

# NORTHERN TERRITORY OF AUSTRALIA

## MINING ACT

As in force at 12 December 2002

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## **Schedule**

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# NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Act as in force at 12 December 2002. Any amendments that commence after that date are not included.

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## MINING ACT

An Act relating to mining

### Part I Preliminary

#### 1 Short title

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

#### 2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

#### 3 Repeal

The Acts specified in the Schedule are repealed.

#### 4 Interpretation

(1) In this Act, unless the contrary intention appears:

**Aboriginal land** has the same meaning as in the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth.

**affected land** means land comprised in, or proposed to be comprised in, a mining interest.

**alternative provision area** has the meaning given in section 43A(2) of the *Native Title Act*.

**approved determination of native title** has the meaning given in section 253 of the *Native Title Act*.

**clerk**, in relation to a warden's court established under section 141, means:

(a) the mining registrar at the place where a warden's court is established; or

- (b) a Registrar of the Local Court (within the meaning of section 3 of the *Local Court Act*) at the place where a warden's court is sitting.

**Crown land** means all land in the Territory other than:

- (a) a reserve or park;
- (b) private land;
- (c) Aboriginal land;
- (d) land the subject of a mining tenement or exploration retention licence;
- (e) land reserved from occupation under section 178 of this Act; and
- (f) land reserved for or dedicated to a public purpose.

**Department** means the Agency responsible for administering this Act.

**environment** means the physical factors existing in an area, including:

- (a) the land and the coastal waters and sea-bed adjacent thereto;
- (b) the sub-soil of the land and that sea-bed;
- (c) water;
- (d) air;
- (e) sound;
- (f) tastes;
- (g) odours; and
- (h) radiation,

and includes the social factor of aesthetics and all factors affecting flora and fauna.

**exploration** means all modes of searching for or evaluating deposits of minerals or extractive minerals, but does not include fossicking.

**exploration licence** means an exploration licence granted under Part IV or continued in force by virtue of section 191.

**exploration retention licence** means an exploration retention licence granted under Part V.

**extractive mineral** means sand, gravel, rocks or soil extracted, obtained or removed for a purpose other than:

- (a) extracting, producing or refining minerals from the sand, gravel, rocks or soil; or
- (b) processing the sand, gravel, rocks or soil by non-mechanical means.

**extractive mineral interest** means an extractive mineral lease or an extractive mineral permit.

**extractive mineral lease** means an extractive mineral lease granted under Division 1 of Part VIII.

**extractive mineral permit** means an extractive mineral permit granted under Division 2 of Part VIII.

**fossick** means to search for or extract a mineral:

- (a) by digging by hand or hand-held instrument; or
- (b) by using a hand-held instrument,

but does not include the use of explosives or any power-operated equipment other than a hand held metal-detecting device.

**fossicker** means a person who is authorised to fossick:

- (a) under section 130C(2); or
- (b) on land the subject of a mineral claim by the holder of the mineral claim (the holder having complied with section 134B).

**fossicker's permit** means a fossicker's permit granted under Part X.

**future act** has the meaning given in section 233 of the *Native Title Act*.

**improvements** means any:

- (a) house, store, stable, hut or other building;
- (b) fence;
- (c) well, dam, tank, trough, pump or other apparatus for raising or storing water; or

- (d) garden, plantation or cultivation.

**Indigenous land use agreement** means an Indigenous land use agreement within the meaning of section 253 of the *Native Title Act*:

- (a) details of which are entered on the Register of Indigenous Land Use Agreements established and maintained under Part 8A of the *Native Title Act*; and
- (b) that contains statements to the effect described in section 24EB(1)(b), (c) and (d) of the *Native Title Act* as applicable.

**land** means land within the jurisdictional limits of the Territory and includes waters within those limits.

**Land Council** means an Aboriginal Land Council established by or under the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth.

**miner** means the holder of a miner's right and, in relation to an application which by virtue of section 191(15) or (18), is to be processed as though it were an application for a mineral lease or mineral claim, as the case may be, includes the person to be treated as the applicant.

**mineral** means any:

- (a) naturally occurring:
- (i) inorganic element or compound, including an inorganic carbonate compound; or
- (ii) organic carbonate compound,
- obtained or obtainable from land by mining, whether carried out under or on the surface of land;
- (b) coal and lignite; or
- (c) other substance from time to time prescribed as a mineral,

but does not include water or an extractive mineral.

**mineral claim** means a mineral claim granted under Part VII or continued in force by virtue of section 191.

**mineral lease** means a mineral lease granted under Division 2 of Part VI or a mining lease continued in force by virtue of section 191(5).

**miner's right** means a miner's right granted under Part III or continued in force by virtue of section 191.

**mining** means all modes of extracting minerals or extractive minerals by underground, surface or open-cut workings.

**mining interest** means an exploration licence, exploration retention licence, mineral lease, mineral claim, extractive mineral lease or extractive mineral permit or an authority under section 178.

**mining officer** has the same meaning as in the *Mining Management Act*.

**mining registrar** means a person appointed as a mining registrar under section 5(1), and includes the principal registrar.

**mining tenement** means a mineral lease, mineral claim, extractive mineral lease or extractive mineral permit and includes an area of land the right to occupation of which is conferred by section 61(2) or 104(2) or is continued by or under section 191(19) or (20).

**native title** and **native title rights and interests** have the meaning given in section 223 of the *Native Title Act*.

**Native Title Act** means the *Native Title Act 1993* of the Commonwealth.

**native title holder** has the meaning given in section 224 of the *Native Title Act*.

**native title objection** means an objection to a prescribed mining act so far as it affects the registered native title rights and interests of a registered native title claimant or registered native title body corporate that is lodged in accordance with section 140E or 163 by that claimant or body.

**Native Title Registrar** has the meaning given in section 253 of the *Native Title Act*.

**onshore place** has the meaning given in section 253 of the *Native Title Act*.

**owner** and **occupier**, in relation to land, means the owner of an estate or interest in the land, but does not include a person whose interest or claimed interest in the land cannot be identified by or as a result of an examination of the Register kept by the Registrar-General under Part 3 of the *Land Title Act*.

***park or reserve*** means a park or reserve within the meaning of the *National Parks and Wildlife Conservation Act 1975* of the Commonwealth or the *Territory Parks and Wildlife Conservation Act*, and includes the sanctuary as defined in section 3 of the *Cobourg Peninsula Aboriginal Land and Sanctuary Act*.

***prescribed mining act*** has the meaning given in section 140A.

***previous exclusive possession act*** has the meaning given in section 3A of the *Validation (Native Title) Act*.

***principal registrar*** means the person appointed as principal registrar under section 5(1) and includes a person acting as the principal registrar.

***private land*** means land that is:

- (a) alienated from the Crown for an estate of freehold;
- (b) the subject of a conditional purchase agreement; or
- (c) the subject of a lease or concession, with or without a right of acquiring the fee simple, other than a lease or concession for pastoral or timber purposes,

but does not include:

- (d) Aboriginal land;
- (e) land held for an estate in fee simple, or in a lease from the Crown, by the Conservation Land Corporation established by section 27 of the *Parks and Wildlife Commission Act*; or
- (f) land held or occupied for mining purposes under this Act or the repealed Act.

***Register of Native Title Claims*** means the Register of Native Title Claims established and maintained in accordance with Part 7 of the *Native Title Act*.

***registered native title body corporate*** has the meaning given in section 253 of the *Native Title Act*.

***registered native title claimant*** has the meaning given in section 253 of the *Native Title Act* or, if the claimant is replaced under section 66B of that Act, means the person who replaced the claimant.

**registered native title rights and interests** means:

- (a) in relation to a registered native title claimant: the native title rights and interests of the claimant described in the relevant entry on the Register of Native Title Claims; and
- (b) in relation to a registered native title body corporate: the native title rights and interests of the body corporate described in the relevant entry on the National Native Title Register established and maintained under Part 8 of the *Native Title Act*.

**Regulations** means the Regulations made under this Act.

**relevant Authorisation**, in relation to a mining interest or mining tenement, means the Authorisation granted by the Minister under Division 2 of Part 4 of the *Mining Management Act* that relates to the exploration or mining activities carried out on the area of land held under the mining interest or mining tenement.

**repealed Act** means the Acts repealed by section 3, as in force immediately before that repeal.

**representative Aboriginal/Torres Strait Islander body** has the meaning given in section 253 of the *Native Title Act*.

**Secretary** means the Chief Executive Officer as defined in the *Public Sector Employment and Management Act*, of the Agency as defined in that Act primarily responsible under the Minister for the administration of this Act.

**tailings or other mining material** means any rejected material resulting from the processing of ore, or any stack or accumulation of material resulting from mining or mining activities.

**tourist fossicking** means a commercial venture (undertaken in respect of land the subject of a mineral claim) whereby fossicking is offered as an activity to be carried out by a person who agrees to comply with the conditions of admission on and access over the claim area.

**Tribunal** means the Lands and Mining Tribunal established by the *Lands and Mining Tribunal Act*.

**Trust Fund** means the Mining Trust Fund established and maintained under section 174H.

**warden** means a magistrate or a person appointed as a warden under section 5(1A).

- (2) A reference in this Act to a lease area, licence area, claim area, tenement area, mining tenement area or permit area is a reference to the area of land held under the lease, claim, licence, tenement, mining tenement or permit, as the case may be, in relation to which the reference is made.
- (3) Where in this Act the expression **Default penalty** appears in or at the foot of a section, or subsection of a section, being a section or subsection that provides that a person is guilty of an offence against this Act, a person who has been found guilty of that offence is guilty of a further offence against this Act if the offence continues after he has been so found guilty, and is punishable, upon being found guilty for the further offence, by a penalty not exceeding the amount of the default penalty specified after that expression for each day during which the offence continues.
- (4) Where an offence is committed by a person by reason of his failure to comply with the provision of this Act by or under which he is required to do any thing within a particular period, that person commits the further offence referred to in subsection (3) while the failure to do that thing continues, notwithstanding that that period has expired.
- (5) For the purpose of the definition of **private land** in subsection (1), a reference to land leased for pastoral purposes includes a lease of the land from the Crown for any other purpose granted over the land after the commencement of the *Mining Amendment Act 1993* and, where the land is subdivided after that commencement, includes a lease of the land from the Crown that has an area greater than 150 square kilometres.

## **Part II                      Administration**

### **5                      Appointment of officers**

- (1) The Minister may appoint an employee as defined in the *Public Sector Employment and Management Act* to be the principal registrar or a mining registrar for the purposes of this Act, and a person so appointed shall hold office, subject to subsection (3), while he remains an employee.
- (1A) The Minister may appoint a person to be a warden for the purposes of this Act.
- (2) The Minister shall, as soon as practicable after appointing a person under subsection (1) or (1A), cause a notice of the appointment to be published in the *Gazette*.



- (3) The Minister may, by notice in the *Gazette*, cancel the appointment of a person referred to in subsection (1) or (1A).

## **6 Acting appointments**

Where a person appointed under section 5(1) is or is expected to be absent from duty or from the Territory, the Minister may appoint an employee within the meaning of the *Public Sector Employment and Management Act* to act in the office of that person during the absence.

## **7 Delegation**

- (1) The Minister, Secretary or principal registrar may, either generally or as otherwise provided by an instrument of delegation, by writing signed by him, delegate all or any of his powers and functions under this Act, except this power of delegation.
- (2) A power or function delegated under subsection (1) may be exercised or performed by the delegate in accordance with the instrument of delegation.
- (3) A delegation under this section is revocable at will and does not prevent the exercise of a power, or the performance of a function, by the Minister, Secretary or principal registrar, as the case may be.

## **8AA Minister may issue guidelines**

- (1) The Minister may, by notice in the *Gazette*, issue guidelines in respect of the operation of this Act or the Regulations.
- (2) In the event of an inconsistency between the guidelines and this Act or the Regulations, this Act or the Regulations, as the case may be, prevails.
- (3) An action of a person or corporation under this Act or the Regulations must comply with the guidelines issued under subsection (1).

# **Part III Miner's rights**

## **9 Application for miner's right**

- (1) A corporation, or a person who has attained the age of 15 years, may apply to:
- (a) the Minister;
  - (b) a warden;

- (c) a mining registrar; or
- (d) a person authorized in writing for that purpose by the Minister, a warden or mining registrar,

for the grant of a miner's right to that corporation or person.

- (2) An application under subsection (1) is to be made in the prescribed manner.

## **10 Grant of miner's right**

The person to whom an application under section 9 is made shall grant that application and issue to the applicant a miner's right in the prescribed form on the payment by the applicant of the prescribed fee.

## **11 Powers of holder of miner's right**

- (1) A miner's right authorizes the holder thereof, subject to the *Water Act* and the *Soil Conservation and Land Utilization Act*, and in accordance with the provisions of this Act:

- (a) to obtain an area of land under a mining tenement, exploration retention licence or an exploration licence; and
- (b) subject to subsection (3), with the consent of a warden, to enter on any land:
  - (i) not comprised in an exploration licence area held by any other person; or
  - (ii) not the subject of an application for an exploration retention licence or mining tenement by any other person,

to survey and reconnoitre the land using non-intrusive means to establish its exploration potential for minerals or extractive minerals and, in connection therewith, to mark out the land in the prescribed manner.

- (2) The holder of a miner's right does not have the right to take, use and dispose of water on any land that has been artificially conserved on that land by or on behalf of a person who was at the time of construction of the means by which it is artificially conserved, in lawful occupation of that land.

- (3) Subsection (1)(b) does not authorize the carrying out of survey or reconnaissance work by:
- (b) means of a mechanical device, other than a hand-held metal detecting device; or
  - (c) such other means as may, from time to time, be prescribed.

## **12        Duplicate miner's right**

Where the holder of a miner's right satisfies the mining registrar that the miner's right issued to him has been lost or has been destroyed, the mining registrar may issue a replacement miner's right, endorsed with the date of the grant of the original, on the payment of the prescribed fee by the holder.

# **Part IV            Exploration licences**

## **Division 1        Preliminary**

## **13        Interpretation**

In this Part, unless the contrary intention appears:

**AGD** means the uniform national datum used for surveying, mapping and spatial referencing of geographic data known as Australian Geodetic Datum that, before 1 January 2000, is used to determine the geographical coordinates of graticular sections.

**block** means so much of a graticular section as is within the land area of the Territory.

**GDA** means the uniform national datum used for surveying, mapping and spatial referencing of geographic data known as Geocentric Datum of Australia 1994.

**graticular section** means a section referred to in section 14(1).

**land area of the Territory** means the Northern Territory as defined in the *Northern Territory Acceptance Act 1910* of the Commonwealth, and includes the internal waters.

## **14                      Graticular sections**

(1) For the purposes of this Part, the land area of the Territory shall be divided:

- (a) by the meridian of longitude 129 degrees east and by meridians that are east of that meridian at increasing distances from that meridian of one minute of longitude; and
- (b) by the parallel of latitude 26 degrees south, and by parallels of latitude that are north of that parallel of latitude at increasing distances from that parallel of latitude of one minute of latitude,

into sections, each of which is bounded:

- (c) by portions of 2 of those meridians that are at a distance from each other of one minute of longitude; and
- (d) by portions of 2 of those parallels of latitude that are at a distance from each other of one minute of latitude.

(2) For the purposes of this Part:

- (a) a graticular section that is wholly within the land area of the Territory constitutes a block; and
- (b) if part only of a graticular section is, or parts only of a graticular section are, within the land area of the Territory, the area of that part, or of those parts together, constitutes a block.

## **14A                      Geographical coordinates of graticular sections determined by GDA**

On and from 1 January 2000 the geographical coordinates of graticular sections are to be determined by using GDA.

## **15                      Reservation of blocks**

- (1) The Minister may, by notice in the *Gazette*, declare that a block specified in the notice (not being a block in respect of any part of which an exploration licence is in force) shall not be the subject of an exploration licence.
- (2) While a declaration under subsection (1) remains in force in respect of a block, an application for an exploration licence shall not be made in respect of that block.

## **Division 2            Exploration licences**

### **16            Grant of exploration licence**

- (1) Subject to this Act, including Parts XIA and XIB (as applicable) and Part XIII, the Minister may, on the application of a miner, grant to that miner an exploration licence in respect of land specified in the licence for a term not exceeding 6 years.
- (2) The area of land in respect of which an exploration licence may be granted shall be contained in a single licence area, not exceeding 500 blocks, consisting of:
  - (a) a group of blocks each of which has a common side or point with another block in the single licence area; or
  - (b) a single block.
- (3) An exploration licence shall not be granted:
  - (a) in respect of land the subject of another exploration licence;
  - (b) unless the applicant first lodges with the Minister such security as the Minister considers sufficient for the payment of compensation that, under this Act, the licensee may become liable to pay; or
  - (c) unless approved by the Minister, if the effect of granting it would be that the total area under exploration licences controlled by any one person, whether or not the control is enforceable, and whether the control is achieved by interests in various companies, by moral or other influence, by partnership or other agreements, by collusion, by means of related companies or by any other means however indirect, would exceed 5,000 blocks.

### **16A            Use of GDA in determining grant of exploration licence**

- (1) On and from 1 January 2000 geographical coordinates specified in an application for an exploration licence that is made before that date are:
  - (a) firstly – to be taken to be geographical coordinates determined by using AGD; and
  - (b) secondly – to be read as if the geographical coordinates were determined by using GDA that correspond to those determined by AGD by virtue of paragraph (a).

- (2) Geographical coordinates specified in an application for an exploration licence that is made on or after 1 January 2000 are to be read as if the geographical coordinates were determined by using GDA.
- (3) An exploration licence that is granted on or after 1 January 2000 is to be granted by reference to geographical coordinates determined by using GDA.
- (4) If:
  - (a) an exploration licence area in respect of an exploration licence granted on or after 1 January 2000 would, if granted by reference to geographical coordinates determined by using AGD, have a common boundary with an exploration licence area in respect of an exploration licence granted before that date; and
  - (b) because of the grant of the first-mentioned exploration licence by reference to geographical coordinates determined by using GDA – an area of land lies between the exploration licence areas referred to in paragraph (a),the area of land between the exploration licence areas or any part of it:
  - (c) may, on application by the holder of the second-mentioned exploration licence granted before the expiry of that licence, be granted to that licensee as part of the exploration licence area under that licence; or
  - (d) subject to paragraph (c) – is, until the expiry of the second-mentioned exploration licence, to be excluded from the grant of any application for an exploration licence, an exploration retention licence or a mining tenement made in respect of it.
- (5) If, on or after 1 January 2000, an exploration licence is granted over a part of the area of land in respect of which an exploration licence that was granted before 1 January 2000 is in force, the holder of the first-mentioned exploration licence must not exercise any powers by virtue of the licence in relation to that part of the land until the second-mentioned exploration licence and any exploration licence, exploration retention licence or mining tenement granted to the person holding it in respect of all or a part of the land held under it as a consequence of its grant ceases to have effect in relation to that land, and nothing in this Act or any other law in force in the Territory is to be taken to permit the holder of the first-mentioned exploration licence to exercise them until that time.

- (6) To avoid doubt, nothing in this section affects the requirement in relation to an application for the grant of an exploration licence, an exploration retention licence or a mining tenement to comply with the procedures in relation to Aboriginal land under the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth or the procedures in relation to native title rights and interests under this Act, the *Native Title Act* or any other relevant law of the Commonwealth or Territory.

## **17        Applications**

- (1) In addition to the requirements of section 140D (if applicable) and section 162, an application for an exploration licence:
- (a) shall be lodged with the Department;
  - (b) shall specify the blocks in respect of which the application is made;
  - (c) shall contain a list of owners and occupiers of land whose land will be, or is reasonably likely to be, affected by the activities of the applicant if the licence is granted; and
  - (d) shall be accompanied by a statement specifying:
    - (i) the details of the programme of work proposed to be carried out in the proposed licence area;
    - (ii) the estimated amount of money proposed to be expended on exploration during the first year of the licence, if granted; and
    - (iii) the technical and financial resources available to the applicant to carry out the programme of work.
- (2) Where an application for an exploration licence is lodged:
- (a) within 14 days after lodgement or the further time allowed in writing by the Secretary, the applicant must serve written notice of the making of the application on the persons specified in the list referred to in subsection (1)(c); and
  - (b) if Part XIA or XIB applies: the relevant registered native title claimants, registered native title bodies corporate and representative Aboriginal/Torres Strait Islander bodies are to be served with notice of the application in accordance with that Part.

- (2A) In addition to subsection (2), the Secretary may, by written notice, require an applicant for an exploration licence to serve written notice of the making of the application on such persons, and within such time, as the Secretary thinks fit and specifies in the notice.
- (3) Within 14 days, or such further time as the Secretary allows, after the notice referred to in subsection (2) or (2A) is served, the applicant for the exploration licence shall provide to the Secretary such evidence of the notice having been served and the method by which the service was effected as the Secretary may require.

## **18                  Licence not to be granted over existing licence areas**

An application for an exploration licence shall be of no force or effect in respect of land which:

- (a) is the subject of an exploration licence;
- (aa) is the subject of an application for an exploration licence that was lodged on a day before the day on which the first-mentioned application was lodged; or
- (b) was the subject of an exploration licence, if lodged before the expiration of 30 days after the date of publication of a notice under section 169 indicating that the land has ceased, or is to cease, to be so subject.

## **19                  Minister to receive applications, objections, &c.**

- (1) The Secretary shall forward to the Minister, together with the application for the exploration licence, all notices of objection lodged under section 163 against the grant of the exploration licence and the answers to those objections.
- (2) If Part XIA applies and objections are lodged under section 140E(3A), those objections are to be dealt with in accordance with that Part.
- (3) If Part XIB applies and objections are lodged under section 140S(4), those objections are to be dealt with in accordance with that Part.

## **20                  Objections and comments to be considered**

The Minister must not grant an exploration licence until he or she has considered all objections and comments lodged in accordance with this Act against the grant and the answers (if any) to those objections and comments.



## **21 Occupation of land pending determination of application**

- (1) Subject to subsection (2), where a miner has applied to the Minister for the grant to that miner of an exploration licence, no miner, including the applicant, may subsequently lodge an application for the grant of a mining tenement or exploration retention licence in respect of the land or any part of it while the Minister has not granted or refused the grant of the exploration licence applied for.
- (2) Subsection (1) does not prevent:
  - (a) a miner from obtaining an extractive mineral permit or extractive mineral lease in respect of land the subject of an application for an exploration licence;
  - (b) the holder of a mining tenement or exploration retention licence from obtaining water rights or other ancillary mining tenement or exploration retention licence over the land for the purposes of working that first-mentioned mining tenement or exploration retention licence;
  - (c) the holder of a mining tenement or exploration retention licence from surrendering the tenement or licence in exchange for another mining tenement or exploration retention licence over all or any part of the land held under the first-mentioned mining tenement or exploration retention licence; or
  - (d) a miner from lodging an application for the grant of a mining tenement or exploration retention licence in respect of land the subject of an application for an exploration licence where the land was marked out in the prescribed manner on or before the date on which the application for the exploration licence was lodged.

## **22 Grant of licence**

- (1) The Minister may, at his discretion, grant one or more exploration licences in respect of all, or part (including, subject to section 16(2), part or parts of a block), of the land in respect of which an application under this Part is made.
- (1AA) Where the Minister grants an exploration licence in respect of part only of the land to which the application relates, the application, unless the Minister expressly states otherwise when granting the exploration licence, remains in force in respect of the remainder of the land to which the application relates until the application is further dealt with under this Act.

- (3) Subject to Parts XIA and XIB as applicable, where, by the application of this Act, land is excluded from the grant of an exploration licence, that land shall become part of the licence area, except where the land was excluded by reason of it being the subject of another exploration licence if, during the currency of the licence, the reason for the land being excluded no longer applies to or in relation to that land, and the land is within the blocks at that time comprising the licence area.

## **23                      Power of licensee**

- (1) Subject to subsection (2), an exploration licence authorizes the holder thereof, subject to the law in force in the Territory, and in accordance with the conditions to which the licence is subject:
- (a) to enter and re-enter the licence area with such agents, employees, vehicles, vessels, machinery and equipment as may be necessary or expedient for the purpose of exploring for minerals in, on or under the licence area;
  - (b) to explore for minerals and to carry out such operations and works as are necessary for that purpose on the licence area including digging pits, trenches and holes, and sinking bores and tunnels in, on or under the licence area and ascertaining the quality, quantity or extent of ore or other material by drilling or other methods;
  - (c) to extract and remove from the licence area for sampling and testing an amount of ore, material or other substance reasonably necessary to determine its mineral bearing quality, or such greater amount as the Secretary, in writing, approves;
  - (d) subject to the directions of the Minister, to take or divert water from any natural spring, lake, pool or stream situated on or flowing through the licence area and to sink a well or bore on the licence area and take water there from and to use the water so taken or diverted for his domestic use and for any purpose in connection with exploring for minerals on the licence area; and
  - (e) subject to Parts V, VI, VII, XIA and XIB, to obtain an exploration retention licence, mineral lease or mineral claim in respect of the licence area or any part of it.
- (2) Where an exploration licence is granted over land in respect of which there is an existing mining tenement, or in respect of which an application for a mining tenement or the renewal of a mining tenement has been lodged, the holder of the exploration licence is not to exercise any of his or her powers by virtue of the licence in

relation to the land, holding them in abeyance until the application is refused or the existing mining tenement or the mining tenement granted or renewed under the application ceases to have any effect whatsoever in relation to that land, and nothing in this Act or any other law in force in the Territory is to be taken to permit the holder of the exploration licence to do so until that time.

## **24 Conditions of licence**

Every exploration licence shall, unless expressly waived, varied or suspended in writing by the Minister, be granted subject to the conditions imposed by or under section 166 and to the condition that the licensee will:

- (a) for the purposes of exploring for minerals, carry out geological, geochemical or geophysical surveys or any combination of those surveys, on the licence area;
- (b) not extract or remove from the licence area any amount of ore, material or other substance other than amounts for sampling purposes authorized by or under section 23(c);
- (c) expend not less than the minimum amount of expenditure specified in the licence in carrying out exploration activities on the licence area;
- (d) within 28 days after confirmation of their discovery, report in writing to the Secretary all minerals of possible economic or scientific interest discovered on the licence area;
- (h) obtain and send to the Secretary such water samples and data on underground water encountered during exploratory drilling as the Secretary, in writing, directs;
- (j) conduct his exploration programmes and other activities in such a way as not to interfere with existing roads, railways, telephone or telegraph lines, power lines and cables, water pipelines or dams or reservoirs or gas, oil, slurry or tailings pipelines or storage containers, situated on the licence area, or the lawful activities or rights of any person on or in relation to land adjacent to the licence area; and
- (k) not interfere with any historical site or object, or any Aboriginal sacred site or object, declared as such under a law in force in the Territory, otherwise than in accordance with that law.

**24A Additional conditions of exploration licence relating to native title rights and interests**

- (1) In addition to the conditions imposed by or under sections 24 and 166, an exploration licence is subject to the conditions that the Minister determines (whether in accordance with a recommendation of the Tribunal or otherwise) and endorses on the licence.
- (2) Conditions under subsection (1) may include a condition about ways of minimising the impact of the grant of the exploration licence on registered native title rights and interests in relation to the land concerned, including about any access to the land or the way in which any thing authorised by the grant might be done.

**25 Other mining interests over licence area**

An exploration licence does not, in respect of the licence area, prevent:

- (a) the granting to a miner of an extractive mineral permit or extractive mineral lease and the extraction of extractive minerals in accordance with that permit or lease, as the case may be;
- (b) the holder of another mining tenement or exploration retention licence:
  - (i) from obtaining water rights over the land for the purposes of working that other mining tenement or exploration retention licence; or
  - (ii) from being granted any other mining tenement or exploration retention licence for the purposes of or ancillary to the working of that first-mentioned mining tenement or exploration retention licence;
- (c) subject to section 83(2), any miner from being granted a mineral claim;
- (d) subject to Part X (and in particular section 132), any fossicker from fossicking, to the extent that that activity does not interfere with the lawful activities of the licensee; or
- (e) the holder of a mining tenement or exploration retention licence from surrendering the tenement or licence in exchange for another mining tenement or exploration retention licence over all or any part of the land held under the first-mentioned mining tenement or exploration retention licence.

