a) the exploration area; or
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Mining Act 1978 amended
Part 2

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

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

18. Section 60 amended
(1) Delete section 60(1a).
(2) In section 60(2) delete “or (1a)”.

19. Section 63 amended
In section 63:
(a) delete paragraph (aa);
(b) delete paragraph (b) and insert:
(b) will fill in or otherwise make safe all holes,
pits, trenches and other disturbances to the
surface of the land the subject of the
exploration licence that —
(i) are made while exploring for minerals;
and
(ii) may endanger the safety of any person
or animal;
and
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(c) delete paragraph (c) and insert:

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

20. **Section 63AA deleted**

Delete section 63AA.

21. **Section 63A amended**

In section 63A:

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

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

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

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

22. **Section 66 amended**

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

and the conditions referred to in section 103AE,
23. **Section 69C amended**

After section 69C(4) insert:

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

24. **Section 69D amended**

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

works schedule

Note: The heading to amended section 69D is to read: Works schedule

25. **Section 70F amended**

(1) Delete section 70F(2).

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

26. **Section 70H amended**

In section 70H(1):

(a) delete paragraph (aa);

(b) delete paragraph (a) and insert:

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

(i) are made while exploring for minerals; and
s. 27

(ii) may endanger the safety of any person or animal;

and

(c) delete paragraph (b) and insert:

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

27. Section 70I deleted

Delete section 70I.

28. Section 70IA amended

In section 70IA:

(a) in subsections (1) and (2) delete “programme of work” and insert:

works schedule

(b) delete subsection (3) and insert:

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

(4A) 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 licence, for which purpose the holder of the licence shall produce the licence on demand.
(4B) Whether or not a condition imposed under subsection (1) is endorsed on the licence, on notice of the imposition of the condition being given in writing to the holder of the licence the condition has effect for all purposes as a condition to which the licence is subject.

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

Works schedule

29. Section 70J amended

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

and the conditions referred to in section 103AE,

30. Section 70K amended

In section 70K:

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

section 70H or 103AE; and

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

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

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

section 103AZB(1)
31. **Section 70L amended**

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

section 70IA(1) or 103AW(1); and

32. **Section 70O amended**

Delete section 70O(1).

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

*Meaning of significant mineralisation*

33. **Section 70P deleted**

Delete section 70P.

34. **Section 74 amended**

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

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

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

35. **Section 82 amended**

(1) In section 82(1):

(a) delete paragraph (ca);

(b) delete paragraph (ga);

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

section 103AZB(1)
2 (2) Delete section 82(1b).

36. **Section 82A deleted**

Delete section 82A.

37. **Section 84AA deleted**

Delete section 84AA.

38. **Section 84 deleted**

Delete section 84.

39. **Section 84A amended**

(1) Delete section 84A(2).

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

40. **Section 90 amended**

(1) In section 90(1):

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

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

(b) delete paragraph (b) and insert:

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

(a) a programme of work lodged by the holder of the general purpose lease in compliance with a condition prescribed by the regulations for the purposes of section 89; or
(2) Delete section 90(2)(b) and insert:

(b) subsection (1)(ca)(ii) and (iii) were replaced by the following subparagraph —

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

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

83, 84A, 103AH,

(4) In section 90(4) as amended by subsection (3) after “103AH,” insert:

103AZC, 103AZD,

41. Section 92 amended

In section 92 delete “46A,”.

42. Section 96 amended

In section 96(2):

(a) in paragraph (b) delete “section 46 or section 50,” and insert:

section 46, 50, 103AE, 103AG or 103AI
(b) in paragraph (bb) delete “section 52(1a), 55B(2)” and insert:

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

43. **Section 102 amended**

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

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

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

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

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

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

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

An
(4) In section 102(3) delete “a certificate of” and insert:

an

(5) Delete section 102(5) to (7) and insert:

(5) A person who wishes to object to the granting of an exemption shall lodge a notice of objection within the prescribed time and in the prescribed manner.

(6) If no notice of objection is lodged within the prescribed time, or any notice of objection is withdrawn, the mining registrar shall forward the application for exemption to the Minister for determination.

(7) If a notice of objection —

(a) is lodged within the prescribed time; or

(b) where the application for exemption has been forwarded to the Minister under subsection (6), is lodged before the Minister has determined the application for exemption under subsection (9) and the warden is satisfied that there are reasonable grounds for late lodgment,

and the notice of objection is not withdrawn, the warden shall hear the application for exemption on a day appointed by the warden and may give any person who has lodged a notice of objection an opportunity to be heard.

(8) If an application for exemption is heard by the warden under subsection (7) the warden shall as soon as practicable after the hearing of the application transmit to the Minister —

(a) the notes of evidence given in the hearing; and
(b) any maps or other documents referred to in the hearing; and

(c) the warden’s report recommending the granting or refusal of the application and setting out the reasons for that recommendation.

