

Mining Legislation Amendment Bill 2015

Contents

Part 1 — Preliminary

1.	Short title	2
2.	Commencement	2

Part 2 — *Mining Act 1978* amended

3.	Act amended	3
4.	Section 6 amended	3
5.	Section 8 amended	3
6.	Section 12 replaced	3
	12. Delegation	3
7.	Section 20 amended	4
8.	Section 23A inserted	4
	23A. Forfeiture of mining tenements	4
9.	Section 40D amended	6
10.	Section 46 amended	6
11.	Section 46A deleted	7
12.	Section 48 amended	7
13.	Section 52 amended	7
14.	Section 55 amended	7
15.	Section 55A amended	8
16.	Section 56A amended	8
17.	Section 58 amended	8
18.	Section 60 amended	9
19.	Section 63 amended	9
20.	Section 63AA deleted	10
21.	Section 63A amended	10
22.	Section 66 amended	10
23.	Section 69C amended	11
24.	Section 69D amended	11
25.	Section 70F amended	11
26.	Section 70H amended	11

Contents

27.	Section 70I deleted	12
28.	Section 70IA amended	12
29.	Section 70J amended	13
30.	Section 70K amended	13
31.	Section 70L amended	14
32.	Section 70O amended	14
33.	Section 70P deleted	14
34.	Section 74 amended	14
35.	Section 82 amended	14
36.	Section 82A deleted	15
37.	Section 84AA deleted	15
38.	Section 84 deleted	15
39.	Section 84A amended	15
40.	Section 90 amended	15
41.	Section 92 amended	16
42.	Section 96 amended	16
43.	Section 102 amended	17
44.	Section 102A amended	19
45.	Section 103 deleted	20
46.	Part IVAA inserted	20
	Part IVAA —Environmental management	
	Division 1 — Preliminary	
	103AA. Terms used	20
	103AB. Object of Part	21
	103AC. Low-impact activities	21
	103AD. False or misleading information	21
	Division 2 — Programmes of work	
	103AE. Conditions attached to prospecting licences, exploration licences and retention licences	22
	103AF. Conditions attached to mining leases	23
	103AG. Conditions attached to miscellaneous licences	25
	Division 3 — Mining proposals	
	103AH. Conditions attached to mining leases	26
	103AI. Conditions attached to miscellaneous licences	28
	103AJ. Review of mine closure plans: condition attached to mining leases	29
	103AK. Review of mine closure plans: condition attached to miscellaneous licences	30

	Division 4 — Programmes of work and mining proposals: requirements and approvals	
	103AL. Terms used	31
	103AM. Guidelines	32
	103AN. Requirements as to form and content	34
	103AO. Lodging and approving programmes of work	35
	103AP. Lodging and approving mining proposals	36
	103AQ. Matters to be considered when assessing programmes of work or mining proposals	38
	103AR. Director General of Mines may require revised programme of work or mining proposal to be lodged	39
	103AS. Replacement or change of approvals under this Part	40
	103AT. Lodging reviewed mine closure plans and approvals	40
	Division 5 — Low-impact activities	
	103AU. Giving notice of low-impact activity and notice of completion of low-impact activity	40
	103AV. When prescribed requirements for carrying out low-impact activities must be followed	41
	Division 6 — Other conditions	
	103AW. Conditions for preventing, reducing or remediating environmental harm and for other purposes	42
	103AX. Conditions relating to mining operations within specified distance of natural surface of land	43
	103AY. Conditions relating to clearing of native vegetation	43
	103AZA. Conditions relating to monitoring and reporting of operations and environmental harm	44
	103AZB. Security for compliance with conditions for preventing, reducing or remediating environmental harm	44
47.	Sections 103AZC and 103AZD inserted	45
	103AZC. Environmental management systems	45
	103AZD. Duty to prevent or reduce environmental harm	46
48.	Section 114B amended	48
49.	Section 126 amended	48
50.	Section 156 amended	49
51.	Section 158 amended	49
52.	Section 162 amended	50