## **26                      Reduction of licence area**

- (1) Subject to this section and to section 28, at the conclusion of the first 24 months of an exploration licence or the first 12 months of an exploration licence granted under section 31A and each succeeding period of 12 months after that date, the licence area shall be reduced so that the number of blocks to be retained in the licence area for the ensuing 12 months is not more than half the number of blocks contained in the licence area at the commencement of the first 24 months period or subsequent 12 months period, as the case may be, immediately concluded.
- (2) Where the number of blocks in a licence area at the beginning of the first 24 months period or subsequent 12 months period, as the case may be, before the relevant date referred to in subsection (1) is not divisible by 2, in calculating under subsection (1) the number of blocks to be retained for the ensuing 12 months, the number of blocks at the commencement of the relevant period shall be increased by one then divided by 2.

## **27                      Licensee to nominate blocks to be retained**

- (1) Not later than one month, or such other time as the Secretary may approve, before the expiration of the relevant period referred to in section 26(1), a licensee shall, in writing, nominate to the Secretary the blocks the licensee wishes to retain in the licence area for the ensuing 12 months of the exploration licence and, subject to subsection (2), those blocks shall, accordingly, constitute the licence area for that ensuing period.
- (2) A licensee shall not nominate the blocks to be retained in the licence area if the effect of that nomination would be that more than 3 separate areas are created.
- (3) For the purposes of subsection (2), a separate area shall consist of:
  - (a) a group of blocks each of which has a common side or point with another block in the separate area; or
  - (b) a single block.

## **28                      Reduction may be deferred**

The Minister may, on the written request of a licensee, defer for a period of 12 months, or such shorter period as he thinks fit, or waive for a period of 12 months the reduction under section 26 of a licence area.

**29            Rent for retained blocks**

The holder of an exploration licence shall, in respect of the blocks to be retained in the licence area for the ensuing 12 months in accordance with the provisions of this Part, within one month before the expiration of each period of the licence, pay to the Minister the prescribed rent for the ensuing 12 months of the licence.

**29A          Application for renewal of exploration licence**

- (1) Subject to this section and to Parts XIA and XIB as applicable the holder of an exploration licence may, at any time before 3 months before the expiration of the licence or such later time, being not later than that expiration, as the Minister allows, apply to the Minister for the renewal or further renewal of the licence.
- (2) An application under subsection (1) shall:
  - (a) be in writing;
  - (b) be lodged with the Department;
  - (c) be accompanied by the prescribed application fee and the prescribed rent;
  - (d) include comprehensive details of the exploration activities carried out on the licence area during the term of the exploration licence;
  - (e) include the applicant's proposals for work and expenditure during the term of the renewal of the exploration licence; and
  - (f) include a statement of the applicant's reasons for seeking the renewal of the exploration licence.
- (3) The Minister, on receiving an application under subsection (1), may require the applicant to provide the Minister with such additional information relating to the application as the Minister directs, and the Minister may defer considering the application until such time as the information is provided.
- (4) An application under this section cannot be made in respect of an exploration licence that has been renewed under this section on 2 previous occasions.
- (5) Subject to this section, the Minister may, at his discretion, grant or refuse to grant an application made under this section.

- (6) Where the Minister grants an application under this section, the exploration licence:
  - (a) subject to this Act, remains in force for 2 years from the date on which the licence would have expired; and
  - (b) may be renewed in respect of all or a part of the licence area to which the licence applied at the date of the application for renewal.
- (7) The Minister may grant an application under this section subject to such conditions, in addition to or varying those to which the exploration licence is already subject, as the Minister thinks fit.
- (8) Where an application for the renewal of an exploration licence has been made in accordance with this section, the licence:
  - (a) shall be deemed to continue in force until the application is granted or refused, as the case may be; and
  - (b) remains in force, if renewed, for 2 years from the date on which the licence would have expired but for this subsection.
- (9) Sections 26, 27, 28 and 29 do not apply to or in relation to an exploration licence renewed under this section.

### **30            Surrender may be requested**

- (1) The Minister may, by notice in writing served on a licensee, request that the licensee consent to the surrender of any part of the land comprised in the licence area for the use of that land for:
  - (a) public recreation or amusement;
  - (b) the protection of scenic areas;
  - (c) the preservation and protection of places of cultural or historic interest;
  - (d) national or public parks or gardens;
  - (e) the protection of flora and fauna;
  - (f) the protection of coastal foreshores;
  - (g) water conservation purposes;
  - (h) the construction or maintenance of railways, roads, drains or pipelines; or
  - (j) forestry or re-forestation purposes.

- (2) If a licensee consents or is deemed to have consented to a request referred to in subsection (1), the Minister may vary the licence by removing from its application the land to which that consent relates.
- (3) If a licensee does not, within 60 days after a notice referred to in subsection (1) is served on him, reply to the Minister's request contained in that notice, the licensee shall be deemed to have consented to the surrender of the land to which that request relates.
- (4) Where a licensee surrenders or is deemed to have surrendered part of a licence area in pursuance of this section, the variation of the licence area occasioned by that surrender has effect on and from the date on which the relevant notice referred to in section 169 is published on the Department's internet website for mining titles information.
- (5) Where a licensee surrenders or is deemed to have surrendered land in accordance with this section, the Minister shall refund to him the unexpired portion of the rent for the current period of the licence calculated in respect of the land surrendered or deemed to have been surrendered.

## **31            Surrender**

- (1) Subject to this Part and the relevant Authorisation (if applicable), a licensee may, at any time, surrender an exploration licence or part of a licence area by lodging with the Department a notice in writing indicating the licence or the land, as the case may be, to be surrendered.
- (2) A surrender under subsection (1) is effective on and from the day on which the notice referred to in that subsection is lodged in accordance with that subsection.
- (3) A licensee shall not, under this section, surrender land if the effect of that surrender would mean that a licence area consists of more than 2 separate areas of blocks.
- (4) For the purposes of subsection (3), a separate area shall consist of:
  - (a) a group of blocks each of which has a common side or point with another block in the separate area; or
  - (b) a single block.



**31A        Substitution of exploration licence**

(1) Apart from Parts XIA and XIB as applicable, nothing in this Act prevents:

- (a) the holder of 2 or more exploration licences, the licence areas of which have a common side or point; or
- (b) the holder of an exploration licence, with the consent in writing of the holder of another exploration licence, the licence areas of which have a common side or point,

applying for the grant of, and the Minister granting, an exploration licence in substitution for those exploration licences.

(2) An application under subsection (1) shall be in a form approved by the Minister and accompanied by the prescribed fee.

(3) On receipt of an application under subsection (1) the Minister may grant the exploration licence.

(4) An exploration licence granted under this section:

- (a) may be granted in respect of all or part of the licence areas to which the application under subsection (1) relates; and

- (b) shall remain in force for a term not exceeding 4 years,

as is specified in the licence.

(5) On the grant of an exploration licence under this section the exploration licences to which the application under subsection (1) relates are, notwithstanding that the grant may be in respect of part only of those licence areas, automatically cancelled.

**32        Report on ceasing to hold licence area**

(1) A person who:

- (a) was the holder of an exploration licence; or

- (b) is the holder of an exploration licence:

- (i) the licence area of which has been reduced under section 26; or

- (ii) part of the licence area of which has been surrendered under section 31,

shall, within 3 months, or such longer period as the Secretary allows, immediately after:

- (c) in the case of a person referred to in paragraph (a) – the cessation of the exploration licence;
- (d) in the case of a person referred to in paragraph (b)(i) – the licence area has been reduced; and
- (e) in the case of a person referred to in paragraph (b)(ii) – part of the licence area has been surrendered,

lodge at the office of the Secretary a comprehensive report in accordance with this section on the exploration activities carried out on:

- (f) in the case of a person referred to in paragraph (a) – the licence area, as comprised from time to time, during the period of that exploration licence;
- (g) in the case of a person referred to in paragraph (b)(i) – the licence area which has not been retained; and
- (h) in the case of a person referred to in paragraph (b)(ii) – the licence area which has been surrendered.

Penalty:        \$1,000.

Default penalty: \$500.

- (2) Subject to section 33, the report referred to in subsection (1) shall include details of total expenditure on exploration activities and all geological, geochemical and geophysical survey reports, and all drilling and other reports completed by or becoming available to the licensee, and all data, maps, logs and records associated with or necessary to interpret those reports.

### **33            Form of report**

Where, during the term of his exploration licence, a licensee:

- (a) had been granted a mining tenement or exploration retention licence in respect of any part of the licence area and continued, on ceasing to hold the exploration licence, to hold that mining tenement or exploration retention licence; or

- (b) had applied for the grant to him of a mining tenement or exploration retention licence in respect of any part of the licence area and, on ceasing to hold the exploration licence, the mining tenement or exploration retention licence had not been granted to him and his application had not been refused,

the report required by section 32 to be lodged shall be in 2 parts, namely:

- (c) one dealing with the licence area that is not the subject of the continuing or applied for mining tenement or exploration retention licence; and
- (d) one dealing with the land that is, or is proposed to be, retained under the mining tenement or exploration retention licence.

#### **34            Annual reports**

- (1) A licensee shall, within one month after the expiration of each period of 12 months of his licence or such longer period as the Secretary allows, lodge with the Department a report in a form satisfactory to the Secretary on the exploration activities carried out on the licence area during that period.
- (1A) Despite any other provision of this Act, a licensee may lodge a report under subsection (1) relating to 2 or more licence areas:
  - (a) if the licence areas are substantially contiguous and relate to the same geological entity; and
  - (b) subject to the conditions (if any) agreed between the licensee and the Minister.
- (2) The report referred to in subsection (1) shall include details of total expenditure on exploration activities and all geological, geochemical and geophysical survey reports, and all drilling and other reports, completed by or becoming available to the licensee in relation to his exploration activities on the licence area or areas, and all data, maps, logs and records associated with or necessary to interpret those reports.
- (3) A licensee shall lodge with each report under subsection (1) an estimate, in a form satisfactory to the Secretary, of proposed expenditure on exploration activities for the 12 month period of the exploration licence or licences following that to which the report relates.

**35                      Inspection of reports**

Subject to subsection 36(2), a report required to be lodged under section 32 or 34, other than a report referred to in section 33(d), may be examined by any person during normal office hours at a place that the Department advises.

**36                      Confidentiality of certain information**

- (1) A report referred to in section 33(d) shall be confidential while the mining tenement or exploration retention licence or application in respect of the land to which it relates remains in force or is neither granted or refused, but on that tenement or licence ceasing to be in force or that application being refused, the report shall be available for examination by any person during normal office hours at a place that the Department advises.
- (2) A report required to be lodged under section 34 shall, unless disclosed with and in accordance with the written permission of the licensee, be confidential while the land or any part of the land to which it relates remains under the exploration licence or a mining tenement or exploration retention licence.

**37                      Core samples to be lodged**

- (1) As soon as practicable after he recovers a drill core or cutting from the licence area, a licensee shall, in writing, notify the Secretary that the core or cutting has been recovered and identify, to the satisfaction of the Secretary, the place on the licence area from which the core or cutting was taken.
- (2) Subject to subsection (3), a drill core or cutting referred to in subsection (1) shall not be disposed of by the licensee except with and in accordance with the written directions of the Secretary.
- (3) As soon as practicable after land from which a drill core or cutting referred to in subsection (1) ceases to be in a licence area or area of a mining tenement or exploration retention licence, or on land the subject of an application for the grant of a mining tenement or exploration retention licence, the person who was the licensee shall deposit with the Secretary that core or cutting, unless it has previously been disposed of in accordance with subsection (2).
- (4) A drill core or cutting deposited under subsection (3) with the Secretary may be examined by any person on request during normal office hours at a place that the Department advises.

- (5) A drill core or cutting deposited with the Secretary or a person to be held on behalf of the Secretary, in accordance with a direction under subsection (2) may, while the land from which it was taken remains a licence area or mining tenement or exploration retention licence area, or the subject of an application for the grant of a mining tenement or exploration retention licence, be examined by a person only with the approval in writing of the licensee or the holder of, or applicant for, the mining tenement or exploration retention licence, as the case may be.

## **Part V                      Exploration retention licences**

### **38                      Application for licence**

- (1) Subject to this Act, a miner:
- (a) who is the holder of an exploration licence may, at any time before relinquishing or surrendering all or any part of a licence area in which an ore body or anomalous zone of possible economic potential has been discovered; or
  - (b) who was the holder of an exploration licence under the repealed Act and had applied, before the commencement of this Act for a mineral lease, gold mining lease or special mineral lease in respect of all or any part of the land held under that exploration licence and the application had not been processed before the commencement of this Act,

may apply under this section to the Minister to be granted an exploration retention licence in respect of any part of that land.

- (2) The area of land in respect of which an application for an exploration retention licence may be made under this Part shall not exceed a discrete area of 4,000 hectares.
- (3) Except with the prior written approval of the Minister, a miner shall not apply for or be granted an exploration retention licence if the effect of the grant of the licence would be that the total area of land held by the miner under exploration retention licences and mining tenements would be more than 4,000 hectares of the area originally granted under the exploration licence.

### **39                      Form of application for exploration retention licence**

- (1) In addition to the requirements of section 140D (if applicable) and section 162, an application for an exploration retention licence:
- (a) shall be lodged with the Department;

- (b) shall include a description of the land in respect of which the application is made;
  - (ba) is to contain a list of owners and occupiers of land whose land will be, or is reasonably likely to be, affected by the activities of the applicant if the licence is granted;
  - (c) where the application is made under section 38(1)(a), shall contain a full description and technical particulars of the ore body or anomalous zone occurring on the proposed licence area;
  - (d) shall include concise particulars of the applicant's proposals for initial work and expenditure on the proposed licence area; and
  - (e) shall be accompanied by a statement specifying the estimated amount of money proposed to be expended on exploration during the first year of the licence, if granted.
- (1A) Where an application for an exploration retention licence is lodged:
- (a) within 14 days after lodgement or the further time allowed in writing by the Secretary, the applicant must serve written notice of the making of the application on the persons specified in the list referred to in subsection (1)(ba); and
  - (b) if Part XIA or XIB applies: the relevant registered native title claimants, registered native title bodies corporate and representative Aboriginal/Torres Strait Islander bodies are to be served with notice of the application in accordance with that Part.
- (1B) Within 14 days, or such further time as the Secretary allows, after the notice referred to in subsection (1A) is served, the applicant for the exploration retention licence must provide to the Secretary such evidence of the notice having been served and the method by which the service was effected as the Secretary may require.
- (2) An applicant for an exploration retention licence whose exploration licence in respect of the area of the proposed retention licence has expired must, within 14 days after the date he or she is notified that the Minister has refused to grant the exploration retention licence, vacate the land.

**40 Ore body to be present**

A miner shall not make an application under section 38(1) for an exploration retention licence unless the miner has a bona fide belief that there exists on the proposed licence area an ore body or anomalous zone of possible economic potential.

**41 Grant of exploration retention licence**

- (1) Subject to this Act, including Parts XIA and XIB as applicable and Part XIII, on being satisfied that:

- (a) the application is made in accordance with this Act; and
- (b) if the application is made under section 38(1)(a) – there exists on the proposed licence area an ore body or anomalous zone of possible economic potential,

the Minister may grant to the applicant an exploration retention licence over the land or part of the land in respect of which the application is made for a term not longer than the term of the original exploration licence, but in any case not longer than 5 years.

- (1A) The Minister must not grant an exploration retention licence until he or she has considered all objections and comments lodged in accordance with this Act against the grant and the answers (if any) to those objections and comments.
- (2) An exploration retention licence granted under this Part shall be granted in the name or names of the holder or holders of the exploration licence from which the licence area derived, but when it is granted to 2 or more persons it shall, at the request of the applicants, be granted in different percentages than the percentages in which the exploration licence was held.
- (3) Where the Minister refuses to grant an exploration retention lease to an applicant he shall, as soon as practicable after making his decision, notify the applicant in writing of his reasons for refusing to grant the licence.
- (4) An exploration retention licence shall not be granted in respect of any land unless the applicant first lodges with the Minister such security as the Minister considers sufficient for the payment of compensation that, under this Act, the licensee may become liable to pay.
- (5) An exploration retention licence may be granted notwithstanding that, since the date of the application, the land the subject of the application has ceased to be the subject of an exploration licence.

**41A Exploration retention licence for ancillary purposes**

- (1) Subject to this section, where a miner has:
- (a) applied to be granted an exploration retention licence under section 38(1)(a); or
  - (b) been granted an exploration retention licence,
- the miner may apply under this section for the grant of another exploration retention licence for such purpose as the miner specifies in the application.
- (2) An application under subsection (1) shall not be made in respect of any land that is not the subject of an exploration licence held by the miner.
- (3) The Minister shall not grant an exploration retention licence in respect of an application under subsection (1):
- (a) if, where the application is under subsection (1)(a), the Minister refuses to grant an exploration retention licence in respect of the application made under section 38(1)(a);
  - (b) unless the Minister is satisfied that the purpose for which the exploration retention licence is sought will assist in evaluating, either directly or indirectly, the development potential of any ore body or anomalous zone of possible economic potential on land the subject of the exploration retention licence granted in respect of an application made under section 38(1)(a); or
  - (c) for a term longer than that specified in the exploration retention licence granted in respect of an application made under section 38(1)(a).

**42 Effect of application or refusal on exploration licence**

An application for an exploration retention licence or a refusal under section 41 to grant a licence does not, by itself, have the effect of terminating the exploration licence in respect of the land the subject of the application.



**43 Power of licensee**

Subject to this Part, an exploration retention licence authorizes the holder thereof, subject to the law in force in the Territory, and in accordance with the conditions to which the licence is subject:

- (a) to carry out on or in respect of the licence area such geological, geophysical and geochemical programmes and other operations and works as are reasonably necessary to evaluate the development potential of any ore body or anomalous zone of possible economic potential occurring in or on the land, including the carrying out of:
  - (i) mining feasibility studies;
  - (ii) metallurgical testing;
  - (iii) environmental studies;
  - (iv) marketing studies; and
  - (v) engineering and design studies; and
- (b) to surrender the licence at any time Conditional on the grant to the licensee of a mineral lease or mineral claim over all or part of the licence area.

**44 Rent**

The rent payable for an exploration retention licence and the times and manner of its payment shall be as prescribed.

**45 Conditions of licence**

Every exploration retention licence is, unless expressly waived, varied or suspended in writing by the Minister, subject to the conditions imposed by or under section 166 and to the condition that the licensee will, on or in relation to the licence area:

- (a) carry out progressive programmes of work for the purpose of testing the extent and value of the ore body or anomalous zone;
- (aa) expend not less than the minimum amount of expenditure specified in the licence in carrying out exploration activities on the licence area;
- (d) not sell any mineral obtained from the licence area;

- (e) except with the prior approval, in writing, of the Secretary, not remove from the licence area any mineral other than that reasonably required for sampling or testing purposes;
- (g) obtain and send to the Secretary such water samples and data on underground water encountered during exploration drilling as the Secretary, in writing, directs; and
- (h) conduct his programmes and other activities in such a way as not to interfere with existing roads, railways, telephone or telegraph lines, power lines and cables, water pipelines or dams or reservoirs, or gas, oil, slurry or tailings pipelines or storage containers, situated on the licence area, or the lawful activities or rights of any person on or in relation to land adjacent to the licence area.

**45A Additional conditions of exploration retention licence relating to native title rights and interests**

- (1) In addition to the conditions imposed by or under sections 45 and 166, an exploration retention licence is subject to the conditions that the Minister determines (whether in accordance with a recommendation of the Tribunal or otherwise) and endorses on the licence.
- (2) Conditions under subsection (1) may include a condition about ways of minimising the impact of the grant of the exploration retention licence on registered native title rights and interests in relation to the land concerned, including about any access to the land or the way in which any thing authorised by the grant might be done.

**46 Application for renewal of exploration retention licence**

- (1) Subject to Parts XIA and XIB as applicable, a licensee may, at any time before 3 months before the expiration of an exploration retention licence, or such later time, not being later than that expiration, as the Minister allows, apply to the Minister for the renewal or further renewal of the licence.
- (2) An application referred to in subsection (1) shall be in writing and shall be lodged with the Department and be accompanied by:
  - (a) the prescribed rent for the first 12 months of the proposed renewed licence;
  - (aa) the prescribed fee;

- (b) an analysis of the work and expenditure undertaken during the term of the licence to the date of the application, and the results, if any, obtained;
  - (c) the applicant's proposals for work and expenditure during the proposed renewed term; and
  - (d) the applicant's reasons for seeking a renewal of the licence rather than applying for a mineral lease or mineral claim.
- (3) Subject to section 47 and to Parts XIA and XIB as applicable, the Minister may renew an exploration retention licence:
  - (a) for a term not longer than the term of the original exploration retention licence but in any case not longer than 5 years; and
  - (b) subject to such conditions in addition to those to which the licence is already subject as the Minister thinks fit.
- (4) If an application for the renewal of an exploration retention licence has been made in accordance with this section, the licence is taken to continue in force until that renewal is granted or refused, as the case may be.

#### **47 Notice to apply for mineral lease or mineral claim**

- (1) Where, after considering an application referred to in section 46, or at any time during the currency of an exploration retention licence, the Minister is of the opinion that actual mining operations should commence on the licence area, he shall give to the licensee written notice directing him to show cause, within the time specified in the notice, why the licensee should not apply for a mineral lease or mineral claim in respect of the licence area or any part of it.
- (2) If a licensee to whom a notice under subsection (1) has been given does not, within the time specified in the notice, or such longer time as the Minister in writing before the expiration of that time allows, reply to the notice, or the Minister, on considering a licensee's reply, is not satisfied that the licensee should not apply for a mineral lease or mineral claim, the Minister shall give the licensee a further written notice directing him, within the time specified in the notice, to apply for a mineral lease or mineral claim in respect of the licence area or any part of it.
- (3) Where the licensee to whom a notice of direction is given under subsection (2) does not apply for a mineral lease or mineral claim in respect of the licence area or any part of it within the time specified in the notice, the Minister may, in his discretion, cancel the exploration retention licence.

**48 Surrender**

- (1) Subject to this Part and the relevant Authorisation, a licensee may, at any time, having complied with all the conditions to which the licence is subject, surrender an exploration retention licence or part of the licence area by lodging with the Department a written notice indicating the licence or the area, as the case may be, to be surrendered.
- (2) A surrender under subsection (1) is effective on and from the day on which the notice referred to in that subsection is lodged in accordance with that subsection.

**49 Report on cessation of licence**

- (1) A person who was the holder of an exploration retention licence shall, within 3 months immediately after the cessation of the licence, or such longer period as the Secretary allows, lodge with the Department a comprehensive report in accordance with this section on the activities carried out on the licence area during the period of the licence.

Penalty: \$1,000.

Default penalty: \$500.

- (2) Subject to section 50, the report referred to in subsection (1) shall include details of annual expenditure on exploration activities, all geological, geochemical and geophysical survey reports, and all drilling and other reports, completed by or becoming available to the licensee, and all data, maps, logs and records associated with or necessary to interpret those reports.

**50 Form of report**

Where, during the term of his exploration retention licence, a licensee:

- (a) had been granted a mineral lease or mineral claim in respect of any part of the licence area and continued, on ceasing to hold the exploration retention licence, to hold that mineral lease or mineral claim; or
- (b) had applied for the grant to him of a mineral lease or mineral claim in respect of any part of the licence area and, on ceasing to hold the exploration retention licence, the mineral lease or mineral claim had not been granted to him and his application had not been refused,

the report required by section 49 to be lodged shall be in 2 parts, namely:

- (c) one dealing with the licence area that is not the subject of the mineral lease or mineral claim or the mineral lease or mineral claim applied for; and
- (d) one dealing with the land that is, or is proposed to be, retained under the mineral lease or mineral claim.

## **51 Annual reports**

- (1) A licensee shall, within one month after the expiration of each period of 12 months of his licence, or such longer period as the Secretary allows, lodge with the Department a report, in a form satisfactory to the Secretary, on the exploration activities carried out on the licence area during that period.
- (2) The report referred to in subsection (1) shall include details of total expenditure on exploration activities and all geological, geochemical and geophysical survey reports, and all drilling and other reports, completed by or becoming available to the licensee in relation to his exploration activities on the licence area, and all data, maps, logs and records associated with or necessary to interpret those reports.
- (3) A licensee shall lodge with each report under subsection (1) an estimate, in a form satisfactory to the Secretary, of proposed expenditure on exploration activities for the 12 month period of the exploration retention licence following that to which the report relates.

## **52 Inspection of reports**

- (1) Subject to subsection (3), a report required to be lodged under section 49 or 51, other than a report referred to in section 50(d), may be examined by any person during normal office hours at a place that the Department advises.
- (2) A report referred to in section 50(d) shall be confidential while the mineral lease or mineral claim or application in respect of the land to which it relates remains in force, but on that lease or claim ceasing to be in force or that application being refused, the report shall be available for examination by any person during normal office hours at a place that the Department advises.
- (3) A report required to be lodged under section 51 shall, unless disclosed with and in accordance with the written permission of the licensee, be confidential while the land to which it relates remains in the licence area or under a mining tenement.

**53            Core samples to be lodged**

- (1) As soon as practicable after he recovers a drill core or cutting from the licence area, a licensee shall, in writing, notify the Secretary that the core or cutting has been recovered and identify, to the satisfaction of the Secretary, the place on the licence area from which the core or cutting was taken.
- (2) Subject to subsection (3), a drill core or cutting referred to in subsection (1) shall not be disposed of by the licensee except with and in accordance with the written directions of the Secretary.
- (3) As soon as practicable after land from which a drill core or cutting referred to in subsection (1) ceases to be in a licence area or area of a mineral lease or mineral claim, or on land the subject of an application for the grant of a mineral lease or mineral claim, the person who was the licensee shall deposit with the Secretary that core or cutting, unless it has previously been disposed of in accordance with subsection (2).
- (4) A drill core or cutting deposited under subsection (3) with the Secretary may be examined by any person, on request, during normal office hours at a place that the Department advises.
- (5) A drill ore or cutting deposited with the Secretary or a person to be held on behalf of the Secretary, in accordance with a direction under subsection (2) may, while the land from which it was taken remains a licence area or mineral lease area, or the subject of an application for the grant of a mineral lease or mineral claim, be examined by a person only with approval in writing of the licensee or the holder of, or applicant for, the mineral lease or mineral claim, as the case may be.

**Part VI            Mineral leases**

**Division 1        Applications**

**54            Application for mineral lease**

- (1) Subject to this Act, including Parts XIA and XIB (as applicable) and Part XIII, a miner may, at any time, apply to the Minister to be granted a mineral lease over an area of land for the purpose of, or in connection with, the mining of a particular mineral or particular minerals.
- (2) The area of land in respect of which an application for a mineral lease may be made shall not exceed 4,000 hectares.

**55            Form of application for mineral lease**

In addition to the requirements of section 140D (if applicable) and section 162, an application for a mineral lease:

- (a) shall be lodged with the Department;
- (b) shall include a description of the land to which the application relates;
- (c) shall indicate the mineral or minerals proposed to be mined on the proposed lease area, or the associated purpose for which the lease is sought;
- (d) shall state the percentages into which the proposed lease is to be divided;
- (e) shall state the name by which it is proposed the lease shall be known;
- (f) shall be accompanied by particulars of:
  - (i) the technical qualifications of the applicant and his employees who will be associated with the initial mining development on the lease area;
  - (ii) the technical advice available to the applicant;
  - (iii) the financial resources of the applicant;
  - (iv) the applicant's proposals for developing the mineral deposits on the proposed lease area, or the alternative use proposed for the land in conjunction with the mining of minerals, as the case may be; and
- (j) shall state the names and addresses of the owners and occupiers of land that will be, or is likely to be, affected by the grant of the proposed lease.