(9) If an application for exemption is not heard by the warden or the Minister receives a report under subsection (8), the Minister may —

(a) in the case of an application for exemption made under subsection (1)(a), grant an exemption in an amount not exceeding the amount required to be expended in respect of the mining tenement in the year specified in the application; or

(b) in the case of an application for exemption made under subsection (1)(b), grant an exemption in an amount not exceeding the amount required to be expended in respect of the mining lease in the period of 5 years from the commencement of the year specified in the application,

or may refuse the application for exemption.

(10) If the Minister has received a report under subsection (8), the Minister may grant an exemption under subsection (9) whether or not the report recommends the granting of an exemption.

44. Section 102A amended

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

total or partial exemption
45. Section 103 deleted

Delete section 103.

46. Part IVAA inserted

Before Part IVA insert:

Part IVAA — Environmental management

Division 1 — Preliminary

103AA. Terms used

In this Part —

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

environment means —

(a) ecosystems and their constituent parts; and

(b) natural physical and biological attributes of land,

but does not include —

(c) man-made structures or works on land; or

(d) social, economic, heritage and cultural features of land;

environmental harm means adverse ecological effects on the environment;

guidelines means guidelines approved under section 103AM;

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

native vegetation has the meaning given in the Environmental Protection Act 1986 section 51A;
practicable means reasonably practicable having regard to, among other things, local conditions and circumstances (including costs) and to the current state of technical knowledge.

103AB. Object of Part

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

103AC. Low-impact activities

(1) The regulations may prescribe an activity relating to, or connected with, mining to be a low-impact activity for the purposes of this Part.

(2) Without limiting the generality of subsection (1), regulations under that subsection may be made in respect of clearing.

103AD. False or misleading information

(1) A person must not do any of the things set out in subsection (2) in or in relation to a document lodged, or a notice given, under this Part.

Penalty: a fine of $20 000.

(2) The things to which subsection (1) applies are —

(a) make a statement which the person knows is false or misleading in a material particular; or

(b) make a statement which is false or misleading in a material particular, with reckless disregard as to whether or not the statement is false or misleading in a material particular; or

(c) provide, or cause to be provided, information that the person knows is false or misleading in a material particular; or
(d) provide, or cause to be provided, information that is false or misleading in a material particular, with reckless disregard as to whether the information is false or misleading in a material particular; or
(e) omit, or cause to be omitted, information without which the document or notice (as the case may be) is to the person’s knowledge misleading in a material particular.

Division 2 — Programmes of work

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

(1) In this section —

licence means —

(a) a prospecting licence; or
(b) an exploration licence; or
(c) a retention licence;

relevant activity, done on land the subject of a licence, means any of the following —

(a) clearing on the land for the purposes of, or in preparation for, prospecting or exploring for minerals;
(b) using machinery to disturb the surface of the land for the purposes of, or in preparation for, prospecting or exploring for minerals;
(c) prospecting;
(d) exploring for minerals.
(2) It is a condition of every licence that a relevant activity that is a low-impact activity must not be done by the licensee on land the subject of the licence until —

(a) the licensee has given a notice of low-impact activity in respect of the relevant activity; or

(b) the licensee has lodged a programme of work in respect of the relevant activity in accordance with Division 4, and the relevant activity is approved under this Part.

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

(4) It is a condition of every licence that, if a relevant activity on land the subject of the licence is approved under this Part, the licensee must not do the relevant activity on the land otherwise than in accordance with the approval.

103AF. Conditions attached to mining leases

(1) In this section —

relevant activity, done on land the subject of a mining lease, means any of the following —

(a) clearing on the land for the purposes of, or in preparation for, exploring for minerals;

(b) using machinery to disturb the surface of the land for the purposes of, or in preparation for, exploring for minerals;

(c) exploring for minerals.

(2) It is a condition of every mining lease that a relevant activity that is a low-impact activity must not be done
by the lessee on land the subject of the mining lease until —

(a) the lessee has given a notice of low-impact activity in respect of the relevant activity; or

(b) the lessee has lodged a programme of work in respect of the relevant activity in accordance with Division 4, and the relevant activity is approved under this Part.

(3) It is a condition of every mining lease that a relevant activity that is not a low-impact activity must not be done by the lessee on land the subject of the mining lease until the lessee has lodged a programme of work in respect of the relevant activity in accordance with Division 4, and the relevant activity is approved under this Part.

(4) A lessee of a mining lease is not required to comply with the condition referred to in subsection (2) or (3) in respect of a relevant activity that is —

(a) proposed in a mining proposal relating to the mining lease and lodged in accordance with Division 4; and

(b) approved under this Part.