Contents

53.	Second Schedule amended	54
	Division 3 — Provisions relating to <i>Mining Legislation Amendment Act 2015</i>	
20.	Term used: commencement day	54
21.	Continuation of conditions for prevention or reduction of injury to land	54
22.	Continuation of securities	55
23.	Transitional provisions for programmes of work	56
24.	Transitional provisions for mining proposals	57
	Part 3 — <i>Mining Legislation Amendment Act 2014</i> amended	
54.	Act amended	59
55.	Section 8 deleted	59
	Part 4 — <i>Environmental Protection Act 1986</i> amended	
56.	Act amended	60
57.	Schedule 6 amended	60
	Part 5 — <i>Mining Rehabilitation Fund Act 2012</i> amended	
58.	Act amended	61
59.	Section 3 amended	61
60.	Section 12 amended	61
61.	Section 15 amended	62

Western Australia

LEGISLATIVE ASSEMBLY

(As amended during consideration in detail)

Mining Legislation Amendment Bill 2015

A Bill for

An Act to amend —

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

The Parliament of Western Australia enacts as follows:

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12
13

Part 1 — Preliminary

1. Short title

This is the *Mining Legislation Amendment Act 2015*.

2. Commencement

This Act comes into operation as follows —

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

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

2 **3. Act amended**

3 This Part amends the *Mining Act 1978*.

4 **4. Section 6 amended**

5 In section 6(1d):

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

7
8 section 103AF(2) or (3), or a notice under
9 section 103AR(2); or

10

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

12

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

15

16 **5. Section 8 amended**

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

19 **6. Section 12 replaced**

20 Delete section 12 and insert:

21

22 **12. Delegation**

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

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

s. 7

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

15 **7. Section 20 amended**

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

- 17
- 18 (i) take all necessary steps to prevent
19 damage or injury to property or
20 livestock whether resulting from fire,
21 the presence of dogs, the discharge of
22 firearms, the use of vehicles or any
23 other cause; and
24

25 **8. Section 23A inserted**

26 After section 23 insert:

27

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

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

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

s. 9

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

4 **9. Section 40D amended**

5 In section 40D(2):

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

8
9 may

10

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

12

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

19 **10. Section 46 amended**

20 In section 46:

21 (a) delete paragraph (aa);

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

23

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

27 (i) are made while prospecting; and

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

30 will be filled in or otherwise made safe;

31

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

2

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

9 **11. Section 46A deleted**

10 Delete section 46A.

11 **12. Section 48 amended**

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

13

14 and the conditions referred to in section 103AE,

15

16 **13. Section 52 amended**

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

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

19 **14. Section 55 amended**

20 After section 55(4) insert:

21

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

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1 **15. Section 55A amended**

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

4
5 works schedule

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

8 **Works schedule**

9 **16. Section 56A amended**

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

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

13
14 **17. Section 58 amended**

15 Before section 58(2) insert:

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

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

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

25 and applies even if the application has been withdrawn.

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

29 (a) the exploration area; or

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

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

10 **18. Section 60 amended**

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

13 **19. Section 63 amended**

14 In section 63:

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

s. 20

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

2

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

9 **20. Section 63AA deleted**

10 Delete section 63AA.

11 **21. Section 63A amended**

12 In section 63A:

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

15

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

17

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

19

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

23 **22. Section 66 amended**

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

25

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

1 **23. Section 69C amended**

2 After section 69C(4) insert:

3

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

9

10 **24. Section 69D amended**

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

13

14 works schedule

15

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

17

Works schedule

18 **25. Section 70F amended**

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

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

21 **26. Section 70H amended**

22 In section 70H(1):

- 23 (a) delete paragraph (aa);