**56            Occupation of land pending determination of application**

- (1) Subject to section 61, where an application for a mineral lease has been lodged, the applicant shall not carry out or continue to carry out any exploration or mining on the land to which the application relates, or use it for any associated purpose, until the application is granted.

Penalty:        \$10,000.

Default penalty: \$1,000.

- (2) Where land the subject of an application referred to in subsection (1):
- (a) is, or is part of, a mineral lease area;
  - (b) is held by the applicant under an exploration licence or an exploration retention licence; or
  - (c) is occupied in accordance with an authorization under section 178(2),

nothing in that subsection prevents the applicant from carrying out any exploration or mining, in accordance with the terms and conditions of the mineral lease, exploration licence, exploration retention licence, or authorization under section 178(2) on the land to which the application relates, or his using that land for associated purposes.

## **57            Notice of application**

- (1) Where an application for a mineral lease is lodged:
- (a) within 14 days after lodgement or the further time allowed in writing by the mining registrar, the applicant must serve written notice of the making of the application on the persons specified in the list referred to in section 55(j); and
  - (b) if Part XIA or XIB applies: the relevant registered native title claimants, registered native title bodies corporate and representative Aboriginal/Torres Strait Islander bodies are to be served with notice of the application in accordance with that Part.
- (2) In addition to subsection (1), the mining registrar may, by written notice, require an applicant for a mineral lease to serve written notice of the making of the application on such persons, and within such time, as the mining registrar thinks fit and specifies in the notice.
- (3) Within 14 days, or such further time as the mining registrar allows, after the notice referred to in subsection (1) or (2) is served, the applicant for the mineral lease shall provide to the mining registrar such evidence of the notice having been served and the method by which the service was effected as the mining registrar may require.



## **58            Hearing of application**

- (1) As soon as practicable after the period provided in Part XIII for the answering by an applicant of objections under that Part against his application for the grant to him of a mineral lease, the mining registrar shall fix a date for consideration by a warden of the application and the hearing in open court of objections to the proposed grant.
- (2) The hearing referred to in subsection (1) shall be held in the warden's court for the part of the Territory in which the proposed mineral lease is situated, or such other warden's court as the mining registrar, with the consent of the applicant, determines.
- (3) At a hearing referred to in subsection (1), the warden shall take such evidence, shall hear such persons and inform himself in such manner, as he considers appropriate in order to determine the relative merits of the application and objections and, subject to this Act, shall determine his own procedures in connection with the hearing.
- (4) The applicant and all persons lodging objections in accordance with Part XIII shall be advised of, and may be heard at, a hearing referred to in subsection (1) and may be represented by counsel.
- (5) The warden may, from time to time, adjourn a hearing referred to in subsection (1) and direct an inspection of the land concerned and a report to be made to him, by a person appointed by him.
- (6) The warden may, at any time, in connection with a hearing referred to in subsection (1), indicate that in order that he may be in a position to recommend the grant of the mineral lease or the refusal of the grant on the basis of an objection, the applicant or the objector, as the case may be, should arrange for a particular study or a study of a particular kind to be carried out in connection with the likely or possible effects of proposed mining operations on any part of the environment on or in the vicinity of the proposed lease area, and may adjourn the hearing to enable the study to be carried out and a report on the results of the study to be prepared.
- (7) In requiring a study to be carried out under subsection (6), the warden may, in respect of all or a specific element of the environment, require that the report contain:
  - (a) a statement of the objectives of the applicant;
  - (b) a full description of the mining operations proposed to be carried out on the land and all associated works and other uses proposed;

- (c) the details of all feasible alternatives to the preferred mining proposal or other use;
  - (d) a description of the aspects of the environment likely to be affected by the mining proposal and other feasible alternatives;
  - (e) an assessment of the potential benefits and detrimental effects on the environment of the proposed mining or other use and other feasible alternatives;
  - (f) a description of specific safeguards and environmental management proposals which could be incorporated as conditions of the lease to avoid, minimise or ameliorate adverse environmental effects; and
  - (g) estimates of the cost of carrying out the proposals or specific actions for the amelioration of the effect of the proposed mining or other use.
- (8) Where there are no objections lodged under Part XIII to an application for the grant of a mineral lease, the warden may dispense with the hearing referred to in subsection (1).

## **59            Warden's recommendation to Minister**

As soon as practicable after the completion of a hearing referred to in section 58(1) or where, under section 58(8) he is not required to hold a hearing, as soon as practicable after he has considered the matters before him under that section, the warden shall transmit to the Minister all documents and notices of objection considered by him, together with such notes of evidence and plans and other documents and studies prepared for or in connection with the hearing, and his report recommending the grant or refusal of the mineral lease.

## **59A          Adjournments sine die**

- (1) If:
- (a) a warden has adjourned sine die the hearing of an application for the grant of a mineral lease; and
  - (b) the application is not re-listed for hearing within 5 years after the date of the adjournment,

the Minister may in writing direct the applicant to re-list the application within 30 days of the date of the direction.

- (2) If an application is not re-listed in accordance with a direction under subsection (1), the Minister may refuse to grant the mineral lease.
- (3) If an application is re-listed in accordance with a direction under subsection (1), the warden must complete the hearing and the application cannot be adjourned sine die again.
- (4) To avoid doubt, this section applies in relation to an application for the grant of a mineral lease whether the hearing of the application was adjourned sine die before or after the commencement of this section.

## **Division 2            Grant of mineral lease**

### **60            Grant of mineral lease**

- (1) Subject to section 140K if applicable, after considering the recommendation of the warden made under section 59, complying with Part XIB (if applicable) and considering any comments lodged under section 163, the Minister may grant to an applicant, for such term, as the Minister thinks fit, a mineral lease:
  - (a) for the mining of the mineral or minerals specified in the lease document, including the removal from the lease area and the treatment of tailings or other mining material the property of the Crown on the lease area, and for other purposes in connection with the mining of that mineral or those minerals that the Minister thinks fit and specifies in the lease document; or
  - (b) for other purposes in connection with the mining or processing on a mineral lease of a specified mineral or minerals that the Minister thinks fit and specifies in the lease document.
- (2) The granting of a mineral lease for the purposes of subsection (1)(a) authorizes the lessee:
  - (a) to explore for minerals on the lease area;
  - (b) to mine and use extractive minerals for or in connection with a purpose specified in the lease document; and
  - (c) to mine extractive minerals where the mining is directly associated with, or reasonably incidental to, the mining of the mineral or minerals specified in the lease document.

- (3) The granting of a mineral lease for the purposes of subsection (1)(b) authorizes the lessee to mine and use extractive minerals for or in connection with any of the purposes specified in the lease document.
- (4) Subject to Parts XIA and XIB as applicable, the Minister may grant a mineral lease for the purposes of subsection (1)(b):
  - (a) only if the applicant for the mineral lease is already the holder of a mineral lease for the purposes of subsection (1)(a); and
  - (b) only for a term that does not exceed the term for which the mineral lease referred to in paragraph (a) is granted.
- (5) The granting of a mineral lease over land reserved under section 178(1) from occupation cancels the reservation under that section of so much of the land as is comprised in the mineral lease.

## **61            Survey of lease area**

- (1) The Minister shall not grant a mineral lease until the area of the proposed lease has been surveyed in the prescribed manner by a licensed surveyor within the meaning of the *Licensed Surveyors Act* and the lessee has provided the Minister with a copy of the Surveyor-General's certificate of survey issued under that Act.
- (2) Where land the subject of an application for a mineral lease is Crown land, the Minister may, by written notice to an applicant, indicate that the Minister intends to grant a mineral lease to him when the land has been surveyed in accordance with subsection (1) and, subject to such conditions as the Minister endorses on the notice, that notice is sufficient authority for the applicant to occupy the land and commence using it for the purpose for which the lease will be granted as though that lease had already been granted to him.
- (3) The Minister may, at any time, withdraw the authority referred to in subsection (2) and, upon his so doing, the applicant shall forthwith cease to carry out the activities being carried out by him in reliance on that authority.

## **62            Grant over retention lease**

- (1) Where an application for a mineral lease is in respect of any part of an exploration retention licence area held by the applicant, the Minister shall not refuse to grant the mineral lease except with the approval of the Administrator.

- (2) Where a mineral lease is granted in respect of land that formed all or part of an exploration retention licence area, the exploration retention licence is in respect of the whole or that part of the lease area, as the case may be, automatically cancelled by the granting of the mineral lease.

### **63 Mineral leases over roads**

A mineral lease shall not be granted over land used as a road, other than a road constructed by the applicant for his own use, unless the applicant:

- (a) has constructed an alternative road over a route and to a standard acceptable to the Minister; or
- (b) has given to the Minister a written undertaking that he will construct such an alternative road within such period after the lease is granted as the Minister directs.

### **65 Compensation for refusal of grant over retention lease**

- (1) Subject to subsection (2), where the Minister refuses to grant a mineral lease in respect of an exploration retention licence area held by the applicant or any part of that area, he shall pay to the applicant such amount as he thinks reasonable to compensate the applicant for his exploration and development evaluation expenses in respect of the land to which the refusal relates while that land was held under the exploration retention licence, plus an amount calculated as prescribed as compensation for the loss of interest by the applicant on that amount.
- (2) A payment under subsection (1) shall not be made where:
- (a) the refusal referred to in that subsection was because of the non-compliance of the applicant with any of the provisions of this Act or of a condition of the exploration retention licence, or for unsatisfactory performance in carrying out activities under the exploration retention licence; or
  - (b) the Minister is unable, for reasons beyond his control, to grant the mineral lease.

## **66 Conditions of lease**

Every mineral lease is, unless expressly waived, varied or suspended in writing by the Minister, subject to the conditions imposed by or under section 166 and to the condition that the lessee will:

- (a) subject to this Part, use the lease area continuously and exclusively for the purposes for which it is demised and carry out all work associated with those purposes with reasonable diligence and skill;
- (b) comply with all contractual arrangements entered into with the Territory relating to the mining and development of mineral deposits on the land and the processing of that mineral;
- (g) carry out his mining and other activities on and in relation to the lease area in such a way as to interfere as little as possible with the rights of other occupiers of land in the vicinity of the lease area;
- (j) not assign, sublet or part with possession of any part of the lease area or an interest in the lease without the written consent of the Minister; and
- (k) comply with the provisions of, and directions lawfully given under, this Act and all other laws in force in the Territory, in relation to his activities on and occupation of the lease area.

## **66A Additional conditions of mineral lease relating to native title rights and interests**

- (1) In addition to the conditions imposed by or under sections 66 and 166, a mineral lease is subject to the conditions that the Minister determines (whether in accordance with a recommendation of the Tribunal or otherwise) and endorses on the lease.
- (2) Conditions under subsection (1) may include a condition about ways of minimising the impact of the mineral lease on registered native title rights and interests in relation to the land concerned, including about any access to the land or the way in which any thing authorised by or under the mineral lease might be done.

**67            Variation as to minerals recoverable**

Subject to Parts XIA and XIB as applicable, the Minister may, on the written application of the lessee, vary a mineral lease by specifying additional minerals the mining of which is permitted on the lease area by the lessee, and on so varying the lease he may impose such further conditions, not inconsistent with conditions to which the lease is already subject, as he thinks fit in relation to that mining of those additional minerals.

**68            Application for renewal of mineral lease**

- (1) Subject to Parts XIA and XIB as applicable, a lessee may, at any time before 3 months before the expiration of a mineral lease or such later time, not being later than that expiration, as the Minister allows, apply to the Minister for the renewal or further renewal of the lease.
- (2) An application under subsection (1) is to be in writing and lodged with the Department accompanied by:
  - (a) the prescribed rent for the first 12 months of the proposed renewed lease; and
  - (b) the prescribed fee.
- (3) Subject to Parts XIA and XIB as applicable, where the Minister is satisfied that the lessee has, during the current period of the lease, complied with all the provisions of this Act and the conditions to which the lease is subject, he shall grant an application under this section for such term, not exceeding 25 years, and may make that grant subject to such conditions in addition to or varying those to which the lease is already subject, as he thinks fit.
- (4) The Minister shall not refuse to grant an application for the renewal of a mineral lease under this section except with the approval of the Administrator.
- (5) Where an application for the renewal of a mineral lease has been made in accordance with this section, the lease shall be deemed to continue in force until that renewal is granted or refused, as the case may be.

**69            Rent**

A lessee shall pay to the mining registrar such rent in respect of his mineral lease, and in such manner, as is prescribed.

## **Division 3            Surrender**

### **70                    Surrender**

- (1) Subject to this Part and the relevant Authorisation, a lessee may, at any time, having complied with all the conditions to which the lease is subject, surrender a mineral lease or part of the lease area to which it relates by lodging with the Department written notice indicating the lease or the area, as the case may be, to be surrendered.
- (2) A surrender under subsection (1) is effective on and from the day on which the notice referred to in that subsection is lodged in accordance with that subsection.
- (3) Before a lessee surrenders under this subsection part only of a lease area, he shall cause that area of the lease area proposed to be retained under the mineral lease to be surveyed in the prescribed manner by a licensed surveyor, within the meaning of the *Licensed Surveyors Act*, and provide the Minister with a copy of the Surveyor-General's certificate of survey issued under that Act.

## **Division 5            Reports**

### **79                    Reports to be lodged**

- (1) A lessee of a mineral lease must:
  - (a) within 3 months immediately after the end of each 12 months of the lease; and
  - (b) at other times as the Minister directs in writing,lodge with the Department a report on the exploration activities carried out on the lease area during the 12 months of the lease referred to in paragraph (a) or during the period specified in the direction under paragraph (b), as applicable.
- (2) A report lodged under this section is to be in a form satisfactory to the Secretary and is to include:
  - (a) details of total expenditure on exploration activities carried out on the lease area;
  - (b) all geological, geochemical and geophysical survey reports, and all drilling and other reports, completed by or available to the lessee in relation to the mining activities on the lease area; and



- (c) all data, maps, logs and records associated with or necessary to interpret the reports referred to in paragraph (b).
- (3) A lessee must lodge with each report:
  - (a) an estimate, in a form satisfactory to the Secretary, of proposed expenditure on exploration for the 12 month period of the mineral lease following the period to which the report relates; and
  - (b) any other prescribed information.

## **80        Report on ceasing to hold lease**

A person who was the holder of a mineral lease shall, within 3 months immediately after the cessation of the lease, or such longer period as the Secretary allows, lodge with the Department:

- (a) a comprehensive report on the mining or other activities carried out on the lease area during the 12 months immediately preceding the cessation of the lease; and
- (b) a comprehensive report on the prescribed matters, if any, in respect of the whole period that the mineral lease was in force.

Penalty:        \$1,000.

Default penalty: \$500.

## **81        Inspection of reports**

- (1) A report required by section 79 to be lodged shall, unless disclosed with and in accordance with the written permission of the lessee, be confidential while the land to which it relates remains in the lease area in respect of which it was made, but, on that land ceasing to be in that lease area, shall be available for examination by any person during normal office hours at a place that the Department advises.
- (2) A report required by section 80 to be lodged shall be available for examination by any person during normal office hours at a place that the Department advises.

## **Part VII Mineral claims**

### **82 Application for mineral claim**

- (1) Subject to this Act, including Parts XIA and XIB (as applicable) and Part XIII, a miner may, at any time, unless otherwise provided in the Regulations, apply to the Minister to be granted a mineral claim in respect of any land.
- (2) The area of land in respect of which an application for a mineral claim may be made shall not exceed 40 hectares.

### **83 Form of application for mineral claim**

- (1) In addition to the requirements of section 140D (if applicable) and section 162, an application for a mineral claim:
  - (a) shall be lodged with the Department;
  - (b) shall include a description of the land to which the application relates;
  - (c) shall include concise particulars of the applicant's proposals for initial work and expenditure on the land;
  - (d) shall state the names and addresses of the owners and occupiers of land that will be, or is likely to be, affected by the grant of the proposed claim;
  - (e) shall state the percentages into which the proposed claim is to be divided; and
  - (f) shall be accompanied by an amount of money sufficient to cover the cost of advertising the application as required by this Act.
- (2) An application under subsection (1) shall not be made in respect of land the subject of an exploration licence, nor shall a person enter the land for the purpose of marking out the land in the prescribed manner before the application is made, unless the holder of the exploration licence has consented in writing to the application being made.
- (3) An application under subsection (1) shall not be made unless the applicant has, prior to making the application, obtained the approval of a warden to enter the land the subject of the proposed application for the purpose of marking out that land in the prescribed manner.

(4) An approval under subsection (3) shall be in the prescribed form and may be subject to such conditions, if any, as the warden thinks fit and specifies in the approval.

(5) A person who contravenes or fails to comply with:

(a) this section; or

(b) an approval granted under subsection (3),

is guilty of an offence.

Penalty: \$5,000.

#### **84 Notice of application**

(1) Where an application for a mineral claim is lodged:

(a) within 14 days after lodgement or the further time allowed in writing by the mining registrar, the applicant must serve written notice of the making of the application on the persons specified in the list referred to in section 83(1)(d); and

(b) if Part XIA or XIB applies: the relevant registered native title claimants, registered native title bodies corporate and representative Aboriginal/Torres Strait Islander bodies are to be served with notice of the application in accordance with that Part.

(2) In addition to subsection (1), the mining registrar may, by written notice, require an applicant for a mineral claim to serve written notice of the making of the application on such persons, and within such time, as the mining registrar thinks fit and specifies in the notice.

(3) Within 14 days, or such further time as the mining registrar allows, after the notice referred to in subsection (1) or (2) is served, the applicant for the mineral claim shall provide to the mining registrar such evidence of the notice having been served and the method by which the service was effected as the mining registrar may require.

**84A Occupation of land pending determination of application**

- (1) Where an application for a mineral claim has been lodged, the applicant shall not carry out or continue to carry out any exploration or mining on the land to which the application relates, or use it for any associated purpose, until the application is granted.

Penalty: \$10,000.

Default Penalty: \$1,000.

- (2) Where land the subject of an application referred to in subsection (1):
- (a) is, or is part of, a mineral claim area; or
  - (b) is held by the applicant under an exploration licence or an exploration retention licence,

nothing in that subsection prevents the applicant from carrying out any exploration or mining, in accordance with the terms and conditions of the mineral claim, exploration licence, or exploration retention licence, as the case may be, on the land to which the application relates, or the applicant using that land for associated purposes.

**85 Consideration by warden**

The provisions of sections 58, 59 and 59A, with the necessary changes, apply to and in relation to an application for a mineral claim under this Part as though that application were an application for a mineral lease under Part VI.

**86 Grant of mineral claim**

Subject to section 140K if applicable:

- (a) after considering the recommendations of the warden in relation to an application for a mineral claim, complying with Part XIB (if applicable) and considering any comments lodged under section 163; and
- (b) if satisfied that the applicant is not in breach of this Act or the Regulations,

the Minister may grant to the applicant for such term, not exceeding 10 years, as the Minister thinks fit, a mineral claim in respect of all or part of the land as marked out under this Act.

**87 Power of holder**

A mineral claim granted under this Part authorizes the holder thereof, subject to the law in force in the Territory, and in accordance with the conditions to which the mineral claim is subject, to:

- (a) carry out exploration for minerals or extractive minerals on the claim area, and such operations and works as are reasonably necessary for that purpose including the removal from the claim area and the treatment of tailings or other mining material the property of the Crown on the claim area;
- (b) carry out mining for minerals on the claim area, and such operations and works as are reasonably necessary for or associated with that purpose;
- (ba) in carrying out mining for minerals under paragraph (b), carry out mining for extractive minerals when that mining is directly associated with or reasonably incidental to the mining of minerals, and such operations and works as are reasonably necessary for or associated with that purpose;
- (bb) carry out such other operations and works for the purpose of exploring for minerals or extractive minerals or mining for minerals on the claim area as the Minister thinks fit and specifies when granting the mineral claim;
- (bc) having complied with section 134B, engage in tourist fossicking; and
- (c) surrender the claim at any time conditional on the grant to him of a mineral lease, extractive mineral lease or extractive mineral permit over all or part of the claim area.

**88 Rent**

The rent payable for a mineral claim and the times and manner of its payment shall be as prescribed.

**89 Conditions of claim**

Every mineral claim is, unless expressly waived, varied or suspended in writing by the Minister, subject to the conditions imposed by or under section 166 and to the condition that its holder will, on or in relation to the claim area:

- (a) use the claim area continuously and exclusively for the purposes for which it is granted;

- (b) within 28 days after confirmation of their discovery, report in writing to the Secretary all minerals of possible economic or scientific interest discovered on the claim area; and
- (h) conduct his programmes and other activities in such a way as not to interfere with existing roads, railways, telephone or telegraph lines, power lines and cables, water pipelines or dams or reservoirs, or gas, oil, slurry, or tailings pipelines or storage containers, situated on the claim area, or the lawful activities or rights of any person on or in relation to land adjacent to the claim area.

**89A Additional conditions of mineral claim relating to native title rights and interests**

- (1) In addition to the conditions imposed by or under sections 89 and 166, a mineral claim is subject to the conditions that the Minister determines (whether in accordance with a recommendation of the Tribunal or otherwise) and endorses on the claim.
- (2) Conditions under subsection (1) may include a condition about ways of minimising the impact of the mineral claim on registered native title rights and interests in relation to the land concerned, including about any access to the land or the way in which any thing authorised by or under the mineral claim might be done.

**90 Application for renewal of mineral claim**

- (1) Subject to Parts XIA and XIB as applicable, the holder of a mineral claim may, at any time before 3 months before the expiration of the claim or such later time, being not later than that expiration, as the Minister allows, apply to the Minister for the renewal or further renewal of the claim.
- (2) An application referred to in subsection (1) shall be in writing lodged with the Department and be accompanied by the prescribed rent for the first 12 months of the proposed renewed claim, the prescribed fee, details of the holder's exploration and mining activities on the claim area during the previous term of the claim, and such other information as the mining registrar may require.
- (3) Subject to Parts XIA and XIB as applicable, the Minister may grant an application under this section for such term, not exceeding 10 years, and subject to such conditions, in addition to or varying those to which the claim is already subject, as he thinks fit.
- (4) Where an application for the renewal of a mineral claim has been made in accordance with this section, the claim shall be deemed to continue in force until that renewal is granted or refused, as the case may be.

**91 Notice to convert to mineral lease**

- (1) The Minister may, at any time during the currency of a mineral claim, where he considers that actual mining is in progress or contemplated by the claim holder and that the mining operations or proposed mining operations are such that they should be controlled under a mineral lease, give to the holder written notice directing him to show cause, within the time specified in the notice, why the holder should not apply for a mineral lease in respect of the claim area or any part of it.
- (2) If the holder of a mineral claim to whom a notice under subsection (1) has been given does not, within the time specified in the notice, or such longer time as the Minister, in writing, before the expiration of that time allows, reply to the notice, or the Minister, on considering a holder's reply, is not satisfied that the holder should not apply for a mineral lease, the Minister shall give to the holder a further written notice directing him, within the time specified in the notice, to apply for a mineral lease in respect of the claim area or any part of it.
- (3) Where the holder of a mineral claim to whom a notice of direction is given under subsection (2) does not apply for a mineral lease in respect of the land specified in the notice within the time specified in the notice, the Minister may, in his discretion, cancel the mineral claim.

**92 Surrender**

- (1) Subject to this Part and the relevant Authorisation, a claim holder may, at any time, having complied with all the conditions to which the claim is subject, surrender a mineral claim or part of the claim area to which it relates by lodging with the Department a written notice indicating the claim or the area, as the case may be, to be surrendered.
- (2) A surrender under subsection (1) is effective on and from the day on which the notice referred to in that subsection is lodged in accordance with that subsection.

**93 Reports to be lodged**

- (1) A lessee of a mineral claim must:
  - (a) within 3 months immediately after the end of each 12 months of the claim; and
  - (b) at other times as the Minister directs in writing,

lodge with the Department a report on the exploration activities carried out on the claim area during the 12 months of the mineral claim referred to in paragraph (a) or during the period specified in the direction under paragraph (b), as applicable.

- (2) A report lodged under this section is to be in a form satisfactory to the Secretary and is to include:
- (a) details of total expenditure on exploration activities carried out on the claim area;
  - (b) all geological, geochemical and geophysical survey reports, and all drilling and other reports, completed by or available to the lessee in relation to the mining activities on the claim area; and
  - (c) all data, maps, logs and records associated with or necessary to interpret the reports referred to in paragraph (b).
- (3) A lessee must lodge with each report:
- (a) an estimate, in a form satisfactory to the Secretary, of proposed expenditure on exploration for the 12 month period of the mineral claim following the period to which the report relates; and
  - (b) any other prescribed information.

#### **94 Report on cessation of mineral claim**

A person who was the holder of a mineral claim shall, within 3 months immediately after the cessation of that claim, or such longer period as the Secretary allows, lodge with the Department a comprehensive report:

- (a) on the mining and other activities carried out on the claim area during the period of the claim; and
- (b) on the prescribed matters, if any.

Penalty: \$1,000.

Default penalty: \$500.

#### **95 Inspection of reports**

- (1) A report required by section 93 to be lodged shall, unless disclosed with and in accordance with the written permission of the holder of the mineral claim, be confidential while the land to which it relates remains in the claim area in respect of which it was made, but, on



that land ceasing to be in that claim area, shall be available for examination by any person during normal office hours at a place that the Department advises.

- (2) A report required by section 94 to be lodged shall be available for examination by any person during normal office hours at a place that the Department advises.

## **Part VIII      Extractive minerals**

### **Division 1A    Preliminary**

#### **95A      Application of Part**

- (1) Subject to subsection (2), this Part applies in relation to the extraction and removal of extractive minerals.

- (2) Where, in relation to the grant of an extractive mineral interest:

- (a) this Part would, but for this subsection, apply because the interest is to be granted in part on an onshore place on the landward side of the mean highwater mark of the sea; and
- (b) Part XIB would, but for this subsection, apply because the interest is to be granted in part on an onshore place on the seaward side of the mean highwater mark of the sea,

the grant of the extractive mineral interest is to be taken to consist of 2 separate acts as follows:

- (c) the grant of an extractive mineral interest on the landward side of the mean highwater mark of the sea;
  - (d) the grant of an extractive mineral interest on the seaward side of the mean highwater mark of the sea.
- (3) The grant of an extractive mineral interest referred to in subsection (2)(d) may be made at the same time as the grant of an interest referred to in subsection (2)(c) but, before any activity is undertaken in the area to which the grant referred to in subsection (2)(d) relates, the procedures under Part XIB must have been complied with.

## **Division 1      Extractive mineral leases**

### **95B      Application of Division**

This Division applies in relation to the extraction or removal (whether by quarrying or other means) of extractive minerals, clay and stone from on and below the natural surface of the land.

### **96      Approval to apply for extractive mineral lease**

- (1) Subject to this Act, including Parts XIA and XIB (as applicable) and Part XIII, a person may apply to the Minister for approval to submit to the Minister an application for an extractive mineral lease in respect of any land.
- (2) An application under subsection (1) is to be:
  - (a) in the approved form; and
  - (b) accompanied by the application for the extractive mineral lease in accordance with section 97.
- (3) In considering an application under subsection (1), the Minister must have regard to the matters (if any) prescribed by the Regulations and any other matter that the Minister considers relevant.
- (4) If the Minister approves an application under subsection (1), unless Part XIB applies, the Minister must:
  - (a) notify the applicant in writing of the approval; and
  - (b) consider the application for the extractive mineral lease that accompanied the first-mentioned application.