(5) It is a condition of every mining lease that, if a relevant activity on land the subject of the lease is approved under this Part, the lessee must not do the relevant activity on the land otherwise than in accordance with the approval.

(6) If a mining lease is granted, or held, pursuant to a Government agreement, as defined in the Government Agreements Act 1979 section 2, in accordance with proposals approved, deemed to be approved or determined under the agreement, this section does not apply to the mining lease unless the agreement otherwise provides.
103AG. Conditions attached to miscellaneous licences

(1) In this section —

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

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

(a) clearing on the land for the purposes of, or in preparation for, a licensed activity;

(b) using machinery to disturb the surface of the land for the purposes of, or in preparation for, a licensed activity;

(c) a licensed activity.

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

(a) the licensee has given a notice of low-impact activity in respect of the relevant activity; or

(b) the licensee has lodged a programme of work in respect of the relevant activity in accordance with Division 4, and the relevant activity is approved under this Part.

(3) It is a condition of every miscellaneous licence that a relevant activity that is not a low-impact activity must not be done by the licensee on land the subject of the miscellaneous licence until the licensee has lodged a programme of work in respect of the relevant activity in accordance with Division 4, and the relevant activity is approved under this Part.
(4) A licensee is not required to comply with the condition referred to in subsection (2) or (3) in respect of a relevant activity that is —

(a) proposed in a mining proposal relating to the miscellaneous licence and lodged in accordance with Division 4; and

(b) approved under this Part.

(5) It is a condition of every miscellaneous licence that, if a relevant activity on land the subject of the miscellaneous licence is approved under this Part, the licensee must not do the relevant activity on the land otherwise than in accordance with the approval.

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

Division 3 — Mining proposals

103AH. Conditions attached to mining leases

(1) In this section —

prescribed mining operations means mining operations prescribed for the purposes of this definition;

relevant activity, done on land the subject of a mining lease, means any of the following —

(a) clearing on the land for the purposes of, or in preparation for, prescribed mining operations;

(b) using machinery to disturb the surface of the land for the purposes of, or in preparation for, prescribed mining operations;
(2) It is a condition of every mining lease that a relevant activity that is a low-impact activity must not be done by the lessee on land the subject of the mining lease until —
   (a) the lessee has given a notice of low-impact activity in respect of the relevant activity; or
   (b) the lessee has lodged a mining proposal in respect of the relevant activity in accordance with Division 4, and the relevant activity is approved under this Part.

(3) It is a condition of every mining lease that a relevant activity that is not a low-impact activity must not be done by the lessee on land the subject of the mining lease until the lessee has lodged a mining proposal in respect of the relevant activity in accordance with Division 4, and the relevant activity is approved under this Part.

(4) It is a condition of every mining lease that, if a relevant activity on land the subject of the lease is approved under this Part, the lessee must not do the relevant activity on the land otherwise than in accordance with the approval.

(5) If a mining lease is granted, or held, pursuant to a Government agreement, as defined in the Government Agreements Act 1979 section 2, in accordance with proposals approved, deemed to be approved or determined under the agreement, this section does not apply to the mining lease unless the agreement otherwise provides.
103AI. Conditions attached to miscellaneous licences

(1) In this section —

prescribed mining operations means mining operations prescribed for the purposes of this definition;

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

(a) clearing on the land for the purposes of, or in preparation for, prescribed mining operations;

(b) using machinery to disturb the surface of the land for the purposes of, or in preparation for, prescribed mining operations;

(c) prescribed mining operations.

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

(a) the licensee has given a notice of low-impact activity in respect of the relevant activity; or

(b) the licensee has lodged a mining proposal in respect of the relevant activity in accordance with Division 4, and the relevant activity is approved under this Part.

(3) It is a condition of every miscellaneous licence that a relevant activity that is not a low-impact activity must not be done by the licensee on land the subject of the miscellaneous licence until the licensee has lodged a mining proposal in respect of the relevant activity in accordance with Division 4, and the relevant activity is approved under this Part.

(4) It is a condition of every miscellaneous licence that, if a relevant activity on land the subject of the miscellaneous licence is approved under this Part, the
licensee must not do the relevant activity on the land other than in accordance with the approval.

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

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

(1) In this section —

commencement day means the day of the coming into operation of the Mining Legislation Amendment Act 2015 section 36;

former section 82A(2)(b) means section 82A(2)(b) as in force immediately before commencement day;

relevant mining proposal, in relation to a mining lease, means a mining proposal in respect of activities —

(a) on land the subject of the mining lease; and

(b) approved under this Part.