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

25

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

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

s. 27

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

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

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

9 **Works schedule**

10 **29. Section 70J amended**

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

12
13 and the conditions referred to in section 103AE,
14

15 **30. Section 70K amended**

16 In section 70K:

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

18
19 section 70H or 103AE; and
20

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

23
24 section 70IA(1) or 103AW(1),
25

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

27
28 section 103AZB(1)
29

s. 31

1 **31. Section 70L amended**

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

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

7 **32. Section 70O amended**

8 Delete section 70O(1).

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

10 **Meaning of significant mineralisation**

11 **33. Section 70P deleted**

12 Delete section 70P.

13 **34. Section 74 amended**

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

15

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

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

20 **35. Section 82 amended**

21 (1) In section 82(1):

22 (a) delete paragraph (ca);

23 (b) delete paragraph (ga);

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

25

26 section 103AZB(1)
27

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

2 **36. Section 82A deleted**

3 Delete section 82A.

4 **37. Section 84AA deleted**

5 Delete section 84AA.

6 **38. Section 84 deleted**

7 Delete section 84.

8 **39. Section 84A amended**

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

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

11 **40. Section 90 amended**

12 (1) In section 90(1):

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

14

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

16

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

18

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

21

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

27

s. 41

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

2

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

5

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

8

9

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

11

12 83, 84A, 103AH,

13

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

16

17 103AZC, 103AZD,

18

19 **41. Section 92 amended**

20 In section 92 delete “46A,”.

21 **42. Section 96 amended**

22 In section 96(2):

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

25

26 section 46, 50, 103AE, 103AG or 103AI

27

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

3
4 section 55B(2), 103AZB(1)
5

6 **43. Section 102 amended**

7 (1) Delete section 102(1) and insert:
8

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

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

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

24 (2) After section 102(1a) insert:
25

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

30 (3) In section 102(2) delete “A certificate of” and insert:
31

32 An
33

s. 43

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

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

28 **44. Section 102A amended**

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

32 total or partial exemption
33
34

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1 **45. Section 103 deleted**

2 Delete section 103.

3 **46. Part IVAA inserted**

4 Before Part IVA insert:

5

6 **Part IVAA — Environmental management**

7 **Division 1 — Preliminary**

8 **103AA. Terms used**

9 In this Part —

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

12 **environment** means —

13 (a) ecosystems and their constituent parts; and

14 (b) natural physical and biological attributes of
15 land,

16 but does not include —

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

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

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

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

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

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

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

5 **103AB. Object of Part**

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

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

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

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

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

s. 46

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

10 **Division 2 — Programmes of work**

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

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

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

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

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

s. 46

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

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

2 (1) In this section —

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

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

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

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

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

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

s. 46

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

20 **Division 3 — Mining proposals**

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

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

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

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
otherwise 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.

s. 46

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

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

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

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

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

27 **103AL. Terms used**

28 In this Division —

29 *lodging party* means —

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

s. 46

- 1 (b) in relation to a mining proposal lodged under
2 section 103AP, the holder of a mining tenement
3 who lodged the mining proposal;
- 4 ***mining proposal*** means a mining proposal —
- 5 (a) accompanying an application for a mining lease
6 under section 74(1)(ca); or
- 7 (b) required in order to comply with a condition
8 referred to in section 103AH or 103AI, or a
9 notice under section 103AR(4);
- 10 ***programme of work*** means a programme of work
11 required in order to comply with a condition referred to
12 in section 103AE, 103AF or 103AG, or a notice under
13 section 103AR(2);
- 14 ***proposed activity*** —
- 15 (a) in relation to a programme of work, means a
16 relevant activity (as defined in
17 section 103AE(1), 103AF(1) or 103AG(1))
18 proposed in the programme of work; and
- 19 (b) in relation to a mining proposal, means a
20 relevant activity (as defined in
21 section 103AH(1) or 103AI(1)) proposed in the
22 mining proposal.