### **96A      Area of proposed lease**

The area of land in respect of which an application for an extractive mineral lease may be made is not to exceed 100 hectares.

### **97      Form of application for extractive mineral lease**

In addition to the requirements of section 140D (if applicable) and section 162, an application for an extractive mineral lease:

- (a) shall be lodged with the Department;
- (b) shall include a description of the land to which the application relates;

- (c) shall indicate the extractive mineral, clay or stone intended to be extracted or removed or the associated purposes for which the lease is sought;
- (d) shall be accompanied by particulars of:
  - (i) the technical qualifications of the applicant and his employees who will be associated with the development on the lease area;
  - (ii) the technical advice available to the applicant;
  - (iii) the financial resources of the applicant; and
  - (iv) the applicant's proposals for developing the extractive mineral, clay or stone deposits on the proposed lease area, or the alternative use proposed for the land in conjunction with the extraction or removal of that extractive mineral, clay or stone as the case may be;
- (e) shall state the percentages into which the proposed lease is to be divided; and
- (h) is to state the names and addresses of the owners and occupiers of affected land.

## **98      Occupation of land pending determination of application**

Subject to section 104, where an application under section 97 has been lodged, the applicant shall not carry out any mining operation on the land to which the application relates, or use it for any associated purpose, until the application is granted.

Penalty:      \$10,000.

Default penalty: \$1,000.

## **99      Notification and objection procedures for lease above highwater mark**

- (1A) This section only applies in relation to an application for an extractive mineral lease on an onshore place on the landward side of the mean highwater mark.
- (1) Where an application for an extractive mineral lease is lodged:
  - (a) within 14 days after the date of the notice under section 96(4)(a) or the further time allowed in writing by the Department, the applicant must serve notice of the making of the application on the persons referred to in section 97(h); and

- (b) if Part XIA applies: the relevant registered native title claimants, registered native title bodies corporate and representative Aboriginal/Torres Strait Islander bodies are to be served with notice of the application in accordance with that Part.
- (2) In addition to subsection (1), the mining registrar may, by written notice, require an applicant for an extractive mineral lease to serve written notice of the making of the application on such persons, and within such time, as the mining registrar thinks fit and specifies in the notice.
- (3) Within 14 days, or such further time as the mining registrar allows, after the notice referred to in subsection (1) or (2) is served, the applicant for the extractive mineral lease shall provide to the mining registrar such evidence of the notice having been served and the method by which the service was effected as the mining registrar may require.
- (4) A person on whom a notice is served under section 99(1) may, within 2 months after the date of the notice or the further time allowed in writing by the Department, lodge in writing with the Department an objection to the grant of the extractive mineral lease.

**99A      Notification and objection procedures for lease below highwater mark**

In the case of an application for an extractive mineral lease on an onshore place below the mean highwater mark:

- (a) registered native title claimants, registered native title bodies corporate and representative Aboriginal/Torres Strait Islander bodies are to be served with notice of the application in accordance with Part XIB;
- (b) public notification of the application is to be in accordance with that Part; and
- (c) any objections to or comments on the extractive mineral lease are to be lodged and dealt with under that Part.

**100      Consideration of application for lease above highwater mark**

- (1) After considering:
  - (a) an application for the grant of an extractive mineral lease; and
  - (b) any objections and comments to the grant of the extractive mineral lease lodged under sections 99(4) and 163(2),

if there are objections that do not relate to native title rights and interests, the Minister must:

- (c) grant the extractive mineral lease;
  - (d) refuse to grant the extractive mineral lease; or
  - (e) refer the matter to the Tribunal for hearing.
- (2) On receipt of the Tribunal's recommendation about a matter referred under subsection (1)(e), if Part XIA does not apply, the Minister must:
- (a) consider the recommendation; and
  - (b) grant or refuse to grant the extractive mineral lease.
- (3) Where there are objections under both sections 140E(3A) and 163(2), in compliance with section 140K and after considering any objections and recommendation under this Part, the Minister may grant or refuse to grant the extractive mineral lease.

#### **100A      Consideration of application for lease below highwater mark**

After considering:

- (a) an application for an extractive mineral lease in respect of an onshore place on the seaward side of the mean highwater mark; and
- (b) in pursuance of section 140T, any objections to or comments on the extractive mineral lease lodged under section 140S(4),

the Minister must grant or refuse to grant the extractive mineral lease.

#### **101      Grant of extractive mineral lease**

- (1) The Minister may grant an extractive mineral lease, for the term the Minister thinks fit:
- (a) for the extraction and removal of the extractive mineral, clay or stone specified in the lease document; and
  - (b) subject to subsection (2), for purposes in connection with the extraction, removal or processing on the extractive mineral lease of the extractive mineral, clay or stone that the Minister thinks fit and specifies in the lease document.

- (2) Subject to Parts XIA and XIB as applicable, the Minister may grant an extractive mineral lease for the purposes of subsection (1)(b):
  - (a) only if the applicant for the extractive mineral lease is already the holder of an extractive mineral lease for the purposes of subsection (1)(a); and
  - (b) only for a term that does not exceed the term for which the extractive mineral lease referred to in paragraph (a) is granted.

**102      Additional conditions of extractive mineral lease relating to native title rights and interests**

- (1) In addition to the conditions imposed by or under section 166, an extractive mineral lease is subject to the conditions that the Minister determines (whether in accordance with a recommendation of the Tribunal referred to in section 100 or 140K or otherwise) and endorses on the lease.
- (2) Conditions under subsection (1) may include a condition about ways of minimising the impact of the extractive mineral lease on registered native title rights and interests in relation to the land concerned, including about any access to the land or the way in which any thing authorised by or under the extractive mineral lease might be done.

**103      Application for renewal of extractive mineral lease**

- (1) Subject to Parts XIA and XIB as applicable, the holder of an extractive mineral lease may, at any time before 3 months before the expiration of the lease, or such later time, being not later than that expiration, as the Minister allows, apply to the Minister for the renewal or further renewal of the lease.
- (2) An application referred to in subsection (1) shall be in writing lodged with the Department and be accompanied by the prescribed rent for the first 12 months of the proposed renewed lease, the prescribed fee, details of the lessee's extraction, removal and other activities on the lease area during the previous term of the lease and such other information as the mining registrar may require.
- (3) Subject to Parts XIA and XIB as applicable, the Minister may grant an application under this section for such term, not exceeding 10 years, and subject to such conditions in addition to or varying those to which the lease is already subject, as he thinks fit.

- (4) Where an application for the renewal of an extractive mineral lease has been made in accordance with this section, the lease shall be deemed to continue in force until that renewal is granted or refused, as the case may be.

#### **104      Survey of lease area**

- (1) The Minister shall not grant an extractive mineral lease until the area of the proposed lease has been surveyed in the prescribed manner by a licensed surveyor within the meaning of the *Licensed Surveyors Act* and the lessee has provided to the Minister a copy of the Surveyor-General's certificate of survey issued under that Act.
- (2) In respect of any land the subject of an application for an extractive mineral lease, the Minister may, by written notice to an applicant, indicate that the Minister intends to grant an extractive mineral lease to him when the land has been surveyed in accordance with subsection (1) and, subject to such conditions as the Minister endorses on the notice, that notice is sufficient authority for the applicant to occupy the land and commence using it for the purpose for which the lease will be granted, as though that lease had already been granted to him.
- (3) The Minister may, at any time, withdraw the authority referred to in subsection (2) and, upon his so doing, the applicant shall forthwith cease to carry out the activities being carried out by him in reliance on that authority.

#### **105      Surrender**

- (1) Subject to this Division, a lessee may, at any time, having complied with all the conditions to which the lease is subject, surrender an extractive mineral lease or part of the lease area to which it relates by lodging with the Department a written notice indicating the lease or the area, as the case may be, to be surrendered.
- (2) A surrender under subsection (1) is effective on and from the day on which the notice referred to in that subsection is lodged in accordance with that subsection.
- (3) Before a lessee surrenders under this section part only of a lease area, he shall cause that part of the lease area proposed to be retained under the extractive minerals lease to be surveyed in the prescribed manner by a licensed surveyor within the meaning of the *Licensed Surveyors Act*, and provide the Minister with a copy of the Surveyor-General's certificate of survey issued under that Act.

## **Division 2      Extractive mineral permits**

### **106      Application of Division**

- (1) This Division applies only in relation to extractive minerals on, or obtained or removed from, the natural surface of the land.
- (2) Any requirement of this Division relating to the service of a notice on a representative Aboriginal/Torres Strait Islander body does not apply in relation to the grant of an extractive mineral permit if the grant is not a future act.

### **107      Approval to apply for permit**

- (1) Subject to this Act, including Part XIB if applicable, a person may apply to the Minister for approval to submit to the Minister an application for an extractive mineral permit in respect of any land.
- (2) An application under subsection (1) is to be:
  - (a) in the approved form; and
  - (b) accompanied by the application for the extractive mineral permit in accordance with section 108.
- (3) In considering an application under subsection (1), the Minister must have regard to the matters (if any) prescribed by the Regulations and any other matter that the Minister considers relevant.
- (4) If the Minister approves an application under subsection (1), the Minister must:
  - (a) notify the applicant in writing of the approval; and
  - (b) consider the application for the extractive mineral permit that accompanied the first-mentioned application.

### **107A      Area of proposed permit**

The area of land in respect of which an application for an extractive mineral permit may be made is not to exceed 100 hectares.

### **108      Form of application**

In addition to the requirements of section 162, an application for an extractive mineral permit shall:

- (a) be lodged with the Department;



- (b) include a description of the land in respect of which the application is made;
- (c) state the extractive mineral or extractive minerals intended to be extracted or removed;
- (ca) where it is proposed to store or process an extractive mineral or extractive minerals on the proposed permit area, state the extractive mineral or extractive minerals intended to be stored or processed;
- (d) be accompanied by particulars of the financial resources of the applicant and the equipment and plant available to him for working the proposed permit area;
- (e) state the applicant's proposals for working the extractive mineral deposits on the proposed permit area;
- (g) state the use to which it is proposed to put the extractive mineral or extractive minerals to be extracted from or to be stored or processed on the proposed permit area;
- (h) state the names and addresses of the owners and occupiers of the affected land;
- (ha) state the names and addresses of:
  - (i) the registered native title claimants (if any) in relation to any of the affected land; and
  - (ii) the registered native title bodies corporate (if any) in relation to any of the affected land; and
- (j) state the names and addresses of the representative Aboriginal/Torres Strait Islander bodies in relation to any of the affected land unless the grant of the permit is not a future act.

## **109      Occupation of land pending determination of application**

Where an application under section 107 has been lodged, the applicant shall not carry out or continue to carry out any mining operation on the proposed permit area or use it for any purpose in preparation for mining, until the application is granted.

Penalty:      \$10,000.

Default penalty: \$1,000.

**110      Notification and objection procedures for permit above  
             highwater mark**

- (1A) This section only applies in relation to an application for an extractive mineral permit on an onshore place on the landward side of the mean highwater mark.
- (1) Within 14 days after the date of the notice under section 107(4)(a) or the further time allowed in writing by the Department, the applicant must serve notice of the applicant's intention to apply for an extractive mineral permit on the persons referred to in section 108(h), (ha) and, if applicable, (j).
- (2) In addition to subsection (1), the Secretary may, by written notice, require an applicant for an extractive mineral permit to serve written notice of the applicant's intention to apply for an extractive mineral permit on such persons, and within such time, as the Secretary thinks fit and specifies in the notice.
- (3) Within 14 days, or such further time as the Secretary in writing allows, after the notice referred to in subsection (1) or (2) is served, the applicant for the extractive mineral permit shall provide to the Secretary such evidence of the notice having been served and the method by which the service was effected as the mining registrar may require.
- (4) A person referred to in section 108(h) or (ha) on whom a notice is served under subsection (1) may, within 2 months after the date of the notice or the further time allowed in writing by the Department, lodge in writing with the Department an objection to the grant of the extractive mineral permit.
- (5) Where there is no registered native title claimant or registered native title body corporate in relation to any of the affected land, the representative Aboriginal/Torres Strait Islander body in relation to the affected land may, within 2 months after the date of the notice under subsection (1), comment on the grant of the extractive mineral permit.

**110A      Notification and objection procedures for permit below  
             highwater mark**

In the case of an application for an extractive mineral permit on an onshore place on the seaward side of the mean highwater mark:

- (a) registered native title claimants, registered native title bodies corporate and representative Aboriginal/Torres Strait Islander bodies are to be served with notice of the application in accordance with Part XIB;

- (b) public notification of the application is to be in accordance with that Part; and
- (c) any objections to or comments on the extractive mineral permit are to be lodged and dealt with under that Part.

**111      Consideration of application for permit above highwater mark**

(1A) An application for an extractive mineral permit is to be taken to have been made, lodged or received on the day on which the applicant:

- (a) provides in accordance with section 110(3) evidence of having served notice of the applicant's intention to make the application and the method of service; or
- (b) lodges in accordance with regulation 28B of the Mining Regulations details in respect of the area marked out for the extractive mineral permit,

whichever occurs later.

(1) After considering:

- (a) an application for the grant of an extractive mineral permit; and
- (b) any objections and comments lodged under sections 110(4) and (5) and 163(2),

the Minister must:

- (c) grant the extractive mineral permit;
- (d) refuse to grant the extractive mineral permit; or
- (e) refer the matter to the Tribunal for hearing.

(2) On receipt of the Tribunal's recommendation about a matter referred under subsection (1)(e), the Minister must:

- (a) consider the recommendation; and
- (b) grant or refuse to grant the extractive mineral permit.

### **111A      Consideration of application for permit below highwater mark**

After considering:

- (a) an application for an extractive mineral permit in respect of an onshore place on the seaward side of the mean highwater mark; and
- (b) in pursuance of section 140T, any objections to or comments on the extractive mineral permit lodged under section 140S(4),

the Minister must grant or refuse to grant the extractive mineral permit.

### **112      Grant of permit**

- (1) Subject to subsection (2), an extractive mineral permit is granted:
  - (a) for the term (not exceeding 2 years) the Minister thinks fit; and
  - (b) for the extraction or removal of the extractive mineral or extractive minerals specified in the permit.
- (2) An extractive mineral permit is subject to the conditions that the Minister determines (whether in accordance with a recommendation of the Tribunal referred to in section 111 or otherwise) and endorses on the permit.
- (3) Conditions under subsection (2) may include a condition about ways of minimising the impact of the extractive mineral permit on registered native title rights and interests in relation to the land concerned, including about any access to the land or the way in which any thing authorised by or under the extractive mineral permit might be done.

### **114      Powers of permit holder**

An extractive mineral permit authorizes, as is specified in the permit, the holder thereof, subject to the law in force in the Territory, and in accordance with the conditions to which it is subject:

- (a) to extract or remove from the ground in the permit area deposits of; or
- (b) to store or process on the permit area,

an extractive mineral or extractive minerals specified in the permit.

**115      Application for renewal – extractive mineral permit**

- (1) The holder of an extractive mineral permit may, at any time before the expiration of the permit, apply to the Minister for the renewal of the permit in respect of all or part of the permit area.
- (2) An application referred to in subsection (1) is to be in writing lodged with the Department and be accompanied by:
  - (a) the prescribed rent for the renewal period or, if the proposed renewal period is more than 12 months, the prescribed rent for the first 12 months of the renewal period;
  - (b) the prescribed fee;
  - (c) details of the holder's extraction, removal or other activities on the permit area during the previous term of the permit; and
  - (d) any other information that the mining registrar requires.
- (3) Subject to subsection (4), the Minister may grant an application under this section for such period, not exceeding 2 years, and subject to such conditions in addition to or varying those to which the permit is already subject, as he thinks fit.
- (5) Where an application for the renewal of an extractive mineral permit has been made in accordance with this section, the permit shall continue in force until that renewal is granted or refused, as the case may be.

**117      Mining Registrar may carry out obligation of holder**

Where a condition of an extractive mineral permit requires the holder of the permit to do any thing in relation to the permit area and the holder does not, within the time specified in the condition, or within such further time as the mining registrar, in writing, allows, do that thing, the mining registrar may enter on the permit area with such assistance as, and take whatever action, he considers necessary for doing that thing, and the costs incurred by him in so doing shall be a debt payable by the holder to the Territory, whether or not at the time that thing was done by the mining registrar the extractive mineral permit had been cancelled, had been surrendered or had expired.

**118      Cancellation**

The Minister may cancel an extractive mineral permit where its holder contravenes, or does not comply with, a condition to which the permit is subject.

**119      Surrender**

- (1) The holder of an extractive mineral permit may, at any time, having complied with all the conditions to which it is subject, surrender the permit by lodging with the Department a written notice surrendering the permit.
- (2) A surrender under subsection (1) is effective on and from the day on which the notice referred to in that subsection is lodged in accordance with that subsection.

**Division 3      Compensation**

**120      Compensation payable by holder of extractive mineral permit**

- (1) Compensation is payable by the holder of an extractive mineral permit granted or renewed under this Part to:
  - (a) the owner or occupier of land comprised in the extractive mineral permit for the loss or damage in respect of that person's interest in the land because of that grant or renewal; and
  - (b) any native title holder for the effect of the grant, renewal or variation on the holder's registered native title rights and interests in the land comprised in the extractive mineral permit.
- (2) A person who intends to claim compensation under this section must lodge the claim in writing with the holder of the extractive mineral permit within 3 years after the grant, renewal or variation (as the case may be) or within the further time the Tribunal allows.
- (3) The Tribunal has the jurisdiction to extend the time for making a claim referred to in subsection (2) as if the claim were an action to which section 44 of the *Limitation Act* applies and the Tribunal were a court for the purposes of that section.
- (4) In the absence of agreement, the compensation that may be payable to a native title holder is not determinable by the Tribunal until there is an approved determination of native title that the holder holds native title in the affected land.
- (5) In the event of a dispute about compensation payable under subsection (1), the holder of the extractive mineral permit or the owner or occupier or registered native title body corporate to whom compensation may be payable may refer the dispute to the Tribunal.

- (6) If a person entitled to compensation under this section requests that the whole or part of the compensation should be in a form other than money, the person by whom the compensation is payable must consider the request.
- (7) A reference in this section to the payment of compensation is to be read as including a reference to the giving of compensation in a form other than money, including the transfer of property and the provision of goods and services.
- (8) Compensation for the effect of acts to which Part XIB applies is dealt with in section 140U.

## **Part X                      Fossicking**

### **130                      Interpretation**

- (1) In this Part, unless the contrary intention appears:

***commercial tour*** means a tour, involving fossicking, conducted as a business activity.

***commercial tour operator*** means a corporation which, or a person who, in the course of business offers to conduct and conducts (or whose agent or employee conducts) commercial tours.

***fossicking area*** means an area declared as a fossicking area under section 131.

***member of a person's family*** means:

- (a) the person's spouse or de facto partner; or
- (b) an infant, or a student who has not attained the age of 23 years, who is living with the person as a member of the person's household.

***person on a commercial tour*** means:

- (a) a person who is on the commercial tour; and
- (b) the commercial tour operator or another person who has responsibilities for and on behalf of the commercial tour operator for the conduct of the tour (including a person who drives the vehicle transporting the persons on the commercial tour).

- (2) A reference to private land is a reference to private land as defined in section 4(1) and, in addition, is a reference to land that is the subject of a lease or concession for pastoral or timber purposes (including land leased for purposes referred to in section 4(5)).

**130A No fossicking without permit**

- (1) A corporation or person may not fossick unless authorised to do so under section 130C.
- (2) Subsection (1) does not apply to a person who, being permitted by the holder of a mineral claim which is subject to the condition specified in section 134B(2) to enter on to and fossick on the claim area, is fossicking on the claim area.

**130B Application for fossicker's permit**

A corporation, or a person who has attained the age of 15 years, may apply to:

- (a) the Minister;
- (b) a warden;
- (c) a mining registrar; or
- (d) a person authorised in writing for that purpose by the Minister,

for the grant of a fossicker's permit to the corporation or the first-mentioned person.

**130C Grant of fossicker's permit**

- (1) Subject to subsection (2), the person to whom an application under section 130B is made shall, on the payment by the applicant of the prescribed fee, grant that application and issue to the applicant a fossicker's permit which shall be:
- (a) in the prescribed form and is to include a statement to the effect that the permit is subject to the condition described in subsection (3); and
  - (b) for the prescribed term.



- (2) Each fossicker's permit issued under subsection (1) may authorise only one of the following corporations or persons or classes of corporation or person (as specified on the fossicker's permit) to fossick:
- (a) if issued to a person who is not a commercial tour operator, the person and a member of the person's family (but only if in the company of the person);
  - (b) if issued to a commercial tour operator, a person who is on a commercial tour conducted by the tour operator;
  - (c) any other corporation or person or class of corporation or person as prescribed.
- (3) It is a condition in respect of every fossicking permit that the right of the holder to fossick does not continue in relation to an area after an approved determination of native title that native title exists in the area has been made except in accordance with an Indigenous land use agreement.

### **130D Powers of holder of fossicker's permit**

- (1) Subject to this Act, a fossicker's permit authorises a fossicker to fossick for minerals using hand-held implements on or within one metre below the line of the natural contour of the surface of land which has been declared a fossicking area under section 131 or within one metre below the line of the natural contour of the surface of land which has not been so declared where that land is:
- (a) Crown land;
  - (b) private land, but only if the holder of the fossicker's permit has the consent in writing of the owner and, if not one and the same, the occupier of the private land;
  - (c) land held for an estate in fee simple, or on lease from the Crown, by the Conservation Land Corporation established by section 27 of the *Parks and Wildlife Commission Act*, but only if the holder of the fossicker's permit has the consent in writing of the Parks and Wildlife Commission within the meaning of that Act;
  - (ca) land in respect of which there is an approved determination of native title that native title exists in the land, but only in accordance with an Indigenous land use agreement;

- (d) the subject of an exploration retention licence, or an application for an exploration retention licence, but only if the holder of the fossicker's permit has the consent in writing of the holder of, or the applicant for, the exploration retention licence;
  - (e) the subject of a mining tenement, or an application for a mining tenement, but only if the holder of the fossicker's permit has the consent in writing of the holder of, or the applicant for, the mining tenement; or
  - (f) subject to section 132, the subject of an exploration licence, and to remove from that land minerals discovered by the fossicker.
- (2) A fossicker's permit does not authorise a fossicker to fossick:
- (a) for diamonds, fossils of vertebrate animals or meteorite fragments; or
  - (b) as a profit-making venture so that the whole or a substantial part of the fossicker's income is derived from trading minerals discovered by the fossicker.
- (3) Notwithstanding subsection (2)(b), a fossicker may sell minerals, but only occasionally and if the income derived from such sales does not constitute the whole or a substantial part of the fossicker's livelihood.

### **130E Duplicate fossicker's permit**

Where the corporation or person to whom a fossicker's permit has been issued (and which has not expired) satisfies the mining registrar that the fossicker's permit issued to the corporation or person has been lost or has been destroyed, the mining registrar may issue a replacement fossicker's permit, endorsed with the date of the grant of the original, on the payment of the prescribed fee by the corporation or person.

### **131 Fossicking areas**

- (1) Subject to this section, the Minister may, by notice in the *Gazette*, declare an area of:
- (a) Crown land;
  - (b) private land, but only with the consent in writing of the owner or occupier of the land;

- (c) with the consent of the relevant Land Council within the meaning of the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth, Aboriginal land;
- (d) with the consent of the Conservation Land Corporation and the Parks and Wildlife Commission of the Northern Territory established by the *Parks and Wildlife Commission Act*, land held for an estate in fee simple, or on lease from the Crown, by the Conservation Land Corporation; or
- (e) land in respect of which there is an approved determination of native title that native title exists in the land, but only in accordance with an Indigenous land use agreement,

that is not the subject of, or of an application for, an exploration licence, exploration retention licence or mining tenement, as a fossicking area.

- (2) Fossicking on a fossicking area is subject to such conditions, if any:
  - (a) in the case of a fossicking area comprised of private land: as the owner or, if not one and the same, the occupier of the private land reasonably wishes to impose, to preserve his or her interest in the land, and the Minister publishes in the notice of declaration;
  - (b) in the case of a fossicking area comprised of Aboriginal land: as the relevant Land Council within the meaning of the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth agrees and the Minister publishes in the notice of declaration;
  - (c) in the case of a fossicking area comprised of land referred to in subsection (1)(d): as are, by notice in the *Gazette*, determined in respect of the fossicking area by the Director of Parks and Wildlife holding office under the *Parks and Wildlife Commission Act*;
  - (ca) in the case of a fossicking area comprised of land in respect of which there is an approved determination of native title that native title exists: as an Indigenous land use agreement that contains a statement to the effect described in section 24EB(1)(b) of the *Native Title Act* provides and the Minister specifies in the declaration; or
  - (d) in any other case: as the Minister thinks fit and publishes in the notice of declaration, or as are from time to time determined by the Minister and notified in the *Gazette*.

- (3) The Minister shall not declare as a fossicking area an area comprised of land held under a pastoral lease within the meaning of the *Pastoral Land Act* unless the Minister has given the lessee of that lease written notice of his intention to declare the fossicking area and has taken into account the comments, if any, of that lessee lodged with the Minister within 30 days after the notice was given to the lessee.
- (4) A declaration under subsection (1)(a), (c) or (d) ceases to have effect on the making of an approved determination of native title that native title exists in the land over which the fossicking area was declared.

### **132 Fossicking on land subject to exploration licence**

- (1) A fossicker who intends to fossick for gold on land which is the subject of an exploration licence shall not do so unless the fossicker has first obtained the consent in writing of the holder of the exploration licence.
- (2) Where an exploration licence is granted in respect of land which has been declared to be a fossicking area, a fossicker may, notwithstanding the grant of the licence, enter on and have access over the part of that land comprised in the exploration licence area for the purposes of fossicking (including fossicking for gold).

### **133 Fossicking**

A fossicker may, subject to the conditions, if any, in the notice of declaration of a fossicking area, fossick for and remove from a fossicking area minerals.

### **134 Minister may prohibit, &c., a person**

- (1) Where the Minister is satisfied that a person:
  - (a) has searched for on, or removed from, a fossicking area minerals in contravention of a condition to which that activity is subject under this Part; or
  - (b) has, without lawful excuse, prevented or attempted to prevent another person from entering a fossicking area or from fossicking in pursuance of a fossicker's permit in accordance with the conditions imposed by or under this Part in respect of that area,

he may, by written notice served on that person, prohibit that person from entering a fossicking area for such period as the Minister thinks fit.

- (2) A person who enters a fossicking area, fossicks on or removes from a fossicking area minerals or other material, or in any way acts in or in relation to a fossicking area, in contravention of a notice or condition of a notice under subsection (1), is guilty of an offence.

Penalty: \$1,000.

Default penalty: \$250.

**134A Minister may cancel fossicker's permit**

The Minister may cancel a fossicker's permit where the corporation or person holding the fossicker's permit contravenes or fails to comply with:

- (a) a condition to which the fossicker's permit is subject, if any; or
- (b) this Act or an instrument of a legislative or administrative character made under this Act.

**134B Fossicking on mineral claim**

- (1) The holder of a mineral claim may engage in tourist fossicking on the claim area, but only if the holder complies with this section.
- (2) The holder of a mineral claim who intends to engage in tourist fossicking on the claim area shall apply to the Minister for the endorsement on the holder's mineral claim of the condition that the holder may engage in tourist fossicking on the claim area, and while the endorsement remains on the mineral claim, the holder shall not carry out any activities on the claim area other than activities for the purpose of tourist fossicking.
- (3) Where an applicant for a mineral claim under section 82(1) intends to engage in tourist fossicking on the proposed claim area, the mineral claim granted to the applicant shall be granted subject to the condition specified in subsection (2).
- (4) Where:
  - (a) a holder of a mineral claim referred to in subsection (2) makes an application under that subsection; or
  - (b) an applicant referred to in subsection (3) makes an application under section 82(1),

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and the application relates to private land, the application must be accompanied by:

- (c) the written consent to the making of the application of the owner or occupier of the land ; and
- (d) if there is an approved determination of native title that native title exists in the land or there is a registered native title claimant in relation to the land: a copy of an Indigenous land use agreement in respect of the land.