(2) It is a condition of every mining lease that the lessee must, in accordance with this section and Division 4 —

(a) review the mine closure plan contained in a relevant mining proposal and lodge a reviewed mine closure plan; and

(b) obtain the written approval of the reviewed mine closure plan from the Director General of Mines.
(3) A mine closure plan contained in a relevant mining proposal must be reviewed and a reviewed mine closure plan lodged —

(a) if the mining proposal accompanied the application for the mining lease under section 74(1)(ca), no later than 3 years after the mining lease is granted; or

(b) if there was, immediately before commencement day, approval of the mining proposal as described in former section 82A(2)(b), no later than 3 years after the approval; or

(c) in each other case, no later than 3 years after the day on which an activity proposed in the mining proposal is approved under this Part.

(4) In addition to the requirement in subsection (3), a mine closure plan contained in a relevant mining proposal must be reviewed, and a reviewed mine closure plan lodged, no later than 3 years after its most recent review was approved.

(5) The Director General of Mines may, by notice in writing to the lessee of a mining lease, extend the time by which a mine closure plan must be reviewed, and a reviewed mine closure plan lodged, under subsection (3) or (4).

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

(1) In this section —

relevant mining proposal, in relation to a miscellaneous licence, means a mining proposal in respect of activities —

(a) on land the subject of the miscellaneous licence; and
(b) approved under this Part.

(2) It is a condition of every miscellaneous licence that the licensee must, in accordance with this section and Division 4 —
(a) review the mine closure plan contained in a relevant mining proposal and lodge a reviewed mine closure plan; and
(b) obtain the written approval of the reviewed mine closure plan from the Director General of Mines.

(3) A mine closure plan contained in a relevant mining proposal must be reviewed, and a reviewed mine closure plan lodged, no later than 3 years after the day on which an activity proposed in the mining proposal is approved under this Part.

(4) In addition to the requirement in subsection (3), a mine closure plan contained in a relevant mining proposal must be reviewed, and a reviewed mine closure plan lodged, no later than 3 years after its most recent review was approved.

(5) The Director General of Mines may, by notice in writing to the licensee, extend the time by which a mine closure plan must be reviewed, and a reviewed mine closure plan lodged, under subsection (3) or (4).

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

103AL. Terms used

In this Division —

lodging party means —
(a) in relation to a programme of work lodged under section 103AO, the holder of a mining tenement who lodged the programme of work; or
(b) in relation to a mining proposal lodged under section 103AP, the holder of a mining tenement who lodged the mining proposal;

**mining proposal** means a mining proposal —
(a) accompanying an application for a mining lease under section 74(1)(ca); or
(b) required in order to comply with a condition referred to in section 103AH or 103AI, or a notice under section 103AR(4);

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

**proposed activity** —
(a) in relation to a programme of work, means a relevant activity (as defined in section 103AE(1), 103AF(1) or 103AG(1)) proposed in the programme of work; and
(b) in relation to a mining proposal, means a relevant activity (as defined in section 103AH(1) or 103AI(1)) proposed in the mining proposal.

### 103AM. Guidelines

(1) The Director General of Mines may approve guidelines for the purposes of this Part.

(2) Without limiting the matters that may be included in guidelines, they may —
(a) require a programme of work, or a mining proposal, to identify the following —
   (i) clearing proposed to be done on land the subject of a mining tenement;
(ii) each type of native vegetation proposed to be cleared;

(iii) the condition of the native vegetation proposed to be cleared;

(iv) the biological significance of the native vegetation proposed to be cleared;

(v) the likely environmental impacts resulting from the proposed clearing;

(vi) the amount of land proposed to be cleared;

(vii) the manner of the proposed clearing;

(viii) the extent to which the proposed clearing would accord with or be inconsistent, or at variance, with the clearing principles set out in the Environmental Protection Act 1986 Schedule 5;

(ix) practicable measures proposed to be undertaken to manage clearing that will promote the rehabilitation and restoration of the land proposed to be cleared;

and

(b) require a programme of work, or a mining proposal, to identify the following —

(i) the foreseeable risk of environmental harm resulting from a proposed activity;

(ii) practicable measures proposed to be undertaken to avoid or minimise the risk of environmental harm resulting from a proposed activity;

and
(c) require the holder of a mining tenement to consult with persons likely to be affected by a proposed activity; and

(d) require a programme of work, or a mining proposal, to demonstrate that any consultation required under the guidelines has been undertaken; and

(e) require a programme of work, or a mining proposal, to be accompanied by a management plan, maps or any other documents or information.

(3) The Director General of Mines must ensure that guidelines approved under this section are made available, without charge, for public inspection in the prescribed manner.

103AN. Requirements as to form and content

(1) A programme of work must —

(a) be in the form required by the guidelines; and

(b) contain information of the kind required by the guidelines.

(2) A mining proposal must —

(a) be in the form required by the guidelines; and

(b) contain information of the kind required by the guidelines; and

(c) contain a mine closure plan that complies with subsection (3).