23 **103AM. Guidelines**

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

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

s. 46

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

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

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

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

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

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

s. 46

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

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

**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.

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

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

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

Division 6 — Other conditions

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

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

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

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

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

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

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

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

s. 46

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

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

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

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

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

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

s. 47

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

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

s. 48

1 **48. Section 114B amended**

2 (1) In section 114B:

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

4

5 The expiry, surrender in whole or in part

6

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

9

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

12

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

14

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

17

18 **49. Section 126 amended**

19 In section 126(1):

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

21

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

24

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

27

28 section 26 or 103AZB(1),

29

1 **50. Section 156 amended**

2 In section 156(1):

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

4

5 hinders,

6

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

8

9 inspector or other

10

11 **51. Section 158 amended**

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

13

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

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

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

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

22 commits an offence.

23 Penalty: a fine of \$10 000.

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

31

s. 52

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

17 **52. Section 162 amended**

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

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

s. 52

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

- 1 (III) requiring the holder of the
2 mining tenement to provide
3 information about an
4 environmental management
5 system maintained under
6 section 103AZC and allow the
7 inspector to examine it and take
8 copies of or extracts from any
9 document that forms part of it;
10
- 11 (c) in paragraph (ab) delete “paragraph (aa)(iii)” and insert:
12
13 paragraph (aa)(iv)
14
- 15 (d) after paragraph (ab) insert:
16
17 (ac) provide for an interview referred to in
18 paragraph (aa)(xi) to be conducted in private in
19 circumstances specified in the regulations;
20
- 21 (e) in paragraph (ka)(iii) delete “pegs” insert:
22
23 pegs, marks or poles
24
- 25 (f) after paragraph (ka) insert:
26
27 (la) without limiting paragraph (ka), provide for the
28 resolution of uncertainty or disputes as to the
29 location of the boundaries of tenements;
30 (lb) without limiting paragraph (ka) or (la), provide
31 that any peg, survey peg, mark, post, cairn of
32 stones or pole purporting to indicate the
33 boundary of a tenement is to be taken to do so
34 unless the contrary is shown;
35

s. 53

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

14 **53. Second Schedule amended**

15 After Second Schedule Division 2 insert:
16

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

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

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

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

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

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

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

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

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

- 4 (1) In this clause —

5 *existing undetermined mining proposal* means —

- 6 (a) a mining proposal that accompanied, under
7 section 74(1)(ca), the application for a mining lease
8 that was made, but not finally determined, before
9 commencement day; or
10 (b) a mining proposal that was lodged before
11 commencement day in accordance with former
12 section 82A and was not, before commencement
13 day, approved or refused to be approved as
14 described in former section 82A;

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

17 *previously approved mining proposal* means —

- 18 (a) a mining proposal that accompanied, under
19 section 74(1)(ca), the application for a mining lease
20 that was granted before commencement day; or
21 (b) a mining proposal for which there was, immediately
22 before commencement day, approval as described
23 in former section 82A;

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

- 26 (2) During the transition period —

- 27 (a) a previously approved mining proposal is to be
28 taken to be a mining proposal lodged in accordance
29 with Part IVAA Division 4; and
30 (b) the mining operations proposed in a previously
31 approved mining proposal are to be taken to be
32 approved under Part IVAA.

s. 53

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

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

3 **54. Act amended**

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

5 **55. Section 8 deleted**

6 Delete section 8.

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

2 **56. Act amended**

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

4 **57. Schedule 6 amended**

5 After Schedule 6 item 14 insert:

6

7 15. Clearing that is —

8 (a) a proposed activity in a programme of work or a
9 mining proposal approved under the *Mining Act*
10 1978 Part IVAA after the coming into operation of
11 the *Mining Legislation Amendment Act 2015*
12 section 46; and

13 (b) done in accordance with that approval.

14 16. Clearing that is —

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

20 (b) done in accordance with the requirements of
21 Part IVAA of that Act.
22

**Part 5 — *Mining Rehabilitation Fund*
Act 2012 amended**

58. Act amended

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

59. Section 3 amended

(1) In section 3 insert in alphabetical order:

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

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

means;

60. Section 12 amended

(1) In section 12:

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

person who,

(b) delete “year.” and insert:

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

s. 61

1 **61. Section 15 amended**

2 Delete section 15(2) and insert:

3

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

9 Penalty: a fine of \$20 000.

10

11

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