## **Part XI                      Exploration licences, exploration retention licences and mining tenements in respect of Aboriginal land**

### **135                      Additional provisions**

The provisions of this Part are in addition to, and do not derogate from, the other provisions of this Act relating to exploration licences, exploration retention licences or mining tenements.

### **136                      Grant of mining interest**

Subject to this Act and the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth, a corporation, or a person who has attained the age of 15 years, may apply for and be granted a mining interest, as defined in the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth, in respect of Aboriginal land.

### **137                      No negotiations without consent of Minister**

- (1) A person shall not enter into negotiations with a Land Council for the consent of that Council to the grant to him of an exploration licence in respect of Aboriginal land:
  - (a) unless he has first lodged with the Minister an application for an exploration licence in respect of that land; and
  - (b) except with the consent of the Minister and in accordance with any conditions imposed by the Minister.
- (2) As soon as practicable after he receives an application referred to in subsection (1), the Minister shall, unless he has already consented to another applicant entering into negotiations with it in respect of the same land, give written notice to the relevant Land Council that the application has been received.

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- (3) Where the Minister consents to an applicant referred to in subsection (1) entering into negotiations referred to in that subsection, the Minister shall not consent to any other applicant entering into negotiations referred to in that subsection, unless the Minister is satisfied that the first-mentioned applicant is, under the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth, no longer entitled to enter into or to continue those negotiations.
- (4) Nothing in this section shall be construed as requiring the Minister to give his consent under subsection (1) to the applicant who first lodged with the Minister an application for the grant to him of an exploration licence in respect of the land.

**139      Applicant for mineral lease to hold exploration licence, &c.**

- (1) Subject to subsection (2), a person shall not apply for or be granted a mineral lease in respect of Aboriginal land unless, at the time of the application for that lease he was the holder of an exploration licence or exploration retention licence or had made an application for the grant of an exploration retention licence in respect of that land.
- (2) The provisions of subsection (1) shall not apply to or in relation to:
- (a) a person who is, in relation to the land, a traditional Aboriginal owner within the meaning of the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth;
  - (b) a person who had made an application for a mineral lease over the land before it became Aboriginal land;
  - (c) a person who made an application under the repealed Act for a mineral lease, gold mining lease or special mineral lease in respect of Aboriginal land which application, by virtue of section 191, is deemed to be an application for a mineral lease under this Act;
  - (d) the "Noranda Project Area" or "Pancontinental Project Area" described in the Regulations; or
  - (e) the "Ranger Project Area" described in Schedule 2 to the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth.

**140      Notice to Land Council**

- (1) As soon as practicable after he receives an application for an extractive mineral lease or an extractive mineral permit in respect of Aboriginal land, a mining registrar shall give written notice to the relevant Land Council that the application has been made.

**Part XIA      Prescribed mining acts above highwater mark  
or for infrastructure facilities**

**140A      Prescribed mining acts**

- (1) For the purposes of this Act, subject to subsection (2), the following acts are prescribed mining acts:
  - (a) the grant, variation or renewal of an exploration licence;
  - (b) the grant, variation or renewal of an exploration retention licence;
  - (c) the grant, variation or renewal of a mineral lease;
  - (ca) the grant, variation or renewal of a mineral claim;
  - (e) the authority to occupy and use land for a specified purpose under section 178;
  - (f) the grant, variation or renewal of an extractive mineral lease.
- (2) A variation, renewal, re-grant, re-making or extension of term to which, by virtue of section 26D(1) of the *Native Title Act*, Subdivision P of Division 3 of Part 2 of that Act does not apply is not a prescribed mining act.
- (4) Where, as a result of a prescribed mining act, a person has a right of access under section 179, the prescribed mining act includes the giving of that right of access.
- (5) Where a determination is in force under section 26A of the *Native Title Act* in respect of a prescribed mining act, the Minister may, by notice in the *Gazette*, declare that this Part does not apply in relation to that prescribed mining act and the declaration has effect according to its tenor.



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**140B Application**

(1) Subject to subsections (1A), (2), (2A) and (2B), this Part applies in relation to a prescribed mining act that affects native title rights and interests:

(a) where it is an act to which the consequences of section 24MD(6B) of the *Native Title Act* apply; or

(b) where:

(i) the act:

(A) is an act to which Subdivision P of Division 3 of Part 2 of the *Native Title Act* would have otherwise applied; and

(B) relates, to any extent, to an area of land that is an alternative provision area; and

(ii) there is a determination in force under section 43A(1)(b) of the *Native Title Act* in respect of the relevant provisions of this Act.

(1A) Where, in relation to a prescribed mining act:

(a) this Part would, but for this subsection, apply because the act is to be done in part on an onshore place on the landward side of the mean highwater mark of the sea; and

(b) Part XIB would, but for this subsection, apply because the act is to be done in part on a onshore place on the seaward side of the mean highwater mark of the sea,

the prescribed mining act is to be taken to consist of 2 separate acts as follows:

(c) a prescribed mining act on the landward side of the mean highwater mark of the sea;

(d) a prescribed mining act on the seaward side of the mean highwater mark of the sea.

(2) A prescribed mining act referred to in subsection (1A)(d) may be done at the same time as a prescribed mining act referred to in subsection (1A)(c) but, before any activity is undertaken in the area to which the prescribed mining act referred to in subsection (1A)(d) relates, the procedures under Part XIB must have been complied with.

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- (2A) This Part does not apply in relation to a prescribed mining act that affects native title rights and interests and relates to an alternative provision area if, in respect of the act, a notice under section 29 of the *Native Title Act* is given on or after 30 September 1998 but before a determination under section 43A(1)(b) of that Act in respect of the relevant provisions of this Act comes into force.
- (2B) Subject to Subdivision P of Division 3 of Part 2 of the *Native Title Act*, the Minister may do a prescribed mining act to which, by virtue of subsection (2A), this Part does not apply after having complied with the procedures in that Subdivision.
- (3) Subject to subsections (4) and (5), the requirements of this Part are in addition to and not in derogation of the other requirements under this Act.
- (4) In the event of an inconsistency between this Part and another provision of this Act, this Part prevails.
- (5) For the purposes of subsection (4), this Part is consistent with another provision of this Act if it is capable of operating concurrently with that other provision.

**140C Act valid if procedures complied with**

An act to which this Part applies is only valid to the extent that it affects native title if in relation to the doing of the act the procedures of this Part are complied with, and it is invalid if they are not.

**140CA Prescribed mining acts covering both alternative provision area and other area**

- (1) Where, in relation to a prescribed mining act:
- (a) this Part applies because the act is to be done in part in an alternative provision area; and
  - (b) Subdivision P of Division 3 of Part 2 of the *Native Title Act* applies because the act is to be done in part in an area that is not an alternative provision area (in this subsection called **the other area**),

then:

- (c) the prescribed mining act is to be taken to consist of 2 separate acts as follows:
  - (i) a prescribed mining act in the alternative provision area;
  - (ii) a prescribed mining act in the other area; and

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- (d) the prescribed mining act referred to in paragraph (c)(ii) may be done at the same time as the prescribed mining act referred to in paragraph (c)(i) but, before any activity is undertaken in the area to which the prescribed mining act referred to in paragraph (c)(ii) relates, the procedures under Subdivision P of Division 3 of Part 2 of the *Native Title Act* must have been complied with.

(2) If:

- (a) a prescribed mining act is done in an area that, at the time the act is done, appears to be an alternative provision area (in this subsection called ***the inadvertent act***); and
- (b) after the inadvertent act is done, it becomes apparent:
  - (i) that the act was done in part in an area that is not an alternative provision area (in this subsection called ***the other area***);
  - (ii) that the act should have consisted of 2 separate acts as described in subsection (1)(c)(i) and (ii) to which this Part and Subdivision P of Division 3 of Part 2 of the *Native Title Act*, respectively, should have been applied; and
  - (iii) that, therefore, the act is invalid in so far as the other area is concerned,

then:

- (c) the invalidity does not affect the inadvertent act in so far as the alternative provision area is concerned; and
- (d) the inadvertent act has effect as if it had been done only in relation to the alternative provision area.

#### **140D Form of application**

In addition to any other requirements of this Act relating to the form of an application, an application for a prescribed mining act is to contain:

- (a) a list of registered native title claimants (if any) in relation to any of the affected land;
- (b) a list of registered native title bodies corporate (if any) in relation to any of the affected land; and

- (c) the name or names of the representative Aboriginal/Torres Strait Islander body or bodies in relation to any of the affected land.

**140E Notification of native title holders etc.**

- (1) Within 14 days after the notification event or within the further time allowed in writing by the Minister:
  - (a) if the prescribed mining act is an act to which section 24MD(6B) of the *Native Title Act* applies – the Minister must serve written notice of the making of the application on the persons referred to in section 140D(a), (b) and (c) and on the Native Title Registrar; or
  - (b) if the prescribed mining act is an act to which section 140B(1)(b) refers – the applicant must serve written notice of the making of the application on the persons referred to in section 140D(a), (b) and (c) and on the Native Title Registrar.
- (2) Within 14 days after the applicant serves notice in writing of the application under subsection (1)(b) or within the further time allowed in writing by the Minister, the applicant must provide the Secretary with the evidence of service of the notice and the method of service that the Secretary requires.
- (3) A notice under subsection (1) is to contain the prescribed information and a statement to the effect that:
  - (a) registered native title claimants and registered native title bodies corporate in relation to any of the affected land may lodge, in writing within 2 months after the date specified in the notice (being 21 days after the notification event) or, in the case of a person to whom subsection (6) applies, within the further time allowed under that subsection with the Department:
    - (i) if the prescribed mining act is an act to which section 24MD(6B) of the *Native Title Act* applies – an objection to the prescribed mining act so far as it affects their registered native title rights and interests;
    - (ii) if the prescribed mining act is an act to which section 140B(1)(b) refers – an objection to the prescribed mining act so far as it affects their registered native title rights and interests; and

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- (iii) if the prescribed mining act will entitle the applicant to a right of access under section 179 – an objection to the right of access so far as it affects their registered native title rights and interests; and
  - (b) an objection to the prescribed mining act so far as it affects registered native title rights and interests is to contain particulars of the effect that the doing of the act would be likely to have on those registered native title rights and interests.
- (3A) An objection may be lodged in accordance with the statement referred to in subsection (3) and, if lodged, is to be lodged in duplicate.
- (3B) Other than where Part XIB applies, if an objection lodged under subsection (3A) or section 163(2) is a native title objection to:
- (a) a prescribed mining act to which section 24MD(6B) of the *Native Title Act* applies; or
  - (b) a prescribed mining act to which section 140B(1)(b) of this Act refers,
- this Part applies in relation to the objection.
- (4) A notice under subsection (1) may relate to more than one prescribed mining act.
- (5) An objection may be lodged under subsection (3A) in relation to all of the prescribed mining acts specified in a notice under subsection (1) together or one or more of those acts separately.
- (6) If, within 3 months after the date specified in the notice served on the representative Aboriginal/Torres Strait Islander body or bodies under subsection (1) (being 21 days after the notification event), a person (other than a person served under subsection (1)) advises the Minister in writing that the person has made an application to the Federal Court for a determination of native title in respect of any of the affected land, the person may, within 4 months after the date so specified, lodge an objection to the prescribed mining act.
- (6A) An objection lodged under subsection (6) is to be taken not to have been lodged if, by the end of 4 months from the date so specified in the notice served on the representative Aboriginal/Torres Strait Islander body or bodies under subsection (1), the Native Title Registrar:
- (a) has not accepted the claim for registration; or

- (b) has not yet decided whether or not to accept the claim for registration.

(7) In this section:

**notification event** means the lodgement of the application for the prescribed mining act.

**prescribed information** means:

- (a) the name of the applicant for the prescribed mining act;
- (b) the prescribed mining act applied for;
- (c) if relevant: the period in respect of which the relevant mining interest is sought;
- (d) either:
  - (i) a description of the land in respect of which the application is made sufficient to enable an interested person to determine its location; or
  - (ii) a map that indicates that land by reference to the boundaries of existing landholdings or geographical features;
- (da) a program of proposed works to be engaged in on the land under the relevant mining interest, including a description of how those works are to be carried out; and
- (e) the information (if any) prescribed by the regulations.

#### **140EA Declaration to alter objection period**

- (1) The Minister may by notice in the *Gazette* declare that, in respect of an application for a prescribed mining act or a class of applications for prescribed mining acts:
  - (a) a reference in this Act to the period of 3 months specified in section 140E(6) is to be read as the period specified in the declaration, being a period that is longer than 3 months;
  - (b) a reference in this Act to the period of 4 months specified in section 140E(6) is to be read as a reference to the period specified in the declaration, being a period that is at least one month longer than the period specified in the declaration for the purposes of paragraph (a);

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- (c) a reference in this Act to the period of 3 months specified in section 163(5) is to be read as the period specified in the declaration, being a period that is longer than 3 months; and
  - (d) a reference in this Act to the period of 4 months specified in section 163(5) is to be read as a reference to the period specified in the declaration, being a period that is at least one month longer than the period specified in the declaration for the purposes of paragraph (c),

and this Act has effect accordingly.

- (2) If the Minister makes a declaration under subsection (1), the Minister must make a declaration under each of subsection (1)(a), (b), (c) and (d).

#### **140F Response to objections**

- (1) As soon as practicable after a native title objection is lodged, the Secretary must advise the applicant for the prescribed mining act in writing of the objection and the grounds for the objection and give the applicant a copy of the objection.
- (1A) As soon as practicable but in any event within 14 days after receiving from the Secretary a copy of an objection, an applicant for the grant of an exploration licence or exploration retention licence must, by notice in writing, invite the registered native title claimant or registered native title body corporate who lodged the objection to consult with the applicant in accordance with section 140G(1).
- (2) Within 14 days after the last day on which any registered native title claimant or registered native title body corporate was entitled (whether under section 140E or 163) to lodge a native title objection to the prescribed mining act, an applicant other than an applicant for the grant of an exploration licence or exploration retention licence must, by notice in writing, invite the registered native title claimant or registered native title body corporate who lodged the objection to consult with the applicant in accordance with section 140G(1).
- (3) The regulations may make provision in relation to the procedures to be observed during consultation under this section, including in relation to:
  - (a) meetings (whether scheduled by the applicant or the Minister under section 140J) for the purposes of section 140G;
  - (b) mediation under section 140G(4); and

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- (c) the costs relating to the holding of those meetings or the conduct of that mediation.

#### **140FA Agreement is anticipated and strongly encouraged**

It is anticipated that the parties concerned will only have recourse to the provisions of this Act relating to the procedure for dealing with native title objections or determining compensation payable for the effect of a prescribed mining act on native title if they are unable to resolve those objections by agreement or to reach an agreement about that compensation, and the parties concerned are strongly encouraged to resolve objections by agreement and to reach agreement about compensation; it being noted that the parties may enter into one or more agreements relating to the resolution of objections, compensation or both and that agreement may be reached, in the case of objections, at any time before the Minister decides to do the prescribed mining act and, in the case of compensation, at any time before compensation is paid and, in either case, as a result of discussions held at any time and whether as part of the consultations under section 140G or otherwise than under this Act.

#### **140G Consultation and mediation**

- (1) An applicant for a prescribed mining act must consult with any registered native title claimants or registered native title bodies corporate who lodge a native title objection about ways of minimising the impact of the prescribed mining act on registered native title rights and interests in relation to the affected land, including:
  - (a) if the prescribed mining act is an act to which section 24MD(6B) of the *Native Title Act* applies and it is relevant to do so: about any access to that land (whether under section 179 or otherwise) or the way in which anything authorised by the prescribed mining act might be done; or
  - (b) if the prescribed mining act is an act to which section 140B(1)(b) refers: about any access to that land (whether under section 179 or otherwise) or the way in which anything authorised by the prescribed mining act might be done,in this section called ***impact minimisation***.
- (2) For the purposes of subsection (1), consultation is to take place over:
  - (a) if it relates to an exploration licence or exploration retention licence – the period commencing on the day on which the



registered native title claimant or registered native title body corporate receives the invitation referred to in section 140F(1A) and ending on the last day of the period of 2 months that commences at the end of 14 days after the last day on which any registered native title claimant or registered native title body corporate was entitled (whether under section 140E or 163) to lodge a native title objection to the prescribed mining act;

- (b) if it relates to a mineral claim, extractive mineral lease or an act to be done under an authority referred to in section 140A(1)(e) – the period of 3 months commencing at the end of 14 days after the last day on which any registered native title claimant or registered native title body corporate was entitled (whether under section 140E or 163) to lodge a native title objection to the prescribed mining act; or
  - (c) if it relates to a mineral lease – the period of 4 months commencing at the end of 14 days after the last day on which any registered native title claimant or registered native title body corporate was entitled (whether under section 140E or 163) to lodge a native title objection to the prescribed mining act.
- (4) If the prescribed mining act is an act to which section 140B(1)(b) refers, subject to section 140H, either the applicant or the claimant or body corporate may, after inquiring in writing of the other party as to that party's attitude towards mediation, refer the matter of impact minimisation to mediation at any time within the relevant consultation period referred to in subsection (2).
- (5) For the purposes of subsection (4):
- (a) the parties may agree on the appointment of a mediator; or
  - (b) if the parties cannot agree on the mediator either party may apply to the Tribunal for the appointment of a mediator under section 36 of the *Lands and Mining Tribunal Act*.
- (6) Nothing in this section is to be taken to prevent the parties from commencing consultations before the period referred to in subsection (2) commences.
- (7) The parties are encouraged to consult with a view to resolving objections and nothing in this section is to be taken to prevent the parties from doing so.

**140H Application to Tribunal**

At any time after:

- (a) the end of the relevant consultation period referred to in section 140G(2); or
- (b) if a matter was referred to mediation under section 140G(4) and the parties have agreed to the mediation being conducted or continuing to be conducted during a further period of 30 days after the relevant consultation period referred to in section 140G(2): the end of that further period,

either the applicant for the prescribed mining act or the registered native title claimant or registered native title body corporate objecting to the prescribed mining act may apply to the Tribunal to have the objection to the prescribed mining act heard.

**140J Inquiry by Minister**

After half of the relevant consultation period referred to in section 140G(2) has expired, the Minister may inquire of the parties to the consultations for the prescribed mining act as to the progress of the consultations and if:

- (a) the matter has not been referred to mediation under section 140G(4); and
- (b) the Minister is not satisfied that sufficient progress has been made,

the Minister may direct the parties to attend a meeting or meetings scheduled by the Minister.

**140JA Referral of objections to Tribunal by Minister**

- (1) At any time after the end of 30 days after the relevant consultation period referred to in section 140G(2):
  - (a) if a native title objection to the prescribed mining act has not been resolved; and
  - (b) whether or not the matter has been referred to mediation under section 140G(4),

the Minister may, in the prescribed form accompanied by the prescribed documents, refer the objection to the Tribunal for hearing.

- (2) In deciding whether to exercise his or her discretion under subsection (1), without limiting the relevant matters that the Minister may take into account, the Minister must inquire of the parties as to the progress of the consultations or mediation (as the case may be) and must take the responses received (if any) into account.

**140JB Criteria for making recommendation**

- (1) In making a recommendation in relation to a prescribed mining act, the Tribunal must take into account all matters that the Tribunal considers relevant, including:
- (a) all objections in relation to the effect that the prescribed mining act will have or is likely to have on registered native title rights and interests that were referred to the Tribunal and all submissions made to the Tribunal about those objections, which may include objections and submissions about those objections as to the effect of the act on any of the following:
    - (i) the enjoyment by the native title claim group of those registered native title rights and interests;
    - (ii) the way of life, culture and traditions of the native title claim group;
    - (iii) the development of the social, cultural and economic structures of the native title claim group;
    - (iv) the freedom of access by the native title claim group to the land or waters concerned and their freedom to carry out rites, ceremonies or other activities of cultural significance on the land or waters in accordance with their traditions;
    - (v) any area or site, on the land or waters concerned, of particular significance to the native title claim group in accordance with their traditions;
  - (b) ways of minimising the impact of the prescribed mining act on registered native title rights and interests, including in relation to:
    - (i) access to the land or waters on which it is proposed to do the act; and
    - (ii) ways in which the act might be done;

- (c) the economic or other significance of the prescribed mining act to the Territory and to the region in which the land or waters on which it is proposed to do the act are located, including the Aboriginal peoples who live in that region; and
  - (d) the public interest in the doing of the prescribed mining act.
- (2) Before making a recommendation in relation to a prescribed mining act:
  - (a) the Tribunal must inquire of the parties to the proceeding whether there are any issues relevant to its recommendation in relation to which the parties have reached agreement; and
  - (b) if such an agreement has been reached and the parties consent to the Tribunal doing so, the Tribunal must (if relevant) take the agreement into account.
- (3) In subsection (1)(a), **native title claim group**, in relation to registered native title rights and interests, means:
  - (a) the registered native title claimants and the persons on whose behalf the claim in respect of those native title rights and interests is made; or
  - (b) the persons in respect of whom there is an approved determination of native title to the effect that those persons hold native title, including the members of a registered native title body corporate.

#### **140K Compliance with recommendations of Tribunal**

- (1) Where, in relation to a prescribed mining act, the Tribunal recommends that the prescribed mining act must not be done, the Minister must comply with the recommendation unless the conditions specified in subsection (1B) are satisfied.
- (1A) Where, in relation to a prescribed mining act:
  - (a) the Tribunal recommends that the prescribed mining act may be done, whether or not subject to specified conditions; and
  - (b) the Minister wishes to do the act,the Minister must comply with the recommendation unless the conditions specified in subsection (1B) are satisfied.

(1B) The Minister must comply with a recommendation of the Tribunal referred to in subsection (1) or (1A) unless:

- (a) the Minister has consulted with the Minister responsible for Indigenous affairs (being the Minister to whom responsibility for Aboriginal development is allotted under an Administrative Arrangements Order) about the proposal by the Minister to reject or accept the recommendation and any proposal to reject, vary, substitute or add to the conditions in the recommendation;
- (b) the Minister has taken that consultation into account; and
- (c) it is in the interests of the Territory not to comply with the recommendation.

(1C) Prior to consultations under subsection (1B)(a):

- (a) the Minister must ensure that the submissions (if any) made to the Tribunal by the registered native title claimant or registered native title body corporate objecting to the doing of the prescribed mining act, the Tribunal's recommendation and the Tribunal's reasons for making the recommendation are provided to the Minister responsible for Indigenous affairs; and
- (b) the Minister responsible for Indigenous affairs must ensure that he or she is aware of the content of the submissions, recommendation and reasons.

(2A) Within 28 days after being notified under section 165A of the decision to do a prescribed mining act that is in accordance with a decision of the Minister of a kind referred to in subsection (2)(c) or (d), any of the following persons may in writing request the Minister for reasons for that decision:

- (a) a registered native title claimant or registered native title body corporate who lodged a native title objection;
- (b) a registered native title body corporate that is registered on the National Native Title Register maintained under the *Native Title Act* and holds native title on trust for a person who lodged a native title objection in his or her capacity as a registered native title claimant;
- (c) a person who lodged a native title objection in his or her capacity as a registered native title claimant where, in respect of the relevant native title determination application, an approved determination that the claimant holds native title in the affected land has since been made;

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- (d) a person who under section 66B of the *Native Title Act* replaced a registered native title claimant who lodged a native title objection,

unless the objection was subsequently withdrawn.

- (2B) Within 28 days after receiving a request in accordance with subsection (2A), the Minister must provide written reasons for the decision to the person who requested them.
- (2C) Nothing in this section is to be taken to affect the Minister's discretion to decide not to do a prescribed mining act, including where that discretion is exercised as a result of consultations with the Minister responsible for Indigenous affairs.
- (3) In subsection (1), ***in the interests of the Territory*** includes:
- (a) for the social or economic benefit of the Territory (including of Aboriginal peoples and Torres Strait Islanders); and
- (b) in the interests of the relevant region or locality in the Territory.

#### **140L Judicial review**

- (1) A person aggrieved by a decision of the Minister under this Act to do a prescribed mining act that affects registered native title rights and interests may apply to the Supreme Court for judicial review of the decision.
- (2) On receipt of an application under subsection (1), the Supreme Court may review the Minister's decision.
- (2A) To avoid doubt, judicial review under subsection (2) does not extend to a review of the decision on its merits.
- (2B) Where the decision being reviewed complies in whole or in part with a recommendation of the Tribunal, the recommendation, that part of the decision of the Tribunal to make the recommendation and the Tribunal's reasons for that part of its decision are all to be taken to form part of both the decision being reviewed and the record of the decision being reviewed.
- (2C) Where in pursuance of section 140K(2B) the Minister has provided reasons for the decision being reviewed, those reasons are to be taken to form part of both that decision and the record of that decision.

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- (3) In this section, ***person aggrieved*** means any of the following persons whose registered native title rights and interests are affected by the prescribed mining act:
- (a) a registered native title claimant or registered native title body corporate who lodged a native title objection;
  - (b) a registered native title body corporate that is registered on the National Native Title Register maintained under the *Native Title Act* and holds native title on trust for a person who lodged a native title objection in his or her capacity as a registered native title claimant;
  - (c) a person who lodged a native title objection in his or her capacity as a registered native title claimant where, in respect of the relevant native title determination application, an approved determination that the claimant holds native title in the affected land has since been made;
  - (d) a person who under section 66B of the *Native Title Act* replaced a registered native title claimant who lodged a native title objection,

unless the objection was subsequently withdrawn.

**140M Procedure if no objections lodged, objections withdrawn, &c.**

- (1) A native title objection may be withdrawn at any time by notice in writing given to the Minister, whether by agreement or otherwise.
- (2) If:
  - (a) at the end of the last day on which any registered native title claimant or registered native title body corporate is entitled (whether under section 140E or 163) to lodge a native title objection to a prescribed mining act, no such objections have been lodged; or
  - (b) after the last day on which any registered native title claimant or registered native title body corporate was entitled (whether under section 140E or 163) to lodge a native title objection to a prescribed mining act but immediately before the determination that the prescribed mining act is to be done, in respect of each native title objection lodged, either:
    - (i) the objection has been withdrawn; or
    - (ii) if the objection was lodged by a registered native title claimant – the claimant has been removed from the Register of Native Title Claims for a reason other than

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because either an approved determination of native title that the claimant holds native title in the affected land has been made or the claimant has been replaced under section 66B of the *Native Title Act*,

the Minister may proceed to determine the application for the prescribed mining act.

- (3) If the circumstances in subsection (2)(b)(i) or (ii) occur in relation to a prescribed mining act after the Tribunal has made a recommendation in relation to that act, section 140K does not apply and the Minister may proceed to determine the application for the prescribed mining act.
- (4) Where a native title objection was not lodged, or is withdrawn, because the parties have reached an agreement:
  - (a) the parties may advise the Minister that they have reached an agreement and what the terms of that agreement are; and
  - (b) if so advised, the Minister:
    - (i) must take into account any terms of the agreement about minimising the impact of the prescribed mining act on registered native title rights and interests; and
    - (ii) may take into account any other terms of the agreement,when making a decision whether or not to do the prescribed mining act and, if he or she decides to do the act, when making a decision as to the conditions to which the doing of the act is to be subject.

#### **140MA Consultations may continue**

Nothing in this Part is to be taken to affect the ability of the parties to continue efforts to resolve an objection to a prescribed mining act until such time as the Minister decides whether or not to do the act, including while the objection is before the Tribunal.