(3) A mine closure plan referred to in subsection (2)(c) and section 103AT(1) must —

(a) be in the form required by the guidelines; and

(b) contain information of the kind required by the guidelines about the decommissioning of each
proposed mine and the rehabilitation of land the subject of a mining tenement.

103AO. Lodging and approving programmes of work

(1) A programme of work must —
   (a) be lodged in the prescribed manner; and
   (b) be accompanied by the prescribed assessment fee.

(2) Before the Director General of Mines has, under this section, approved or refused to approve proposed activities in a programme of work —
   (a) the lodging party may, with the written permission of the Director General of Mines, lodge a substitute programme of work; and
   (b) the Director General of Mines may, as he or she thinks fit, request the lodging party to lodge a substitute programme of work.

(3) The proposed activities in a substitute programme of work must not be substantially different to the proposed activities in the programme of work it is intended to replace.

(4) A substitute programme of work must be lodged in the prescribed manner.

(5) Subject to subsection (6), the Director General of Mines may approve, or refuse to approve, a proposed activity in a programme of work.

(6) The Director General of Mines must not approve a proposed activity in a programme of work if, in his or her opinion, carrying out the activity in the manner proposed will have an unacceptable impact on the environment.
(7) In deciding whether or not to approve a proposed activity in a programme of work, the Director General of Mines —

(a) must have regard to the matters set out in section 103AQ(1); and

(b) may have regard to other matters, including the effect the proposed activity may have on man-made structures on land and the social, economic and cultural attributes of land; and

(c) may request the lodging party to furnish such further information as the Director General of Mines may require for the purposes of making the decision.

(8) An approval must be given in writing.

(9) An approval takes effect when notice of it is given to the holder of the mining tenement.

103AP. Lodging and approving mining proposals

(1) A mining proposal must —

(a) be lodged in the prescribed manner; and

(b) be accompanied by the prescribed assessment fee.

(2) Before the Director General of Mines has, under this section, approved or refused to approve proposed activities in a mining proposal —

(a) the lodging party may, with the written permission of the Director General of Mines, lodge a substitute mining proposal; and

(b) the Director General of Mines may, as he or she thinks fit, request the lodging party to lodge a substitute mining proposal.
(3) The proposed activities in a substitute mining proposal must not be substantially different to the proposed activities in the mining proposal it is intended to replace.

(4) A substitute mining proposal must be lodged in the prescribed manner.

(5) Subject to subsection (6), the Director General of mines may approve, or refuse to approve, a proposed activity in a mining proposal.

(6) The Director General of Mines must not approve a proposed activity in a mining proposal if, in his or her opinion, carrying out the activity in the manner proposed will have an unacceptable impact on the environment.

(7) In deciding whether or not to approve a proposed activity in a mining proposal, the Director General of Mines —

(a) must have regard to the matters set out in section 103AQ(2); and

(b) may have regard to other matters, including the effect the proposed activity may have on man-made structures on land and the social, economic and cultural attributes of land; and

(c) may request the lodging party to furnish such further information as he or she may require for the purposes of making the decision.

(8) An approval must be in writing.

(9) An approval takes effect when notice of it is given to the holder of the mining tenement.
103AQ. Matters to be considered when assessing
programmes of work or mining proposals

(1) The matters referred to in section 103AO(7)(a) are —
(a) the effect the proposed activity may have on the
environment; and
(b) if clearing is proposed in the programme of
work, the extent to which it would accord with
or be inconsistent, or at variance, with the
clearing principles set out in the Environmental
Protection Act 1986 Schedule 5; and
(c) whether the programme of work adequately
identifies the foreseeable risk of environmental
harm resulting from the proposed activity; and
(d) whether the programme of work adequately
identifies measures to be undertaken to avoid or
minimise the risks referred to in paragraph (c).

(2) The matters referred to in section 103AP(7)(a) are —
(a) the effect the proposed activity may have on the
environment; and
(b) if the clearing is proposed in the mining
proposal, the extent to which it would accord
with or be inconsistent, or at variance, with the
clearing principles set out in the Environmental
Protection Act 1986 Schedule 5; and
(c) whether the mining proposal adequately
identifies the foreseeable risk of environmental
harm resulting from the proposed activity; and
(d) whether the mining proposal adequately
identifies measures to be undertaken to avoid or
minimise the risks referred to in paragraph (c).
103AR. Director General of Mines may require revised programme of work or mining proposal to be lodged

(1) Subsection (2) applies if —

(a) a proposed activity in a programme of work is approved under this Part; and

(b) the Director General of Mines is of the opinion that the risk of environmental harm from carrying out the activity in the manner proposed in the programme of work is significantly different to any previous assessment of that risk.