#### **140N Compensation**

- (1) Compensation for the effect of a prescribed mining act on native title:
  - (a) is payable to the native title holder by the holder of the mining interest to which the prescribed mining act relates; and



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- (b) includes compensation for the effect on native title of activities done under that mining interest as a result of the prescribed mining act.
  - (2) A person who intends to claim compensation under this section for the effect of a prescribed mining act on their native title rights and interests must lodge the claim in writing with the holder of the relevant mining interest within 3 years after the prescribed mining act is done or within the further time the Tribunal allows.
  - (2A) The Tribunal has the jurisdiction to extend the time for making a claim referred to in subsection (2) as if the claim were an action to which section 44 of the *Limitation Act* applies and the Tribunal were a court for the purposes of that section.
  - (3) In the absence of agreement, the compensation that may be payable to a native title holder is not determinable by the Tribunal until there is an approved determination of native title that the holder holds native title in the affected land.
  - (4) In the event of a dispute about compensation payable under subsection (1):
    - (a) the holder of the relevant mining interest; or
    - (b) the person to whom compensation is payable, being:
      - (i) the registered native title body corporate; or
      - (ii) if there is an approved determination of native title that a person holds native title in the affected land but there has been no determination under either section 56 or sections 56 and 57 of the *Native Title Act*: that person,may refer the dispute to the Tribunal.
  - (5) To avoid doubt:
    - (a) compensation is payable to a person under subsection (1); and
    - (b) a claim for compensation may be made by a person under subsection (2),whether or not the person lodged a native title objection.
  - (5A) If a person entitled to compensation under this section requests that the whole or part of the compensation should be in a form other than money, the person by whom the compensation is payable must consider the request.

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- (6) A reference in this section to the payment of compensation is to be read as including a reference to the giving of compensation in a form other than money, including the transfer of property and the provision of goods and services.

## **Part XIB            Acts below highwater mark**

### **140Q       Interpretation**

In this Part, a reference to an act below highwater mark is to be read as a reference to an act to which this Part applies by virtue of section 140R.

### **140R       Application**

- (1) Subject to subsection (2), this Part applies in relation to the notification of an application for, the consideration of objections to and comments on, and compensation for, the grant, renewal or variation of a mining interest on an onshore place on the seaward side of the mean highwater mark, other than an act of the type referred to in section 140B(1)(a).
- (2) Any requirement of this Part relating to the service of a notice on a representative Aboriginal/Torres Strait Islander body does not apply if the act is not a future act.
- (3) Where the grant, renewal or variation of a mining interest is an act of the type referred to in section 140B(1)(a), Part XIA applies.
- (4) Where there is an existing mining interest (in this subsection called **the earlier right** and that interest is renewed, re-granted, re-made or extended (in this subsection called **the new right** and:
- (a) under the new right the area to which the earlier right related is not extended;
  - (b) the term of the new right is not longer than the term of the earlier right; and
  - (c) no rights are created in connection with the new right that were not created in connection with the earlier right,

the procedures under this Part in respect of the notification of applications and the consideration of objections and comments do not apply in relation to the renewal, re-grant, re-making or extension.

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**140S Notification of application**

- (1) An applicant for an act below highwater mark must, within 14 days after lodging the application or the further time that the Secretary in writing allows, serve written notice of the making of the application on:
  - (a) the registered native title claimants (if any) in relation to any of the affected land;
  - (b) the registered native title bodies corporate (if any) in relation to any of the affected land; and
  - (c) the representative Aboriginal/Torres Strait Islander body or bodies in relation to any of the affected land.
- (2) Within 14 days after the applicant serves notice under subsection (1) or within the further time allowed in writing by the Secretary, the applicant must provide the Secretary with the evidence of service of the notice and the method of service that the Secretary requires.
- (3) A notice under subsection (1) is to contain the prescribed information and a statement to the effect that:
  - (a) registered native title claimants and registered native title bodies corporate in relation to any of the affected land may, within 2 months after being served with the notice or within the further time allowed in writing by the Minister, lodge in writing with the Department objections to the act; and
  - (b) if there are no such registered native title claimants or registered native title bodies corporate in relation to any of the affected land, the representative Aboriginal/Torres Strait Islander body in relation to any of the affected land may, within 2 months after being served with the notice or within the further time allowed in writing by the Minister, lodge in writing with the Department comments on the act.
- (3A) As soon as practicable after an application for an act below highwater mark is received in accordance with the provisions of this Act, the Secretary must cause to be published in a newspaper printed and circulating in the Territory a notice that contains the prescribed information and a statement to the effect that any person may, within 2 months after the date of publication of the notice or the further time allowed in writing by the Minister, lodge in writing with the Department an objection to the act.

- (4) Objections or comments may be lodged in response to a notice served under subsection (1) in accordance with the statement referred to in subsection (3) and objections may be lodged in response to a notice published under subsection (3A) in accordance with the statement referred to in subsection (3A).
- (4A) To avoid doubt, any objections or comments lodged in accordance with subsection (4) are to be dealt with in accordance with the procedures under this Part and not in accordance with the procedures under any other Part of this Act.
- (5) A notice under subsection (1) or (3A) may relate to more than one act below highwater mark.
- (5A) An objection or comment may be lodged under subsection (4) in relation to all of the acts below highwater mark specified in a notice under subsection (1) or (3A) together or one or more of those acts separately.
- (6) In this section, ***prescribed information*** means:
  - (a) the name of the applicant for the act below highwater mark;
  - (b) the act below highwater mark;
  - (c) if relevant: the period in respect of which the relevant mining interest is sought;
  - (d) either:
    - (i) a description of the land in respect of which the application is made sufficient to enable an interested person to identify its location; or
    - (ii) a map that indicates that land by reference to the boundaries of existing landholdings or geographical features; and
  - (e) the information (if any) prescribed by the Regulations.

#### **140T Minister to have regard to objections and comments**

The Minister must not do an act below highwater mark unless the Minister has taken into account the objections and comments (if any) lodged under section 140S(4).

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**140U Compensation**

- (1) Compensation for the effect of an act below highwater mark is payable by the holder of the relevant mining interest to:
  - (a) the owner or occupier of land comprised in the mining interest for the loss or damage in respect of that person's interest in the land because of the act; and
  - (b) any native title holder for the effect of the act on the holder's native title rights and interests in the land comprised in the mining interest.
- (2) A person who intends to claim compensation under this section must lodge the claim in writing with the holder of the relevant mining interest within 3 years after the act below highwater mark is done or within the further time the Tribunal allows.
- (3) The Tribunal has the jurisdiction to extend the time for making a claim referred to in subsection (2) as if the claim were an action to which section 44 of the *Limitation Act* applies and the Tribunal were a court for the purposes of that section.
- (4) In the absence of agreement, the compensation that may be payable to a native title holder is not determinable by the Tribunal until there is an approved determination of native title that the holder holds native title in the affected land.
- (5) In the event of a dispute about compensation payable under subsection (1), the holder of the mining interest or the owner or occupier or registered native title body corporate to whom compensation may be payable may refer the dispute to the Tribunal.
- (6) If a person entitled to compensation under this section requests that the whole or part of the compensation should be in a form other than money, the person by whom the compensation is payable must consider the request.
- (7) A reference in this section to the payment of compensation is to be read as including a reference to the giving of compensation in a form other than money, including the transfer of property and the provision of goods and services.

**Part XII                    Wardens and warden's courts****141                    Establishment of courts**

- (1) There is established a warden's court at each prescribed place in the Territory.
- (2) There is a clerk of each warden's court.

**142                    Constitution of court**

A warden's court shall be constituted by a warden sitting alone.

**143                    Places of sitting**

A warden's court shall sit at the place at which it is established and at such other places as the warden considers convenient for the hearing of a particular matter and, subject to this Act, at such times as the warden determines.

**144                    Court of record**

- (1) A warden's court is a court of record and shall have an official seal.
- (2) All summonses, orders, warrants and other process issued out of a warden's court shall be signed by a warden or by a clerk of the court with the authority of the warden.

**145                    Jurisdiction**

- (1) Subject to subsection (2), a warden's court has jurisdiction to hear and determine actions, suits and other proceedings cognizable by a court of civil jurisdiction concerning:
  - (a) the area, dimensions and boundaries of exploration licence areas, exploration retention licences and mining tenements;
  - (b) the title to and ownership or possession of exploration licence areas, exploration retention licences and mining tenements;
  - (c) questions or disputes relating to water or water rights;
  - (d) encroachments or infringements of, or injuries to, exploration retention licences or mining tenements;
  - (e) the specific performance of contracts relating to exploration licences, exploration retention licences or mining tenements;
  - (f) transfers and other dispositions of, or charges on, exploration licences, exploration retention licences or mining tenements;

- (g) encroachments on or injury to land by reason of mining, whether that land is held under a provision of this Act or otherwise;
- (h) encroachments on, injuries to, and the determination of all questions concerning, roads, tramways, railroads or fences constructed on land held or occupied under this Act or under any other law in force in the Territory relating to mining;
- (j) all questions and disputes relating to exploration licences, exploration retention licences, or mining or fossicking, tenements or mining or to any matter in respect of which jurisdiction is conferred on a warden's court or warden by this Act or any other law in force in the Territory, or, in respect of a mining tenement which is a mineral lease, the provisions of the mineral lease; and
- (k) the recovery of penalties for a breach of a provision of this Act or the Regulations or any other law in force in the Territory in respect of which a warden or warden's court has jurisdiction,

and such other jurisdiction as is conferred on it by or under this Act or any other law in force in the Territory.

- (2) A warden's court does not have jurisdiction to hear and determine:
  - (a) disputes about compensation payable to:
    - (i) an owner or occupier of land for the grant or renewal of an extractive mineral interest; or
    - (ii) a native title holder for the effect of a prescribed mining act on native title; or
  - (b) any other matter in respect of which this Act expressly confers jurisdiction on the Tribunal.

## **146 Proceedings**

- (1) Subject to this Act, proceedings before a warden's court:
  - (a) shall be commenced by plaint in the prescribed form and manner;
  - (b) shall be in open court; and
  - (c) may be adjourned from time to time or from place to place in such manner and on such terms, as to costs or otherwise, as the warden thinks fit.

(2) Subject to Part IIA, in any proceeding before a warden's court:

- (a) each defendant or respondent to the proceedings shall be summonsed by the mining registrar, in the prescribed form and manner, to attend and, in the absence of his attendance, the court may proceed to hear the plaint *ex parte*;
- (b) witnesses shall be examined on oath or affirmation;
- (c) the warden or clerk may administer an oath or take an affirmation;
- (d) if any person, being duly summonsed to attend as a witness, fails to attend at the time and place named in the summons, refuses to be sworn or to make an affirmation, or refuses to answer any lawful question put to him, the warden may impose a penalty not exceeding \$100 on that person, unless reasonable cause is shown for that person's failure or refusal;
- (e) the warden, upon such terms as to costs or otherwise as he thinks fit may, by order, grant time to any party for any purpose, add or strike out parties and generally do whatever he considers necessary for the purpose of effectively disposing of the matter before him according to the merits of the case; and
- (f) costs shall be at the discretion of the warden who may fix them or direct that they be taxed.

**147 Application for directions**

A mining registrar may apply to a warden's court for directions in relation to any matter within the jurisdiction of the warden's court.

**148 Powers of court**

At any stage of proceedings before a warden's court the warden may, of his own motion or on the application of a party, and subject to such terms, as to costs or otherwise, as he thinks fit:

- (a) order any person having possession, custody or control of any mineral, extractive mineral or other chattel to deposit it with such person, within such time and at such place as the warden names in the order, to be held pending the further order of the court;
- (b) cause all such minerals, extractive minerals or chattels to be valued;



- (c) cause all or any minerals, extractive minerals or chattels to be delivered up to be divided between the persons found by the court to be entitled to them;
- (d) order all such minerals, extractive minerals or chattels, or a sufficient part thereof, according to the amount at which they have been valued under this section, belonging to any party against whom an order has been made by the court for the payment of money to any other party, to be delivered to that other party in or in part satisfaction of that order;
- (e) order money deposited with the warden or a mining registrar to be held pending the further order of the court or a warden;
- (f) if default is made in complying with an order for the deposit, valuation or delivery of the minerals, extractive minerals or other chattels, cause them to be seized and held by an officer named in the order pending the further order of the court or a warden;
- (g) order any mining operation to be suspended until the further order of the court or a warden, or to be carried on by or under the direction and control of a person appointed by the court;
- (h) if an order under paragraph (f) is made on the application of a party to the proceedings before the court, order that party to pay such reasonable compensation, if any, as the court directs to any other party who suffers damage by the operation of the order;
- (j) order a survey, plan or measurement of any land or mining tenement or exploration retention licence to be made by a licensed surveyor within the meaning of the *Licensed Surveyors Act*;
- (k) inspect any land, mine or mining tenement or exploration retention licence area, or order it to be inspected by a person named in the order, and take judicial notice of anything observed in the course of that inspection;
- (m) when making an order under this section, require such one or more of the parties named in the order to deposit with the court or a mining registrar such sum as the court considers reasonable in respect of the expenses of any person in the carrying out of that order; and
- (n) direct the manner in which an amount referred to in paragraph (m) shall be paid.

**149 Justice to be done**

The court shall do justice between the parties to any proceedings before it and no such proceedings shall be dismissed or vitiated because of any informality, defect, misnomer or irregularity if, in the opinion of the court, justice has been so done, and the court has such powers as it considers necessary to ensure that end.

**150 Contempt**

Subject to section 156, a warden's court has such powers relating to contempt of the court or a warden as has a Local Court under the *Local Courts Act* in relation to proceedings before it.

**151 Questions reserved**

At any stage of proceedings before it, the warden's court may reserve any question of law for the opinion of the Supreme Court, and with respect to a question so reserved:

- (a) the warden shall prepare a special case setting out the question and shall transfer the case to the Master of the Supreme Court;
- (b) the Master of the Supreme Court shall set the special case down for argument before a judge, and the judge's opinion on the special case shall, when given, be drawn up and be transmitted by the Master to the warden;
- (c) the cost of the proceedings shall be at the discretion of the Supreme Court;
- (d) upon receipt of the opinion of the Supreme Court, the warden's court shall act in accordance therewith and, in the meantime, no judgment or order of the warden shall affect the question so reserved; and
- (e) when reserving a question, or at any time before acting on the opinion of the Supreme Court, the warden, on the application of a party to the proceedings, and on such terms as to costs or otherwise as he thinks fit, may make such order for an injunction or the appointment of a receiver, or for payment of money into court or for giving security for damages and costs, or otherwise, as he thinks fit.

**152 Additional powers**

- (1) In all matters within its jurisdiction, a warden's court shall have power to enforce contracts, award damages, appoint receivers, grant prohibitions, injunctions, attachment orders and charging

orders, add, join, substitute or strike out parties, impose penalties, cause minerals, extractive minerals and other chattels to be restored to any person or place from which they have been improperly or unlawfully taken or removed, or to be deposited for safe custody with any person or in any place or to be summarily seized, summon witnesses, award costs and generally make such orders and give such judgments as it thinks fit.

- (2) If, by reason of the exigencies of a particular case, it appears proper to a warden so to do, he may, on the application of a party to any proceedings before him, without notice to any other party, grant an interim injunction to be enforced for a period not exceeding 28 days, or until the injunction is sooner discharged.

### **153 Decisions to be enforced**

- (1) Subject to this Act, every judgment, decision or order of a warden's court shall be carried out and enforced in the same manner as if it were a judgment or decision of a Local Court or Court of Summary Jurisdiction, as the case may be.
- (2) Every warrant, order or other process of a warden's court may be served or executed and put into effect by a bailiff or other officer of the court or of a Local Court, without that bailiff or other officer being specifically named therein, or by any other person to whom it is, whether before or after issue, directed by any warden or clerk of the warden's court.

### **154 Records to be kept**

A minute of every judgment, finding of guilt, conviction or order of a warden's court shall be entered in a register kept for that purpose by a clerk of the court and shall be given in the prescribed form by the court or a warden.

### **155 Powers of the Supreme Court**

For the purpose of enabling a warden's court or warden more effectively to exercise the jurisdiction and powers conferred upon it or him by this Act, and to enforce obedience to judgments and orders, the warden's court and the warden shall respectively, where no other provision is made for that purpose, be deemed to have and may exercise all the powers of the Supreme Court or a judge.

**156 Default in complying with judgment, &c.**

A person who defaults in complying with a judgment or order of a warden's court or in any way impedes or prevents compliance therewith, is guilty of an offence.

Penalty: \$1,000 or imprisonment for 6 months.

**157 Affidavits**

An affidavit to be used in any proceeding before a warden's court or a warden shall be sworn in the same manner as an affidavit to be used in any action before a Local Court.

**158 Copies of judgments, &c.**

- (1) A person may, on payment of the prescribed fee, obtain a copy of any judgment, order or decision of a warden's court or a warden.
- (2) A document purporting to be a copy of a judgment, order or decision of a warden's court or warden or of any document filed by, or of an entry in a register kept by, a warden's court or a warden, and certified by the warden or a clerk of the court to be a true copy thereof, shall be admitted in all courts as conclusive evidence of that judgment, order or decision, document or entry, and the signature of the warden or clerk to such document shall be judicially noted.

**159 Appeals**

An appeal shall lie to the Supreme Court from a decision of a warden's court or a warden in the same manner as an appeal against a decision of the Local Court or a Magistrate so lies.

**Part XIII                    General provisions relating to mining tenements, &c.****160 Application of Part**

The provisions of this Part apply to and in relation to the exploration licences, exploration retention licences and mining tenements to which they are expressed to relate to the extent that they are not inconsistent with specific provisions relating thereto contained elsewhere in this Act.

**161      Licence, &c., not to be granted over existing licence or mining tenement**

- (1) Subject to this Act, an exploration licence is not to be granted in respect of an existing exploration licence area or an existing exploration retention licence area.
- (2) Subject to this Act, a mining tenement is not to be granted in respect of an existing exploration licence area, an existing exploration retention licence area or an existing mining tenement area.

**162      Form of application**

- (1) An application for the grant of an exploration licence, exploration retention licence or mining tenement:
  - (a) shall be in writing;
  - (b) shall show an address at which documents required or permitted by this Act to be served on the applicant may be so served;
  - (d) shall be accompanied by a map that indicates the area of land to which the application relates, including:
    - (i) the boundaries of existing land holdings or geographical features; and
    - (ii) in the case of a mining tenement only: the location of any residences and other buildings in that area of land and any residences and other buildings within 50 metres of that area of land;
  - (e) shall state the period for which the licence or tenement, as the case may be, is sought;
  - (f) is to be accompanied by the prescribed fee;
  - (g) where it is proposed that the licence or mining tenement be granted to 2 or more miners, shall state the proposed percentage of each in the licence or mining tenement; and
  - (h) shall be accompanied by an amount of money sufficient to cover the cost of advertising the application.

- (2) An applicant for the grant of an exploration licence, exploration retention licence or a mining tenement shall, at the request of the Secretary, furnish such further information in relation to his application, or such evidence in support thereof, as that person may require.
- (3) The Secretary or a mining registrar may allow an applicant such time as he considers reasonable to enable the applicant to obtain information required to be lodged in support of the application, and if the applicant obtains that information and lodges it with that person within the time so allowed, the application shall be treated, and shall be as valid and effective, as though it were lodged in its completed form at the time when it was first lodged.

**162AA    Applicant not required to give notice where applicant owner or occupier**

Nothing in this Act is to be taken to require notice of the making of an application under this Act to be served on an owner or occupier of land that will or is likely to be affected by the grant of the application if the owner or occupier of the land is the applicant.

**162A      Refusal of application**

- (1) Notwithstanding any other provision in this Act, an application for the grant of an exploration licence or a mining tenement (other than a mineral lease) may be refused by the Minister any time after the application is received in accordance with this Act and before publication of a notice under section 163.
- (2) Where an application for an exploration licence or mining tenement (other than a mineral lease) is refused under subsection (1) the Minister shall:
  - (a) notify the applicant, in writing, of the refusal of the application and the reasons for that refusal;
  - (b) in the case of an application that is made before 1 January 2000 – refund to the applicant the prescribed fee, the prescribed rent and the money referred to in section 162(1)(h) that accompanied the application; and
  - (c) in the case of an application that is made on or after 1 January 2000 – refund to the applicant the prescribed fee and the money referred to in section 162(1)(h) that accompanied the application.

**163 Notice of application**

- (1) As soon as practicable after an application for the grant of an exploration licence, exploration retention licence or mining tenement (other than a licence or tenement to which Part XIB applies) is received in accordance with the provisions of this Act, the Secretary must cause to be published in a newspaper printed and circulating in the Territory a notice containing:
- (a) the name of the applicant;
  - (b) the type of title applied for;
  - (c) the registration number, if any, of the application;
  - (d) the period in respect of which the exploration licence or mining tenement is sought;
  - (e) a description of the land in respect of which the application is made sufficient to enable an interested person to determine its location, or a map that indicates the proposed area by reference to the boundaries of existing land holdings or geographical features;
  - (f) a statement to the effect that the owner or occupier of land in respect of which the application is made may, not later than 2 months after the date specified in the notice (being at least 21 days after the application was lodged) lodge in writing with the Department an objection to the grant;
  - (fa) if Part XIA applies: a statement to the effect that any registered native title claimants and registered native title bodies corporate in relation to land in respect of which the application is made may, not later than 2 months after the date specified in the notice (being the same date as the date specified in the notice under paragraph (f)) or, in the case of a person to whom subsection (5) applies, within the further time allowed under that subsection, lodge in writing with the Department an objection to the grant; and
  - (g) a statement to the effect that any other person may, within 2 months after the date specified in the notice (being the same date as the date specified in the notice under paragraph (f)), lodge in writing with the Department comments on the grant.
- (2) Objections and comments may be lodged in response to a notice published under subsection (1) in accordance with the statement referred to in subsection (1)(f), (fa) or (g), as the case requires.

## (2A) Where:

- (a) the grant of the exploration licence, exploration retention licence or mining tenement is an act of the type referred to in section 140B(1)(a); and
- (b) there are no registered native title claimants or registered native title bodies corporate in relation to any of the affected land,

the representative Aboriginal/Torres Strait Islander body in relation to any of that land may, within 2 months after the date of publication of the notice under subsection (1) or within the further time allowed in writing by the Minister, lodge in writing with the Department comments on the grant.

- (2B) An objection or comment lodged under subsection (2) or (2A) is to be lodged in duplicate and is to set out the grounds on which it is made.
- (2C) Any objections or comments lodged in accordance with this section that do not relate to registered native title rights and interests are to be dealt with in accordance with the procedures relating to objections to the grant of the relevant mining interest.
- (2D) If Part XIA applies, subject to subsections (2E) and (2F), any native title objection lodged in accordance with this section by a registered native title claimant or registered native title body corporate is to be dealt with under Part XIA.

*Note: If Part XIA does not apply, native title rights and interests may be dealt with under the Native Title Act.*

- (2E) An objection to the grant of an extractive mineral permit lodged in accordance with this section by a registered native title claimant or registered native title body corporate is to be dealt with under section 111(1)(b).
- (2F) Where, in relation to a prescribed mining act to which the consequences of section 24MD(6B) of the *Native Title Act* apply, both native title objections and other objections are lodged, then:
  - (a) the native title objections are to be dealt with under Part XIA; and
  - (b) the other objections are to be dealt with in accordance with the procedures relating to objections to the grant of the relevant mining interest.



- (3) As soon as practicable after an objection or comment is lodged in accordance with this section, the Secretary or the principal registrar must advise the applicant for the grant of the relevant mining interest of the objection or comment and give the applicant a copy of the objection or comment.
  - (4) An applicant who is advised under subsection (3) of an objection may, within 21 days after receiving the advice, submit to the Secretary, a written answer to the objection or comment.
  - (5) Where Part XIA applies, subject to subsection (5A), if, within 3 months after the date specified in a notice published under subsection (1) (being the same date as the date specified in the notice under subsection (1)(f)), a person (other than a person served under section 140E(1)) advises the Minister in writing that the person has made an application to the Federal Court for a determination of native title in respect of any of the affected land, the person may, within 4 months after the date so specified, lodge an objection to the prescribed mining act.
- (5A) Subsection (5) does not apply in relation to the following:
- (a) affected land that is Aboriginal land within the meaning of the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth;
  - (b) a prescribed mining act that is an act of the kind described in section 140B(1)(b)(i) unless there is a determination in force under section 43A(1)(b) of the *Native Title Act* in respect of the relevant provisions of this Act.
- (6) An objection lodged under subsection (5) is to be taken not to have been lodged if, by the end of 4 months from the date so specified in the notice published under subsection (1), the Native Title Registrar:
- (a) has not accepted the claim for registration; or
  - (b) has not yet decided whether or not to accept the claim for registration.

#### **164 Priority in considering applications**

- (1) Where 2 or more applications are lodged under this Act for the grant of an exploration licence, exploration retention licence or mining tenement in respect of the same land, unless specific provision is made in this Act relating to the priority to be given, the applicant who first lodges his application shall receive priority in the consideration of his application.

- (2) Where 2 or more applications for the grant of an exploration licence referred to in subsection (1) are lodged on the same day, they have the same priority as each other.
- (3) For the purposes of subsection (1), an application for a mining tenement, other than a mineral lease, shall be deemed to be lodged at the time when the area of land which is the subject of the application is marked out in accordance with the Regulations.
- (4) For the purpose of ascertaining priority under subsection (2), an application for the grant of an exploration licence that is received by the Department after close of business on a particular day is to be taken to be lodged on the next day the Department is open for business.
- (5) The hours during which offices of the Department are open for business are to be set out in guidelines made under section 8AA.

#### **164A Substantial compliance**

- (1) Subject to Part XIA but despite the other provisions of this Act, the Minister may grant or renew an exploration licence, exploration retention licence or mining tenement, and a mining registrar may grant or renew an extractive mineral permit, notwithstanding that the applicant for the licence, tenement or permit may not have complied in all respects with the provisions of this Act or the Regulations.
- (2) The grant or renewal of an exploration licence, exploration retention licence or mining tenement is not to be impeached because of an informality or irregularity in the application or in any proceeding previous to the grant or renewal except on the ground that there has been fraud or that Part XIA has not been complied with.

#### **164B Notification of intention to grant application**

- (1) On deciding to grant an exploration licence, exploration retention licence or mining tenement, the Minister must in writing notify the applicant that he or she will grant the licence or mining tenement if the applicant:
  - (a) pays the prescribed rent in respect of the licence or mining tenement; and
  - (b) lodges with the Minister the security referred to in section 16(3)(b), 41(4), 166B or 166C as the case requires,on or before the date specified for payment in the notification (which must be at least 30 days after the date of the notification).

- (2) The Secretary may, on the request of an applicant who must lodge security under subsection (1)(b), extend the time within which the applicant must lodge the security under subsection (1).
- (3) The date of the issue of the receipt for an applicant's payment of the prescribed rent or of the receipt for lodgement by the applicant of the security, whichever receipt is last issued, is to be taken to be the date the Minister grants the licence or mining tenement.
- (4) This section applies subject to section 164C.

**164C      Application of section 164B to applications made before  
1 January 2000**

- (1) If, on 1 January 2000:
  - (a) an application for an exploration licence, an exploration retention licence or a mining tenement made before that date has not been granted;
  - (b) the application was accompanied by the prescribed rent required under this Act as in force before that date to accompany the application; and
  - (c) the applicant must lodge security in respect of the application, section 164B(1)(a) does not apply in respect of the application.
- (2) To avoid doubt, the date that the Minister is to be taken to grant an application referred to in subsection (1) is the date of the receipt issued for the lodgement of the security by the applicant under section 164B(1)(b).
- (3) If, on 1 January 2000:
  - (a) an application for an exploration licence, an exploration retention licence or a mining tenement made before that date has not been granted;
  - (b) the application was accompanied by the prescribed rent required under this Act as in force before that date to accompany the application; and
  - (c) the applicant is not required to lodge security in respect of the application, section 164B does not apply in respect of the application.