(2) If this subsection applies, the Director General of Mines may, by notice in writing given to the holder of the mining tenement to which the programme of work relates, require the holder to lodge, in the time and in the manner directed in the notice, a revised programme of work.

(3) Subsection (4) applies if —

(a) a proposed activity in a mining proposal is approved under this Part; and

(b) the Director General of Mines is of the opinion that the risk of environmental harm from carrying out the activity in the manner proposed in the mining proposal is significantly different to any previous assessment of that risk.

(4) If this subsection applies, the Director General of Mines may, by notice in writing given to the holder of the mining tenement to which the mining proposal relates, require the holder to lodge, in the time and in the manner directed in the notice, a revised mining proposal.
103AS. Replacement or change of approvals under this Part

(1) An approval under this Part of a proposed activity in a programme of work may be replaced, or have its operation affected, by another approval under this Part.

(2) An approval under this Part of a proposed activity in a mining proposal may be replaced, or have its operation affected, by another approval under this Part.

103AT. Lodging reviewed mine closure plans and approvals

(1) A reviewed mine closure plan required in order to comply with the condition referred to in section 103AJ(2) or 103AK(2) —
   (a) must be lodged in the prescribed manner; and
   (b) must comply with section 103AN(3).

(2) On receipt of a reviewed mine closure plan lodged in accordance with this section, the Director General of Mines may approve, or refuse to approve, the reviewed mine closure plan.

Division 5 — Low-impact activities

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

(1) A notice of low-impact activity required in order to comply with the condition referred to in section 103AE(2), 103AF(2), 103AG(2), 103AH(2) or 103AI(2) —
   (a) must be given to the Director General of Mines within the time, and in the manner and form, prescribed; and
   (b) must specify the nature and extent of the proposed low-impact activity.
(2) The holder of a mining tenement who gives notice of a proposed low-impact activity under this Part must, on completing the activity, give the Director General of Mines notice of the fact in accordance with subsection (3).

(3) A notice under subsection (2) must be given within the time, and in the manner and form, prescribed.

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

(1) It is a condition of every mining tenement that the holder of the mining tenement must not carry out a low-impact activity on land the subject of the mining tenement otherwise than in accordance with the prescribed requirements for carrying out that low-impact activity.

(2) The holder of a mining tenement is not required to comply with subsection (1) in respect of the carrying out of a low-impact activity that —

(a) is a proposed activity in a programme of work, or a proposed activity in a mining proposal, relating to the tenement; and

(b) is approved under this Part.

(3) Subsection (1) does not affect the obligation the holder of a mining tenement may have to comply with a condition referred to in section 103AE(4), 103AF(5), 103AG(5), 103AH(4) or 103AI(4) in relation to the 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
the holder of the mining tenement must produce the
mining tenement on demand.

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

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

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

103AY. Conditions relating to clearing of native vegetation

(1) Without limiting section 103AW(1), a condition
imposed under that section —

(a) may be for the purpose of preventing, reducing
or remediating environmental harm from
clearing or of offsetting the loss of cleared
vegetation; and

(b) may require the holder of a mining tenement to
establish and maintain native vegetation on
land, other than land cleared by the holder, to
offset the loss of the cleared vegetation; and

(c) may require the holder of a mining tenement to
make monetary contributions to a fund
maintained for the purpose of establishing or
maintaining native vegetation on any land.

(2) In imposing a condition under section 103AW(1) in
relation to clearing, the Minister, warden or registrar
(as the case may be) must have regard to the extent to
which the proposed clearing would accord with or be
inconsistent, or at variance, with the clearing principles
set out in the *Environmental Protection Act 1986*
Schedule 5.

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

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

103AZB. Security for compliance with conditions for
preventing, reducing or remediating environmental
harm

(1) The Minister may require the holder of a mining
tenement to lodge a security for compliance with any
condition imposed on the mining tenement under
section 103AW(1).

(2) A security referred to in subsection (1) —

(a) must be lodged in the prescribed manner and
within such period as the Minister specifies in
writing; and

(b) is subject to the provisions of section 126.
47. Sections 103AZC and 103AZD inserted

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

103AZC. Environmental management systems

(1) In this section —

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

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

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

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

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

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

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

(a) must maintain an environmental management system in relation to the carrying out of the
mining operations on land the subject of the
miscellaneous licence at all times while an
approval of those operations is in effect under
this Part; and
(b) must ensure that the environmental
management system is reviewed and revised as
and when necessary to ensure that, at any time,
it is relevant to operations and operating
conditions on the land at that time.

(4) An environmental management system must deal with
matters that the guidelines require it to deal with but
may also deal with other matters.

(5) The obligations under this section of the holder of a
mining tenement may be affected by directions given
by an inspector under regulations referred to in
section 162(2)(aa)(xv).

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

103AZD. Duty to prevent or reduce environmental harm

(1) It is a condition of every mining lease that, if mining
operations on land the subject of the mining lease are
approved under this Part, the lessee must, in carrying
out the mining operations, take all reasonable and
practicable measures to avoid or minimise the risk of
environmental harm occurring as a result of the mining
operations.
(2) A lessee is taken to have complied with the condition referred to in subsection (1) in respect of mining operations carried out in accordance with an environmental management system —
   (a) relating to the mining lease; and
   (b) kept and reviewed by the lessee in accordance with section 103AZC.

(3) It is a condition of every miscellaneous licence that, if mining operations on land the subject of the miscellaneous licence are approved under this Part, the licensee must, in carrying out the mining operations, take all reasonable and practicable measures to avoid or minimise the risk of environmental harm occurring as a result of the mining operations.

(4) A licensee is taken to have complied with the condition referred to in subsection (3) in respect of mining operations carried out in accordance with an environmental management system —
   (a) relating to the miscellaneous licence; and
   (b) kept and reviewed by the licensee in accordance with section 103AZC.

(5) This section does not affect —
   (a) the obligations the lessee of a mining lease may have to comply with any condition imposed on the mining lease under section 103AW(1); or
   (b) the obligations the holder of a miscellaneous licence may have to comply with any condition imposed on the miscellaneous licence under section 103AW(1).
48. **Section 114B amended**

(1) In section 114B:

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

The expiry, surrender in whole or in part

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

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

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

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

49. **Section 126 amended**

In section 126(1):

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

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

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

section 26 or 103AZB(1),
50. **Section 156 amended**

In section 156(1):

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

hinders,

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

inspector or other

51. **Section 158 amended**

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

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

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

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

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

commits an offence.

Penalty: a fine of $10 000.

(3) If a person who makes a requirement under subsection (1) is not satisfied with any evidence or explanation given pursuant to a requirement made under that subsection, the person may orally or by notice in writing direct the person to whom the requirement is made to cease mining on the land referred to in the direction.
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(2) In section 158(4) delete “request” and insert:

direction

(3) Delete section 158(5).

(4) After section 158(6) insert:

(7) Nothing in this section limits or otherwise affects —
  (a) the effect or operation of regulations relating to
      the administration and enforcement of the
      provisions of this Act relating to mining on
      land without authority under this Act; or
  (b) the performance by inspectors appointed under
      section 11 of functions conferred on them by
      the regulations.

52. Section 162 amended

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

the Governor

(2) In section 162(2):
  (a) delete paragraph (aa)(i) to (iii) and insert:
      (i) to enter upon land where the inspector
          has reason to suspect that mining
          operations are or have been carried out
          for the purpose of ascertaining whether
          those mining operations are or were
          carried out with authority under this
          Act;
(ii) to give directions to a person requiring the person to cease mining operations carried out without authority under this Act;

(iii) to enter upon land on which there is a mining tenement for the purpose of inspecting mining operations;

(iv) to give directions to the holder of a mining tenement requiring the holder to modify or cease mining operations in prescribed circumstances;

(v) when entering land, to take with the inspector such persons, equipment and materials as the inspector considers appropriate;

(vi) to conduct such examination and inquiry as the inspector considers necessary to ascertain whether the provisions of this Act have been and are being complied with in respect of mining operations;

(vii) to take and remove samples of any substance or thing whatsoever at a mine without paying for them;

(viii) to take possession of any plant, equipment or other thing for further examination or testing or for use as evidence;

(ix) to take photographs and measurements, and make sketches and recordings;

(x) to require the production of, examine, and take copies of or extracts from, any document;
(xi) to interview any person who the inspector has reasonable grounds to believe may be able to provide information relevant to a matter about which the inspector is inquiring and to record the interview with or without the person’s consent;

(xii) to require the attendance of any person for an interview referred to in subparagraph (xi);

(xiii) to require any person whom the inspector interviews as referred to in subparagraph (xi) to answer any question put to that person;

(xiv) to require any person to state his or her name and address;

(b) after paragraph (aa)(xiv) as inserted by paragraph (a) insert:

(xv) to give directions to the holder of a mining tenement —

(I) specifying the time within which the holder of the mining tenement is to prepare or revise an environmental management system under section 103AZC; or

(II) requiring the holder of the mining tenement to deal with specific matters in an environmental management system maintained under section 103AZC; or
(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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(g) after paragraph (n) insert:

(oa) provide for recording and reporting to the Director General of Mines by the holder of a mining tenement prescribed incidents that pose, or are likely to pose, a risk of environmental harm (as defined in section 103AA);

(ob) provide for the lodging with the Director General of Mines by the holder of a mining tenement an environmental report in respect of mining operations carried out during a prescribed period;

53. Second Schedule amended

After Second Schedule Division 2 insert:

Division 3 — Provisions relating to Mining Legislation Amendment Act 2015

20. Term used: commencement day

In this Division —

commencement day means the day of the coming into operation of the Mining Legislation Amendment Act 2015 section 46.