- (4) To avoid doubt, the date the Minister is to be taken to grant an application referred to in subsection (3) is the date that the Minister would have granted the application under this Act as in force before 1 January 2000.

**165 Notification of grant**

As soon as practicable after an exploration licence, exploration retention licence or mining tenement has been granted under this Act, there shall be published on the Department's internet website for mining titles information a notice specifying:

- (a) the type of title granted;
- (b) the name of the person to whom it is granted;
- (c) the registration number of the licence or tenement involved;
- (d) the period in respect of which the licence or tenement has been granted; and
- (e) a map that clearly indicates the licence or tenement area by reference to the boundaries of existing land holdings or geographical features.

**165A Notification of conditions relating to native title**

Where the Minister decides to do a prescribed mining act to which Part XIA applies, the Minister must give notice in writing to the registered native title claimants and registered native title bodies corporate in relation to any of the affected land of:

- (a) the decision to do the act; and
- (b) if the act is subject to conditions relating to native title rights and interests: those conditions,

and, if the Tribunal recommended that the act may be done subject to conditions different from the conditions referred to in paragraph (b), the notice is to include a statement to the effect that there is a difference.

**166      General conditions**

- (1) All exploration licences, exploration retention licences and mining tenements are granted subject to the condition that the holder will:
- (b) allow a member of the Police Force, a mining officer, or a person authorized in writing for that purpose by the Secretary, on production of that authorization, to enter a licence area or mining tenement area at any time and examine the activities of the holder thereon;
  - (ba) notify the Secretary in writing of any change in an address referred to in section 162(1)(b) within 14 days of any such change;
  - (c) comply with the law in force in the Territory relating to the lighting, use and control of fire;
  - (d) comply with the law in force in the Territory relating to the control and use of water and to soil conservation;
  - (e) not interfere with land used as a yard, garden or orchard, or on which substantial improvements exist, except with the written consent of the owner or occupier, if any, of that land;
  - (f) pay the prescribed rent for the licence area, exploration retention licence or mining tenement area at the time and in the manner prescribed; and
  - (g) subject to section 175(3), in respect of all minerals or extractive minerals obtained from a mineral lease area, extractive mineral lease area or extractive mineral permit area, pay royalties to the Crown (or, where he is not liable to pay the royalties, ensure that the royalties are paid by or on behalf of the person who is so liable) at such times, at such rates, in such manner and subject to such conditions, as are from time to time prescribed by or under this or any other law of the Territory,

and such other conditions, not inconsistent with this section or the specific provisions of this Act imposing conditions to which exploration licences, exploration retention licences or particular mining tenements are subject, as the person granting the exploration licence, exploration retention licence or mining tenement, as the case may be, thinks fit and endorses on the grant document.

- (1A) All exploration licences are granted subject to the condition that the holder of the licence or the holder's agent must also hold the relevant Authorisation before carrying out on the licence area any exploration, operations or works involving substantial disturbance.
- (1B) All exploration retention licences and mining tenements are granted subject to the condition that the holder of the licence or tenement or the holder's agent must also hold the relevant Authorisation before carrying out on the licence area or mining tenement area any exploration or mining activity.
- (2) A condition endorsed on an exploration licence, exploration retention licence or mining tenement document (other than an extractive mineral permit) may provide for the approval of the Secretary to be obtained before a particular action is taken and for the Secretary to impose conditions on the taking of that action, and compliance with the conditions so imposed by the Secretary shall be a condition of that licence, exploration retention licence or mining tenement.
- (3) Where a condition of an exploration licence, exploration retention licence or a mining tenement (other than an extractive mineral permit) requires the holder to do any thing in relation to the licence area or tenement area and the holder does not, within the time provided in the condition, or within such further time as the Secretary allows, do that thing, the Secretary or a person authorized by him may enter on the licence area or tenement area, as the case may be, with such assistance as, and take whatever action, he considers necessary for doing that thing, and the costs incurred by him in so doing shall be a debt due and payable by the holder to the Territory, whether or not at the time that the thing was done by the Secretary or that person, the exploration licence, exploration retention licence or mining tenement had been cancelled, forfeited, surrendered or had expired.

**166A      Where acts may be done subject to conditions**

- (1) Where under this Act an act may be done in relation to land in respect of which native title rights and interests exist or may exist subject to conditions relating to those rights and interests being complied with by the parties, the conditions have effect and may be enforced as if they were terms of a contract among the parties.
- (2) If a person lodges a native title objection to the doing of the act, any other person in the native title claim group concerned is taken to be a party for the purposes of subsection (1).

**166B Security for compliance with this Act and conditions of mining interest**

- (1) Before granting, renewing or varying a mining interest, the Minister may require the applicant for the grant, renewal or variation to lodge with the Department a security in the form, for the amount and from the person the Minister thinks fit for a purpose specified in subsection (2).
- (2) Security may be required under subsection (1) for any of the following purposes:
  - (a) to secure the applicant's compliance with this Act;
  - (b) to secure the applicant's compliance with the conditions to which the grant, renewal or variation is made.

**166C Security for compensation that may be payable to native title holders**

- (1) Before granting, renewing or varying a mining interest, the Minister may require the applicant for the grant, renewal or variation to lodge with the Department a security in the form, for the amount and from the person the Minister thinks fit for the purpose of securing the payment by the applicant of compensation that may be payable for the effect of the grant, renewal or variation on native title rights and interests.
- (2) Instead of lodging a security in pursuance of a requirement under subsection (1), an applicant may pay into the Trust Fund an amount that the Minister thinks sufficient to cover payment (if any) of the compensation referred to in subsection (1).
- (3) The Territory is not liable to reimburse an applicant for any amount by which a security lodged or an amount paid under this section is insufficient to meet the applicant's liability to pay the compensation referred to in subsection (1).

**166D Complaints procedure**

- (1) This section applies in relation to an activity authorised by or under this Act that is being conducted, to any extent, on an area of land that is an alternative provision area where there is a determination in force under section 43A(1)(b) of the *Native Title Act* in respect of the provisions of this Act.

(2) If:

- (a) a registered native title claimant or registered native title body corporate in relation to land on which an activity is being conducted; or
- (b) the owner of that land,

is of the opinion that the activity is being conducted in a manner that adversely affects his or her registered interests in the land, the claimant, body corporate or owner may lodge in writing with the Minister a complaint about the matter.

(3) Without limiting the generality of subsection (2), the things that may be complained of include the following:

- (a) the effect that the activity is having on a sacred site within the meaning of the *Northern Territory Aboriginal Sacred Sites Act*;
- (b) the activities of fossickers.

(4) On receipt of a complaint under subsection (2), the Minister may do one or more of the following:

- (a) seek an explanation about the matter from the person conducting the activity the subject of the complaint;
- (b) request the person conducting the activity to attend a meeting with the Minister or a person authorised by the Minister to discuss the matter;
- (c) request the person conducting the activity and the complainant to attend a conference with the Minister or a person authorised by the Minister with a view to resolving the matter,

and, having done one or more of the things referred to in paragraphs (a), (b) and (c), may do one or more of the following:

- (d) give the person conducting the activity notice in writing requiring the person to take specified action within a specified period and, if the person fails to comply with the notice, authorise another person to enter the land and take that action, the costs of that other person taking that action being a debt due and payable to the Territory by the person to whom the notice was given;
- (e) subject to this Act, vary the conditions to which the conduct of the activity is subject;



- (f) subject to this Act, take any other action, including cancelling the relevant mining interest, as the Minister considers appropriate.

#### **167 Tenants in common**

Where an exploration licence, exploration retention licence or mining tenement is granted to 2 or more miners, it shall be held by them as tenants in common:

- (a) in the percentages specified in the exploration licence, exploration retention licence or mining tenement; or
- (b) where the exploration licence, exploration retention licence or mining tenement does not specify such shares, in equal shares.

#### **168 Exchange of mining tenement**

- (1) Apart from Parts XIA and XIB as applicable, nothing in this Act prevents the holder of a mining tenement applying for the grant of a mining tenement of the same or a different kind in substitution for that first-mentioned mining tenement.
- (2) Where a mining tenement is granted in substitution for a mining tenement, the original mining tenement is automatically cancelled by the granting of the substituted mining tenement.

#### **169 Notification of land ceasing to be a mining tenement area etc.**

The Secretary shall cause to be published on the Department's internet website for mining titles information, as soon as practicable after he becomes aware or is satisfied that land has ceased, or will on a particular date cease, to be subject to an exploration licence, exploration retention licence or a mining tenement (other than an extractive mineral permit), a notice:

- (a) indicating the registration number of the relevant exploration licence, exploration retention licence or mining tenement or former exploration licence, exploration retention licence or mining tenement, as the case may be;
- (b) showing a map that indicates the area to which the cessation or intended cessation relates, by reference to the boundaries of existing land holdings or geographical features; and
- (c) indicating the date on which the land ceased or is to cease to be so subject.

**170 Refund of rent**

- (1) If an exploration licence, exploration retention licence or mining tenement, or renewal thereof, is not granted, the prescribed rent that accompanied the application is to be refunded to the person who paid the prescribed rent.
- (2) If an exploration licence, exploration retention licence or a mining tenement is granted or renewed in respect of part only of the land applied for, there shall be refunded to the person who paid the prescribed rent that accompanied the application the difference between that amount of rent and the amount of rent required by this Act to be paid for the land in respect of which the exploration licence, exploration retention licence or mining tenement is granted or renewed.
- (3) Where a refund is to be paid to a person under this section, it is to be sent to the address nominated for that purpose at the time of making the payment or, if no address was nominated, to the applicant's address for service under section 188(1)(b).

**171 Cancellation, &c.**

- (1) Subject to this section, the Minister may cancel an exploration licence or exploration retention licence or may forfeit a mining tenement (other than an extractive mineral permit) where the holder of the licence or mining tenement contravenes or does not comply with:
  - (a) a condition to which the licence or tenement is or is deemed to be subject;
  - (b) a direction given by the Minister or the Secretary under this Act or the Regulations, or under a condition of the licence or tenement; or
  - (c) a provision of this Act or the Regulations relating to that licence or tenement.
- (2) Except as provided in subsection (2A), the Minister shall not cancel or forfeit an exploration licence, exploration retention licence or a mining tenement under subsection (1) unless he has first:
  - (a) given to the holder written notice of his intention so to do, indicating the grounds for his proposed action;

- (b) specified in that notice a date, not being earlier than 30 days after the service of that notice on the holder, on or before which the holder may submit to the Minister any matter that he wishes the Minister to consider before deciding whether to cancel or forfeit the licence or tenement; and
  - (c) considered any matter referred to him by the holder in pursuance of paragraph (b).
- (2A) The Minister may cancel an exploration licence or exploration retention licence or forfeit a mining tenement under subsection (1) if satisfied that:
  - (a) the holder of the exploration licence, exploration retention licence or mining tenement has contravened or failed to comply with a provision of:
    - (i) this Act or the Regulations relating to the payment of rent; or
    - (ii) this Act or the Mineral Royalty Act relating to the payment of royalties,in respect of the exploration licence, exploration retention licence or mining tenement; and
  - (b) the contravention or non-compliance has continued for not less than 30 days after service on the holder of a notice notifying the holder of the contravention or non-compliance.
- (3) Where the Minister cancels or forfeits an exploration licence or a mining tenement under this section, he shall forthwith give written notice of that action to the holder thereof.
- (4) A cancellation or forfeiture referred to in subsection (3) takes effect on the signing of the notice to be given to the holder under that subsection.
- (5) Where a notice under subsection (2) is served on the holder of an exploration licence or an exploration retention licence, and before the decision under that subsection by the Minister is made, the Minister shall not grant to the holder of the exploration licence or exploration retention licence a mining tenement in respect of any part of the licence area.

- (6) On the cancellation or forfeiture taking effect, the person or corporation to whom the written notice is to be given under subsection (3) ceases to hold the exploration licence, the exploration retention licence or the mining tenement but remains liable for:
- (a) any act or omission done, caused, permitted or made by the person or corporation before the cancellation or forfeiture; and
  - (b) any liability imposed on or incurred by the person or corporation under this Act before the cancellation or forfeiture.

## **172 Applications for variation, &c.**

- (1) The holder of an exploration licence, exploration retention licence or a mining tenement may apply in writing to the Minister, or, in the case of an extractive mineral permit, to a mining registrar for a waiver, variation or suspension of, or exemption from the need to comply with, a condition of his exploration licence, exploration retention licence or mining tenement.
- (2) An application referred to in subsection (1) shall be lodged with the Department and be accompanied by the prescribed fee.
- (3) On receiving an application referred to in subsection (1), subject to Parts XIA and XIB as applicable, the Minister or mining registrar may, in his discretion, by notice in writing to the holder of the licence, exploration retention licence or tenement, and subject to such conditions as the Minister or mining registrar thinks fit:
- (a) waive;
  - (b) vary;
  - (c) suspend for such period as is specified in the notice; or
  - (d) exempt the holder from the need to comply with,  
a condition of the exploration licence, exploration retention licence or mining tenement.

## **173 Dealings with interest**

- (1) Subject to this section:
- (a) an exploration licence, or an interest in an exploration licence, may be sold, transferred or otherwise encumbered (otherwise than by mortgage) or disposed of;

- (b) a mining tenement (other than an extractive mineral permit), or an interest in such a mining tenement, may be sold, transferred, mortgaged or otherwise encumbered or disposed of; and
  - (c) an exploration retention licence, or an interest in such an exploration retention licence, may be sold, transferred, mortgaged or otherwise encumbered or disposed of; and
  - (d) an extractive mineral permit, or an interest in an extractive mineral permit, may be sold or transferred.
- (2) Subject to this section, a legal or equitable interest in or affecting an exploration licence, exploration retention licence or mining tenement is not capable of being created, assigned or dealt with, whether directly or indirectly:
  - (a) except:
    - (i) by an instrument in writing signed by the person creating, assigning or otherwise dealing with the interest lodged for registration, and accompanied by the prescribed registration fee; and
    - (ii) with the Minister's approval of the instrument referred to in paragraph (a); and
  - (b) until registered in the appropriate register kept under this Act.
- (2A) On the commencement of the *Law of Property Act 2000*:
  - (a) that Act applies to estates, interests and any other rights in or in respect of land granted, created or taking effect under this Act, but if there is an inconsistency between the provisions of that Act and a specific provision of this Act, this Act prevails; and
  - (b) Part 7 of that Act applies to or in respect of an interest granted, created or taking effect under this Act, subject that a reference to the Registrar-General is to be construed as a reference to the Minister.
- (3) The Minister shall not approve the transfer of an exploration licence, exploration retention licence or mining tenement under this section, or of an interest in such a licence or tenement, in respect of a licence or tenement area comprised of private land or partly of private land unless the proposed transferee has lodged with the Minister such security as the Minister thinks sufficient for the payment of compensation that, under this Act, the holder of the licence or tenement may become liable to pay.

- (4) Subject to this section, a transfer of an exploration licence, exploration retention licence or mining tenement, or of an interest in such a licence or tenement, shall not be effective so as to give a person other than the holder of a miner's right an interest in the exploration licence, exploration retention licence or mining tenement.
- (5) Where the holder of an exploration licence, exploration retention licence or mining tenement intends to transfer or to transfer an interest in that licence or tenement to another person or otherwise deal with the licence or tenement so that another person obtains an interest in it, he shall lodge with the Department, for consideration by the Minister:
  - (a) the instrument by which it is proposed to transfer or create that interest;
  - (b) where the licence or tenement, or the interest, proposed to be transferred or otherwise dealt with entitles or requires the proposed transferee or other person, as the case may be, to carry out exploration or mining activities on the licence area or mining tenement area:
    - (i) particulars of the technical qualifications of the proposed transferee or other person and his employees;
    - (ii) particulars of the technical advice available to the proposed transferee or other person; and
    - (iii) particulars of the financial resources of the proposed transferee or other person; and
  - (c) such further or other particulars as the Minister may require.
- (6) Where the holder of an exploration licence, exploration retention licence or mining tenement or of an interest therein, dies or becomes bankrupt, that licence, tenement or interest therein shall devolve on his personal representative or trustee, as the case may be, who shall have in respect thereof the same powers to sell, transfer, encumber or otherwise dispose of it as had the holder of the licence, tenement or interest immediately before his death or bankruptcy.
- (7) An exploration licence, exploration retention licence or mining tenement, or an interest in such a licence or tenement, is available to satisfy a judgment of a court, and any officer of the court empowered or directed by the court so to do has the same power to sell, transfer or otherwise dispose of that licence, tenement or interest as had the holder immediately before the judgment.

- (8) Subject to this section, a mortgagee may foreclose on a mortgage of an exploration retention licence or a mining tenement (other than an extractive mineral permit) and enter into possession of, and otherwise deal with, the licence area or tenement area in accordance with the terms of the mortgage.
- (8A) Where a mortgagee sells an exploration retention licence or mining tenement (other than an extractive mineral permit) under a power contained or implied in a mortgage secured over the exploration retention licence or mining tenement, the mortgagee may, as if the mortgagee were the holder of the exploration retention licence or mining tenement, execute a transfer of the exploration retention licence or mining tenement, and the transfer so executed may be lodged and registered under this section as if it had been executed by the holder of the exploration retention licence or mining tenement.
- (9) Subject to subsection (10), a personal representative or trustee referred to in subsection (6), or mortgagee referred to in subsection (8), is not required to obtain or hold a miner's right in order to hold or deal with the licence, tenement or interest.
- (10) Where a personal representative or trustee referred to in subsection (6), or mortgagee referred to in subsection (8), intends, or is directed, to carry out exploration, mining or other work under the exploration licence, exploration retention licence or mining tenement or hold the licence or tenement or interest for more than 6 months, he shall, before carrying out those conditions or the expiration of that period, as the case may be, obtain a miner's right or the Minister's exemption from the requirement to hold a miner's right.
- Penalty:       \$1,000.
- (11) The Minister may, on receiving an application for an exemption referred to in subsection (10), exempt the applicant for such period, and subject to such conditions, as he thinks fit, from the requirement to hold a miner's right.

## **174       Caveat**

- (2) A person claiming an interest in an exploration licence, exploration retention licence or a mining tenement (other than an extractive mineral permit) may, on payment of the prescribed fee, lodge with the Department a caveat in the prescribed form forbidding the registration of any dealing with that licence or tenement that is lodged for registration after the lodging of the caveat.

- (3) A caveat referred to in subsection (2) shall state the name of the caveator and an address at which he may be served with a notice under this section, and shall be signed by the caveator or his agent.
- (4) Subject to this section, a caveat lodged under subsection (2) shall be effective on and from the time it is received by the Department.
- (5) On the receipt of a caveat under this section, the Secretary or his or her delegate shall notify the holder of the relevant exploration licence, exploration retention licence or mining tenement by notice in writing sent to the holder's address for the service of notices that the caveat has been lodged.
- (6) The holder in respect of whose exploration licence, exploration retention licence or mining tenement a caveat is lodged under this section may apply to a warden's court for a summons ordering the caveator to appear before the court to show cause why the caveat should not be removed from the register, and the court, on being satisfied that the caveator has been served with the summons may, after hearing the evidence, if any, in support of the application, make such order as it thinks fit.
- (7) No instrument purporting to deal with an exploration licence, exploration retention licence or mining tenement or interest in an exploration licence, exploration retention licence or mining tenement that is lodged for registration after a caveat is lodged shall be registered while a caveat remains in force in respect of that licence or tenement, but upon receiving an application for the registration of such a dealing there shall be served by post on the caveator at his address for service of notices under subsection (3), a notice that an application for the registration of such a dealing has been made, and the caveat shall lapse on the expiration of 30 days after that notice is served upon the caveator.
- (8) Where a notice under subsection (7) has been served on a caveator, he or she may, on payment of the prescribed fee, lodge with the Department in the prescribed form a notice of continuation of the caveat and the caveat remains in force in respect of all purported dealings with the exploration licence, exploration retention licence or mining tenement, as the case may be, except that in respect of which the notice under subsection (7) was given, and the Secretary or his or her delegate must record the notice of continuation accordingly.
- (9) A caveator may, at any time, by notice in the prescribed form lodged with the Department, withdraw his caveat under this section.



- (10) A caveat having lapsed or been withdrawn under this section shall not be renewed by or on behalf of the same person in respect of the same interest, except by leave of a warden.

#### **174AA Aboriginal community living areas**

- (1) Where private land is land granted in pursuance of Part IV of the *Crown Lands Act* (as in force before the commencement of the *Pastoral Land Act*) or Part 8 of the *Pastoral Land Act* to an association for an Aboriginal community living area, then, subject to existing mining tenements, exploration licences, and exploration retention licences, a mining tenement, exploration licence, or exploration retention licence shall not, except with the consent of the owner, be granted on that private land within a distance of 1 km from a point on the land designated by the association and advised to the Minister within 30 days after the grant being effected or within such extended period as the Minister, in special circumstances, may allow.
- (2) An association referred to in subsection (1) may from time to time apply to the Minister to designate another point on the land from which the 1 km distance is measured and, subject to existing mining tenements, exploration licences, or exploration retention licences, the Minister may approve the designated point.
- (3) Nothing in this section empowers the limitation distance to extend beyond the boundaries of the private land.

#### **174E Inspection of underground workings**

Where under a mining tenement mining is authorised under or adjoining private land or land in respect of which there is an approved determination of native title that native exists:

- (a) the owner and occupier or registered native title body corporate (as the case may be) may, with the consent of the Secretary, inspect and survey the underground workings of the holder of the mining tenement; and
- (b) for that purpose, the holder must give that person reasonable access to the workings at all reasonable times.

#### **174F Consent to use of water**

The holder of a mining tenement area comprised of private land or partly of private land shall not on that private land, without the consent of the owner or occupier, use water artificially conserved by the owner or occupier or, except in connection with mining operations, fell trees, strip back or cut timber on the tenement area or remove any earth or rock there from.

**174G Stock on tenement area**

Nothing in this Act gives the holder of a mining tenement comprised of private land or partly of private land the right to impound any stock or other animals belonging to, or being in the custody or under the control of, the owner or occupier of that land or of any land adjoining that mining tenement area, or to disturb or molest any such stock or other animals in any way whatever, or to prevent any such stock or other animals from depasturing on or over the mining tenement area, unless that mining tenement area or relevant part thereof is fenced.

**Part XIII A Mining Trust Fund**

**174H Establishment of Trust Fund**

- (1) The Minister must establish and maintain the Mining Trust Fund.
- (2) For the purposes of subsection (1), an Accountable Officer's Trust Account is to be established under section 7 of the *Financial Management Act*.

**174J Payments into Trust Fund**

- (1) A person who is, may be, will be or may become liable under this Act to pay compensation for the effect of an act (including a prescribed mining act) on native title:
  - (a) may at any time; and
  - (b) must if required to do so under this Act or another law of the Territory,pay into the Trust Fund an amount in respect of that compensation.
- (2) Moneys paid into the Trust Fund under subsection (1) and interest earned on those moneys are to be used to pay amounts in respect of the compensation payable by the holder of the relevant mining interest to the native title holder.

**174K How trust amounts to be dealt with**

- (1) This section applies if an amount (in this section called ***the trust amount***) is being held in the Trust Fund in respect of an act and any of the following happen:
  - (a) an approved determination of native title that native title does not exist in the affected land is made;

- (b) the Minister informs the trustee in writing that he or she is not going to do the act;
  - (c) the following requirements are satisfied:
    - (i) an approved determination of native title that native title in the affected land exists has been made;
    - (ii) the relevant registered native title body corporate advises the trustee in writing that it wishes to accept the trust amount instead of any compensation to which the native title holder may be entitled under this Act for the effect of the act;
    - (iii) the person who paid the trust amount into the Trust Fund or that person's assignee advises the trustee in writing of his or her agreement to the registered native title body corporate accepting the trust amount instead of any compensation to which the native title holder may be entitled under this Act for the effect of the act;
  - (d) a determination is made by the Tribunal, on a claim for compensation in respect of the act, that a person is entitled to compensation or that no compensation is payable to any person;
  - (e) none of paragraphs (a), (b), (c) and (d) applies and, on the application of any person, the Supreme Court decides that it would be just and equitable in all the circumstances to pay the trust amount to that person or another person (it not however being a sufficient ground for the purposes of this paragraph that a person has made or is required to make an application to the Federal Court for a determination of native title in respect of any of the affected land).
- (2) Where subsection (1)(a) or (b) applies, the trustee must:
- (a) repay the trust amount to the person who paid it into the Trust Fund or to that person's assignee; or
  - (b) if that person no longer exists: apply to the Supreme Court for a direction as to the payment of the trust amount.
- (3) Where subsection (1)(c) applies:
- (a) the trustee must pay the trust amount to the registered native title body corporate; and
  - (b) the native title holder has no further entitlement to compensation for the effect of the act under this Act.

- (4) Where subsection (1)(d) applies and the determination is that a person is entitled to an amount of monetary compensation:
  - (a) if the trust amount is the same as the amount determined: the trustee must pay the trust amount to the person;
  - (b) if the trust amount is less than the amount determined: the trustee must pay the trust amount to the person and the holder of the relevant mining interest must pay the shortfall to the person; or
  - (c) if the trust amount is more than the amount determined, the trustee must:
    - (i) pay the person so much of the trust amount as equals the amount determined; and
    - (ii) refund the excess to the person who paid the trust amount into the Trust Fund or that person's assignee or, if the person or assignee (as the case may be) no longer exists, apply to the Supreme Court for a direction as to its payment.
- (5) Where subsection (1)(d) applies and the transfer of property or the provision of goods or services constitutes some or all of the compensation, the trustee must apply to the Supreme Court for a direction as to the payment of the trust amount.
- (6) Where subsection (1)(d) applies and the determination is that no compensation is payable or to be given to any person, the trustee must repay the trust amount to the person who paid it into the Trust Fund or that person's assignee or, if the person or assignee (as the case may be) no longer exists, apply to the Supreme Court for a direction as to the payment of the trust amount.
- (7) Where subsection (1)(e) applies, the trustee must pay the trust amount in accordance with the decision of the Supreme Court.
- (8) If:
  - (a) the person who paid the trust amount into the Trust Fund or that person's assignee enters into a written agreement with a registered native title claimant that the claimant accepts the trust amount or part thereof on behalf of the native title holders who are signatories to the agreement, being all the native title holders in relation to the affected land, instead of any compensation to which those native title holders may be entitled under this Act for the effect of the act; and

- (b) the Minister is satisfied that, having regard to the information (if any) provided by the representative Aboriginal/Torres Strait Islander body or bodies in relation to any of the affected land and any other relevant matter, the signatories to the agreement are the only native title holders in relation to the affected land and that it is unlikely that there are any other native title holders in relation to that land,

then:

- (c) the trustee:
  - (i) must pay the trust amount or part thereof in accordance with the agreement to the registered native title claimant; and
  - (ii) if applicable: must pay the remainder of the trust amount to the person who paid it into the Trust Fund or that person's assignee or, if that person no longer exists, apply to the Supreme Court for a direction as to the payment of the remainder; and
- (d) the native title holders who are signatories to the agreement have no further entitlement to compensation for the effect of the act under this Act.

## **Part XIV                    Miscellaneous**

### **175                    Prescribed substances under the *Atomic Energy Act***

- (1) Subject to subsection (2), but notwithstanding anything elsewhere contained in this Act (other than subsection (3)) or the Regulations, in respect of a prescribed substance within the meaning of the *Atomic Energy Act 1953* of the Commonwealth, the Minister:
  - (a) shall exercise his powers in accordance with, and give effect to, the advice of the Minister of the Commonwealth for the time being administering section 41 of that Act; and
  - (b) shall not exercise his powers otherwise than in accordance with such advice.
- (2) Subsection (1) does not operate to prevent the Minister from acting without advice, or to require the Minister to take or give effect to advice, in relation to a matter arising under Part IV.