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

(1) In this clause —

former provision means

(a) section 46A as in force immediately before commencement day; or

(b) section 63AA as in force immediately before commencement day; or
(c) section 70I as in force immediately before commencement day; or
(d) section 84 as in force immediately before commencement day.

(2) A condition that was, immediately before commencement day, imposed on the holder of a mining tenement under a former provision has effect, on and from commencement day, as if it were a condition imposed on the mining tenement under section 103AW(1) whether or not it is a condition of a kind that, on or after commencement day, could be imposed on the tenement under section 103AW(1).

22. Continuation of securities

(1) In this clause —

former provision means

(a) section 52(1a) as in force immediately before commencement day; or
(b) section 60(1a) as in force immediately before commencement day; or
(c) section 70F(2) as in force immediately before commencement day; or
(d) section 84A(2) as in force immediately before commencement day.

(2) A security that was, immediately before commencement day, required to be lodged by the holder of a mining tenement under a former provision is, on and from commencement day, to be taken to be a security required to be lodged by the holder of the mining tenement under section 103AZB(1).
23. **Transitional provisions for programmes of work**

(1) In this clause —

- *existing undetermined programme of work* means a programme of work that —
  - (a) was lodged before commencement day in accordance with a former provision; and
  - (b) was not, before commencement day, approved or refused to be approved as described in that former provision;

- *former provision* means —
  - (a) section 46(aa) as in force immediately before commencement day; or
  - (b) section 63(aa) as in force immediately before commencement day; or
  - (c) section 70H(1)(aa) as in force immediately before commencement day; or
  - (d) section 82(1)(ca) as in force immediately before commencement day;

- *previously approved programme of work* means a programme of work referred to in a former provision for which there was, immediately before commencement day, approval as described in that former provision.

(2) On and from commencement day —

- (a) a previously approved programme of work is to be taken to be a programme of work lodged in accordance with Part IVAA Division 4; and
- (b) an activity proposed in a previously approved programme of work is to be taken to be approved under Part IVAA.

(3) On and from commencement day, an existing undetermined programme of work —

- (a) is to be taken to be a programme of work lodged in accordance with Part IVAA Division 4; and
24. Transitional provisions for mining proposals

(1) In this clause —

existing undetermined mining proposal means —

(a) a mining proposal that accompanied, under section 74(1)(ca), the application for a mining lease that was made, but not finally determined, before commencement day; or

(b) a mining proposal that was lodged before commencement day in accordance with former section 82A and was not, before commencement day, approved or refused to be approved as described in former section 82A;

former section 82A means section 82A as in force immediately before commencement day;

previously approved mining proposal means —

(a) a mining proposal that accompanied, under section 74(1)(ca), the application for a mining lease that was granted before commencement day; or

(b) a mining proposal for which there was, immediately before commencement day, approval as described in former section 82A;

transition period means the period beginning on commencement day and ending 6 years after that day.

(2) During the transition period —

(a) a previously approved mining proposal is to be taken to be a mining proposal lodged in accordance with Part IVAA Division 4; and

(b) the mining operations proposed in a previously approved mining proposal are to be taken to be approved under Part IVAA.
(3) On and from commencement day, an existing undetermined mining proposal —
   (a) is to be taken to be a mining proposal lodged in accordance with Part IVAA Division 4; and
   (b) is to be dealt by the Director General of Mines in accordance with Part IVAA Division 4.
Part 3 — Mining Legislation Amendment Act 2014 amended

54. Act amended
This Part amends the Mining Legislation Amendment Act 2014.

55. Section 8 deleted
Delete section 8.
Part 4 — Environmental Protection Act 1986 amended

56. Act amended
This Part amends the Environmental Protection Act 1986.

57. Schedule 6 amended
After Schedule 6 item 14 insert:

15. Clearing that is —
(a) a proposed activity in a programme of work or a mining proposal, within the meaning of the Mining Act 1978, and approved under Part IVAA of that Act; and
(b) done in accordance with that approval.

16. Clearing that is —
(a) required for the purposes of carrying out a low-impact activity, as defined in the Mining Act 1978 section 103AA, in respect of which a notice of low-impact activity has been given under Part IVAA of that Act; and
(b) done in accordance with the requirements of 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.
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61. Section 15 amended
Delete section 15(2) and insert:

(2) The person who, on the prescribed day in a year, is shown on the register as the holder of a mining authorisation must, on or before that day, give to the CEO assessment information in the form and manner approved by the CEO.
Penalty: a fine of $20 000.