- (3) The lessee of a mineral lease granted in respect of a prescribed substance referred to in subsection (1) is liable to pay royalty to the Commonwealth, in respect of that prescribed substance obtained from the land comprised in the lease, in such manner and at such times, and at such rate on an amount calculated or assessed in accordance with such method, as are:
- (a) specified in the lease; or
  - (b) varied or determined in accordance with the terms of the lease.

#### **176 Land in certain parks and reserves**

- (1) In this section ***park or reserve*** does not include a park or reserve within the meaning of the *Territory Parks and Wildlife Conservation Act*.
- (2) Subject to Parts XIA and XIB as applicable, the Minister shall not grant an exploration licence, exploration retention licence or mineral lease in respect of land comprising the whole or part of a park or reserve unless:
- (a) the proposed exploration or mining activity is in accordance with a plan of management required or permitted by a law in force in the Territory to be prepared relating to that park or reserve;
  - (b) in the case of a park or reserve within the meaning of the *National Parks and Wildlife Conservation Act 1975* of the Commonwealth: the written approval of the Minister of the Commonwealth for the time being charged with the administration of that Act, or of the trustees or other persons in whose control and management the land is vested, has first been obtained;
  - (c) in the case of the sanctuary as defined in section 3 of the *Cobourg Peninsula Aboriginal Land and Sanctuary Act*: the written approval of the Board, within the meaning of that Act, has first been obtained; and
  - (d) the Administrator has approved of the proposed grant and the terms and conditions subject to which it is to be granted.

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- (3) Where an exploration licence, exploration retention licence or mineral lease is granted under this Act in respect of any land referred to in subsection (2), a condition referred to in section 11(7) of the *National Parks and Wildlife Conservation Act 1975* of the Commonwealth or to which approval in pursuance of section 33 of the *Cobourg Peninsula Aboriginal Land and Sanctuary Act* is expressed to be subject, whichever is applicable, shall be deemed to be a condition of the licence or lease.

**176A Environmental consideration relating to certain parks and reserves**

- (1) In this section:

**park or reserve** means a park or reserve within the meaning of the *Territory Parks and Wildlife Conservation Act* or land declared under section 9(4) of that Act to be a park or reserve for the purposes of this section.

**wilderness zone** means a wilderness zone declared under section 12 of the *Territory Parks and Wildlife Conservation Act*.

- (2) In respect of land comprising the whole or a part of a park or reserve, subject to Parts XIA and XIB as applicable the Minister shall not grant:
- (a) subject to subsection (3), an exploration licence or an exploration retention licence, unless he has considered the opinion of the Minister administering the *Territory Parks and Wildlife Conservation Act* in relation to the proposed grant; or
  - (b) a mineral lease or an extractive mineral lease, except in accordance with the conditions, if any, specified by the Minister administering the *Territory Parks and Wildlife Conservation Act*.
- (3) Notwithstanding subsection (2)(a), the Minister shall not grant an exploration licence or exploration retention licence in respect of land comprising the whole or part of a wilderness zone except in accordance with the conditions, if any, specified by the Minister administering the *Territory Parks and Wildlife Conservation Act*.
- (4) The mining registrar shall not grant an extractive mineral permit in respect of land comprising the whole or a part of a park or reserve except in accordance with the conditions, if any, specified by the Director within the meaning of the *Parks and Wildlife Commission Act*.

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- (5) The holder of an exploration licence or exploration retention licence shall not carry out exploration, or any other activity, which may cause significant disturbance to the surface of land comprising the whole or a part of a park or reserve, unless he has advised the Minister, in writing, of the proposed exploration or activity and he carries it out in accordance with such directions, if any, as the Minister thinks fit, or which are required under subsection (7) to be given, to protect the environment in or in the vicinity of the park or reserve.
  - (6) Subject to subsection (8), an exploration licence, exploration retention licence, mineral lease, extractive mineral lease or extractive mineral permit in respect of which a condition referred to in subsection (2)(b), (3) or (4) is specified is, in addition to the conditions imposed in pursuance of a power contained elsewhere in this Act, subject to that condition so specified, notwithstanding that the Minister or mining registrar, as the case may be, would not have the power, otherwise than under this section, to impose that condition.
  - (7) The Minister administering the *Territory Parks and Wildlife Conservation Act* may require the Minister to give as directions under subsection (5) such directions in relation to the protection of the environment in the park or reserve as the Minister thinks fit, and the Minister shall give those directions accordingly.
  - (8) Where a condition imposed by or under this Act is inconsistent with a condition referred to in subsection (2)(b), (3) or (4) or a direction given under subsection (7), the first-mentioned condition, to the extent of that inconsistency, has no force or effect.

#### **177 Compensation for damage to park or reserve**

- (1) Where the holder of an exploration licence or mineral lease, or his servant or agent, causes damage to the land in a park or reserve or to any improvements on that land:
  - (a) in the case of the holder of an exploration licence or his servant or agent: in excess of that reasonably necessary for the purposes of carrying out the exploration activities permitted by that licence to be carried out; and
  - (b) in the case of the holder of a mineral lease or his servant or agent – not being comprised in the lease,



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that holder of the exploration licence or mineral lease, as the case may be, shall pay to the trustees of the park or reserve or, where there are not trustees appointed, to the Territory or the Commonwealth, as the case may be, compensation for that damage and any loss arising there from, in accordance with this section.

- (2) Where the amount of compensation payable under this section cannot be agreed upon between the person to whom it is required to be paid and the holder of the exploration licence or mineral lease, as the case may be, the amount payable shall be as assessed by the Minister and, subject to subsection (3), shall become due and payable 30 days after notice of the Minister's assessment of the amount has been given to the person required to pay the amount.
- (3) A person aggrieved by an assessment by the Minister under subsection (2) may apply to the Supreme Court for the Minister's assessment to be reviewed and the Supreme Court, after informing itself of the facts in such manner as it thinks fit, may confirm the assessment of the Minister or substitute for that assessment such assessment of the amount of compensation payable as it thinks fit.
- (4) An application under subsection (3) acts as a stay of a person's obligation to pay compensation under this section until the decision of the Supreme Court is made known or such later time as the Court orders.

## **178      Reservation of land from occupation**

- (1) Subject to subsection (2), the Minister may, by notice in the *Gazette*, in relation to any land that is not occupied under an exploration licence, exploration retention licence or mining tenement:

- (a) reserve that land from occupation under this Act; or
  - (b) prohibit the recovery of any mineral or extractive mineral on or from that land,

for such period, and subject to such conditions, as he thinks fit.

- (1A) Subject to subsection (1B), an application for an exploration licence, exploration retention licence or mining tenement shall not be made in respect of any land reserved from occupation under subsection (1).

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- (1B) Nothing in subsection (1A) prevents a person or statutory corporation authorized under subsection (2) to occupy land reserved under subsection (1) from applying for a mineral lease over land he or it is so authorized to occupy.
- (1C) Notwithstanding subsection (1), the Minister may, by notice in the *Gazette*, in relation to land that is occupied under an exploration licence, give notice of his intention to reserve the land from occupation under this Act to take effect when the land ceases to be occupied under the exploration licence.
- (1D) Where a notice under subsection (1C) is published in the *Gazette*, the land that is occupied under the exploration licence shall, immediately on it ceasing to be so occupied, be reserved from occupation for such period, and subject to such conditions as the Minister thinks fit, as if a notice had been published in the *Gazette* under subsection (1).
- (1E) Where, at the time that land referred to in a notice under subsection (1C) is reserved from occupation, an application for the renewal of the exploration licence referred to in the notice had been made under section 29A and has not been determined, the application remains in force and may be determined and, where the application is granted, the reservation of the land from occupation is, on and from the granting of the application, revoked in relation to the land in respect of which the application is granted.
- (1F) Nothing in subsection (1A) prevents a miner, who is invited by the Minister in writing to do so, from applying for an exploration licence over all or a part of the land referred to in a notice published under subsection (1C), and the application may be made notwithstanding anything in this Act which would prevent the application being made.
- (1G) Where an application for an exploration licence is made by a miner in response to an invitation under subsection (1F), subject to Parts XIA and XIB as applicable, the Minister may grant the exploration licence despite any other provision of this Act which would prevent the licence being granted and, where an exploration licence is granted, the reservation of the land from occupation is, on and from the granting of the exploration licence, revoked in relation to the land in respect of which the licence is granted.
- (1H) Notwithstanding subsection (1G), an exploration licence referred to in that subsection shall not be granted while the exploration licence referred to in the notice published under subsection (1C) continues in force.

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- (2) Subject to subsections (4) and (5) and to Parts XIA and XIB as applicable, the Minister may, in respect of any land reserved from occupation under subsection (1), authorize:
- (a) a statutory corporation; or
  - (b) a person who has entered into a contract with the Territory, to occupy and use that land or part of that land for:
    - (c) exploration;
    - (d) mining (other than extracting extractive minerals);
    - (e) the treatment, processing or refining of minerals; or
    - (f) for any other purpose specified in the authorization by the Minister,
- for such period, and on such conditions, as the Minister thinks fit and a person or statutory corporation so authorized may occupy and use that land accordingly.
- (2A) Subject to subsections (4) and (5) and to Parts XIA and XIB as applicable, the Minister may, in respect of any land reserved from occupation under subsection (1), authorize a person to occupy and use that land or part of that land for extracting, removing, storing or processing the extractive mineral or extractive minerals specified in the authorization (***an extractive mineral authorization***) for the period (not exceeding 2 years) and subject to the conditions that the Minister thinks fit and a person so authorized may occupy that land accordingly.
- (2B) The holder of an extractive mineral authorization may, at any time before the expiration of the authorization, apply to the Minister for the renewal of the authorization.
- (2C) The Minister may renew an extractive mineral authorization for the period (not exceeding 2 years) and subject to the conditions (which may be in addition to or vary from those to which the authorization is already subject) that the Minister thinks fit.
- (2D) If an application for the renewal of an extractive mineral authorization has been made in accordance with subsection (2B), the authorization is taken to continue in force until that renewal is granted or refused, as the case may be.
- (2E) Section 173 applies (with the necessary changes) in relation to an extractive mineral authorization as if the authorization is an extractive mineral permit.

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- (3) All minerals and extractive minerals recovered from any land reserved under subsection (1) otherwise than in accordance with an authorization under this section, remain the property of the Crown.
  - (4) The Minister shall not cancel a reservation under subsection (1) of any land which is a park or reserve or that has been reserved for the protection of sites of historical interest or historical remains, or authorize under this section the occupation of such land, except with the approval of the Administrator.
  - (5) The Minister shall not:
    - (a) cancel a reservation under subsection (1) of any land which has been granted to an association in pursuance of Part IV of the *Crown Lands Act* (as in force before the commencement of the *Pastoral Land Act*) or Part 8 of the *Pastoral Land Act* for an Aboriginal community living area except with the consent of the owner and the approval of the Administrator; or
    - (b) authorize under this section the occupation of such land except after consultation with the owner.

#### **179 Right of access**

- (1) Where, by or under this Act, a person is given the right to occupy any land under an exploration licence, exploration retention licence or a mining tenement, that person shall have for himself, his employees and his agents, a right of access to that land by the shortest practicable route to a road, within the meaning of the *Control of Roads Act*, a railway line, the sea or a waterway, and for the purpose of marking out a right of way in the prescribed manner and of performing whatever work is reasonably necessary for the construction of the right of way, may enter on any land with machinery, equipment and workmen.
- (2) Subject to subsection (2A), where any land (other than Crown land) over which a right of way is constructed in pursuance of subsection (1) is injured or depreciated in value by or as a result of the right of way, the owner and occupier of the land shall be entitled to be paid compensation by the holder of the exploration licence, exploration retention licence or mining tenement, as the case may be, for their respective loss or damage thereby sustained.
- (2A) Compensation for the effect of the construction of a right of way under subsection (1) on native title is payable to the native title holder by the person claiming the right of way.

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- (2B) A native title holder who intends to claim compensation under this section must lodge the claim in writing with the person claiming the right of way within 3 years after the act giving rise to the claim is done or within the further time the Tribunal allows.
- (2C) The Tribunal has the jurisdiction to extend the time for making a claim referred to in subsection (2B) as if the claim were an action to which section 44 of the *Limitation Act* applies and the Tribunal were a court for the purposes of that section.
- (2D) In the absence of agreement, the compensation that may be payable to a native title holder is not determinable by the Tribunal until there is an approved determination of native title that the holder holds native title in the affected land.
- (3) In the event that an agreement about compensation payable under subsection (2) or (2A) is unable to be reached, the person claiming the right of way or the owner or occupier or registered native title body corporate may refer the dispute for determination to:
- (a) the Tribunal if it is a dispute about compensation for:
    - (i) the construction of a right of way for the purposes of an extractive mineral interest; or
    - (ii) the effect of the right of way on native title; or
  - (b) the warden in any other case.
- (4) A person shall not, except in accordance with a law in force in the Territory, interfere with a right of access given under this section.

Penalty: \$1,000.

Default penalty: \$500.

## **180 Removal of timber, &c.**

- (1) Subject to this section and section 24GE of the *Native Title Act*, the holder of a mining tenement or exploration retention licence may cut and remove from the mining tenement or exploration retention licence or from any land over which there is a non-exclusive pastoral lease within the meaning of section 248B of the *Native Title Act*, for purposes relating to mining on that mining tenement or exploration retention licence, any timber.
- (2) The holder of a mining tenement or exploration retention licence comprised of Crown land shall not cut or remove timber on or from the land, otherwise than in connection with his mining operations on that land, except with the permission, in writing, of the Minister.

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- (3) Subsection (1) does not apply to or in relation to land within 3 kilometres of a homestead, outstation or watering place on land held under a pastoral lease under the *Pastoral Land Act*, or in relation to land which the Minister, by notice in the *Gazette*, declares to be land in respect of which subsection (1) does not apply.

**181      Erection of works, &c.**

- (1) The Minister may, upon the written application of a person, authorize that person to enter on any exploration retention licence area, mining tenement area or land in respect of which a notice under section 178(1) is in force for the purpose of erecting or constructing on or across that area overhead electricity lines, a tramway, railway, road or pipeline and authorization of the Minister so given shall empower that person to do all that is reasonably necessary on that area or land for that purpose and for the purpose of using and for the purpose of repairing, altering and maintaining those electricity lines or that tramway, railway, road or pipeline so erected, constructed or used.
- (2) An authorization under subsection (1) shall be subject to such terms and conditions as are prescribed or are imposed by the Minister.
- (3) A person, not being so authorized by or under any other law in force in the Territory, by the Minister under this section or by the holder of an exploration retention licence or mining tenement, as the case may be, who enters an exploration retention licence area, mining tenement area or land in respect of which a notice under section 178(1) is in force and erects, constructs or uses, or who causes to be erected, constructed or used, overhead electricity lines or a tramway, or erects, constructs or uses or causes to be erected, constructed or used such overhead electricity lines or a tramway otherwise than in accordance with the provisions of any law or authority in pursuance of which he purports to act, is guilty of an offence.

Penalty:      \$5,000.

Default penalty: \$500.

**182      Construction of works, &c., on certain land**

- (1) In this section *mining tenement* includes an exploration licence and exploration retention licence.

- (2) Subject to this section, the Minister may, on the written application of a miner, authorize that miner to enter on:

- (a) a mining tenement area;
- (b) Crown land; or
- (c) land to which a notice under section 178(1) is in force,

for the purpose of:

- (d) constructing or laying on, under or across that area or land a road or railway;
- (e) constructing or laying on, under or across that area or land a drain or a water, gas, oil, slurry or tailings pipe; or
- (f) sinking or constructing on that area or land a well or water bore,

and the authorization of the Minister so given shall empower that miner to do all that is reasonably necessary on that area or land for that purpose and for the purpose of using, repairing, altering and maintaining that road, railway, drain, pipe, well or water bore so constructed, laid or sunk.

- (3) The Minister shall not grant an authorization under subsection (2) in respect of a mining tenement area or land comprising a pastoral lease under the *Pastoral Land Act* unless the Minister is satisfied that, not later than 14 days before the application for the authorization, the applicant had given written notice to the holder of the mining tenement or the lessee, as the case may be, of the applicant's intention to apply and has published a notice of that intention in a newspaper circulating in the area in which the mining tenement or lease is situated.
- (4) The Minister shall not grant an authorization under subsection (2) if the purpose for which it is sought is not related to mining.

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- (5) A person, not being authorized by or under this Act or any other law in force in the Territory or, as the case may be, by the holder of a mining tenement, where land is the subject of a mining tenement, or by a lessee of a pastoral lease under the *Pastoral Land Act* where land is the subject of a pastoral lease, who enters a mining tenement area, Crown land or land to which a notice under section 178(1) is in force, who constructs, lays or sinks, or causes to be constructed, laid or sunk, a road, railway, drain, water, gas, oil, slurry or tailings pipe, well or water bore otherwise than in accordance with the provisions of any law or authority under which the person purports to act, is guilty of an offence.

Penalty: \$5,000.

Default penalty: \$500.

### **183 Compensation for works**

The holder of an exploration licence, exploration retention licence or mining tenement or the lessee of a pastoral lease under the *Pastoral Land Act* or a registered native title body corporate who suffers damage, injury or loss as a result of a person taking an action under an authorization granted under section 181 or 182 is entitled to receive from that person such compensation in respect of that damage, injury or loss as is determined by the Minister, and on such a determination being made, the amount so determined may be recovered by the holder or lessee as a debt due and payable from that person.

### **184 Compensation to pastoral lessees and owners of private land**

- (1) There shall be payable by the holder of an exploration licence, exploration retention licence or mining tenement to the owner and occupier of private land or the lessee of a pastoral lease under the *Pastoral Land Act*, as the case may be, compensation in accordance with this section on account of the granting of the exploration licence, exploration retention licence or mining tenement which compensation shall be for:
- (a) in the case of the holder of an exploration licence or his servant or agent:
    - (i) damage caused to the private land, including improvements on the land; or
    - (ii) damage caused to the land comprised in the pastoral lease, including improvements on the land, in excess of that reasonably necessary for the purposes of carrying out the exploration activities permitted by the licence to be carried out; and



- (b) in the case of the holder of a mining tenement or exploration retention licence or his servant or agent: damage caused to the land and improvements referred to in paragraph (a), other than the land or improvements on land the subject of the mining tenement or exploration retention licence.
- (2) The owner and occupier of private land or the lessee, as the case may be, of land referred to in subsection (1), shall be paid, on account of their respective interests in that land, compensation under that subsection:
  - (a) for being deprived of the use of the surface or part of the surface of the land;
  - (b) for damage to the surface of the land through mining or exploration activities conducted thereon;
  - (c) for being deprived of the use of improvements on the land;
  - (d) for the severance of the land from other land owned or occupied by them; and
  - (e) for all other damage to the land or improvements on the land arising out of mining, exploration or other work under the exploration licence, mining tenement or exploration retention licence.
- (3) In determining the amount payable under subsection (1), no account shall be taken of minerals known or supposed to be on or under the land referred to in that subsection.
- (4) Where the amount of compensation payable under this section cannot be agreed upon between the owner and occupier of the private land or the pastoral lessee, as the case may be, and the holder of the exploration licence, mining tenement or exploration retention licence, as the case may be, the amount payable shall be as determined by a warden and on being so determined may be recovered by the owner and occupier or lessee as a debt due and payable.

**184A      Conditions about compensation for effect on native title**

- (1) The Minister may do a prescribed mining act that is a future act to which Part XIA does not apply subject to conditions relating to the payment by the holder of the mining interest to which the prescribed mining act relates of compensation for the effect of the prescribed mining act on native title.

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- (2) The kinds of conditions that may be imposed under subsection (1) include but are not limited to the following:
- (a) conditions about the payment of compensation to the native title holder;
  - (b) conditions about the payment of an amount in respect of compensation into the Trust Fund;
  - (c) conditions about compensation for the effect on native title of activities done under the mining interest as a result of the prescribed mining act.

**185      Removal of equipment, &c.**

- (1) Subject to subsection (2), where an exploration licence, exploration retention licence or a mining tenement is cancelled, forfeited or surrendered, or expires, the person who was, immediately before that cancellation, forfeiture, surrender or expiration, the holder of that licence or tenement, as the case may be, shall within 3 months thereafter or such longer period as the Minister allows, remove or cause to be removed from the former licence area or mining tenement area all plant, machinery, engines and other equipment (other than timber used in or for supporting a shaft, drive, gallery or adit) and for that purpose he may re-enter the land with such assistance as, and do what, is reasonably necessary as though he were still the holder of that exploration licence, exploration retention licence or mining tenement.
- (2) If the Minister is satisfied that particular plant, machinery, engines or other equipment referred to in subsection (1) is or are of historical or educational value, he may permit the former holder of the exploration licence, exploration retention licence or mining tenement to leave it or them on the land, and upon that former holder agreeing in writing with the Minister to do so, that plant, machinery, engines or other equipment, as the case may be, becomes the property of the Territory.
- (3) Subject to subsection (1), if, within the time referred to in that subsection, the relevant plant, machinery, engines and other equipment is not removed, the Secretary shall, by written notice served on the former holder of that licence or tenement, as the case may be, direct that person to show cause within the time specified in the notice, being not less than 14 days after the service of that notice, why the plant, machinery, engines and other equipment should not be sold or removed.
- (4) Subject to subsection (5), if, within the time specified in a notice under subsection (3), the person on whom the notice is served has

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not shown cause to the satisfaction of the Secretary why the plant, machinery, engines and other equipment should not be sold or removed, the Secretary may cause it to be sold by public auction and the purchaser shall acquire good title thereto and have the right, within a reasonable time, to enter on the land and remove it, but if it or any part of it, having been offered at public auction for purchase by the highest bidder, is not sold, it becomes the property of the Territory.

- (5) An auction sale referred to in subsection (4) shall not be held until 7 days after notice of intention to hold it has been published in a newspaper circulated in the area in which the relevant land is situated.
- (6) The money received by the Secretary from a sale under this section, after the deduction of expenses of the sale and any amount owing to the Territory or any other person under this Act by the former holder of the exploration licence, exploration retention licence or mining tenement, as the case may be, shall be paid to that former holder.

#### **186 Appointment of liquidators, &c.**

- (1) Where a provisional liquidator, liquidator, official liquidator, official manager, receiver or receiver and manager is appointed in respect of a corporation that holds an exploration licence, exploration retention licence or mining tenement, that person shall, within 30 days after being appointed, or such longer period as the Secretary allows, give written notice of his appointment to the Secretary.

Penalty: \$200.

- (2) An offence of contravening or failing to comply with subsection (1) is a regulatory offence.

#### **186A Notice to owner requesting consent to mining tenement**

Where, under a provision of this Act, the consent of the owner or trustees or persons otherwise in lawful occupation of private land is required before a matter can be carried out, a person seeking that consent may, by notice or notices in writing addressed and posted to that owner or those trustees or persons at his or their usual or last known address or addresses, request that owner or those trustees or persons to give his or their consent to that matter and, where that owner or those trustees or persons does or do not, within 2 months after the request is posted, in writing notify the person making the request that he or they does or do not give the consent requested, the person making the request shall,

notwithstanding the other provisions of this Act, be deemed to have the consent in writing of that owner or those trustees or persons, as the case may be, for the purposes of that matter.

**187 Verification of information**

The Minister may require information furnished to him under this Act to be verified in such manner as he thinks fit.

**188 Service of documents**

- (1) Subject to this section, a document required by or under this Act to be served on a person may, unless the contrary intention appears, be served:

- (a) on that person personally;
- (b) by post to the person's usual or last-known place of abode or business; or
- (c) by leaving it with a person apparently of or above the age of 16 years at the first-mentioned person's usual or last known place of abode or business.

- (2) Where a document is required by or under this Act to be served on a person whose name or present address is not known to the person required to serve the document, it may be served, with the approval of the Secretary, by publishing it in a newspaper circulated in the Territory, on not less than 3 occasions, the intervals between each being not less than 7 days.

- (3) Notwithstanding subsection (2), where a document is required by or under this Act to be served on the holder of an exploration licence, exploration retention licence or a mining tenement and service cannot be effected in the manner permitted in subsection (1)(a), (b) or (c), the document may be served by displaying it on a notice board used for notices to the public at the Department, and service shall be deemed to be effected 7 days after the date on which the document is first displayed.

**189 Corruption**

A person shall not, with intent to deceive, mislead, cheat or defraud any person:

- (a) as to the payable nature of mining at any place:
  - (i) deposit any mineral or mineral ore; or

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- (ii) hold out as originating from that place any mineral ore that does not so originate; or
  - (b) as to the value of a sample lodged with a person for the interpretation of the mineral content of that sample: mingle or cause to be mingled with that sample any mineral or substance.

Penalty: \$10,000 or imprisonment for 12 months.

**190 No exploration, &c., except in accordance with law**

- (1) A person shall not:

- (a) explore for minerals or extractive minerals;
- (b) mine for minerals or extractive minerals; or
- (c) fossick,

in the Territory otherwise than in accordance with the provisions of this Act or any other law in force in the Territory.

Penalty: \$40,000 or imprisonment for 12 months.

Default penalty: \$2,000.

- (2) All minerals, extractive minerals and substances containing minerals mined on or removed from land otherwise than in accordance with the provisions of this Act or other law in force in the Territory, are the property of the Territory.
- (3) An offence against this Act may be prosecuted by summary proceedings before the Court of Summary Jurisdiction.

**190A Search and seizure**

- (1) Where a member of the Police Force, a mining officer or a person authorized by the Secretary for the purposes of this section suspects that an offence against this Act has been, is being or is about to be committed, the member, inspector or authorized person may, without warrant, and with such assistance as the member, mining officer or authorized person thinks necessary:
  - (a) enter, with such force as is reasonably necessary, at any time, any premises, vehicle, vessel, aircraft or place and, for that purpose, stop and detain any vehicle, vessel or aircraft;

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- (b) search the premises, vehicle, vessel, aircraft or place and any person found in or on them or it and any person who the member, mining officer or authorized person reasonably believes to be about to enter or to have recently left the premises, vehicle, vessel, aircraft or place;
  - (c) break open and search any cupboard, drawer, chest, trunk, box, cage, package or other receptacle, whether a fixture or not, in or on the premises, vehicle, vessel, aircraft or place;
  - (d) seize, take, detain, remove and secure any vehicle, vessel or aircraft and any plant, motor, appliance, fitting, gear or equipment, whether in, on or attached to the premises, vehicle, vessel or aircraft, or any thing that the member, inspector or authorized person finds on any premises, vehicle, vessel, aircraft or place or on any person searched, if the member, inspector or authorized person has reasonable grounds for believing that it is evidence of or otherwise relates to any offence that has been, is being or is about to be committed against this Act;
  - (e) inspect, take extracts from or copies of any documents in the premises, vehicle, vessel, aircraft or place;
  - (f) inspect, take extracts from or copies of any register, report or document kept under this Act or any authority, claim, lease, licence, permit or right granted under this Act;
  - (g) stop, detain and search any person upon whom the member, inspector or authorized person believes, on reasonable grounds, that there is something that is evidence of or otherwise relates to an offence that has been, is being or is about to be committed against this Act; and
  - (h) take such action as is reasonably necessary to prevent the commission of an offence against this Act.
- (1A) Where a member of the Police Force, a mining officer or a person authorised under this section believes that a person may be able to assist him or her in making inquiries in connection with an offence against this Act that has been, may have been, is being or may be committed, he or she may stop the person and request the person to:
- (a) state the person's name and address and the date and place of the person's birth, and to provide proof of the person's name, address and age;

- (b) where the person is engaged in or it appears may have been or will be engaged in any mining or fossicking activities, provide proof of the person's authority to carry out the mining or fossicking activities; or
- (c) provide any other information that would, in the opinion of the member of the Police Force, mining officer or person authorised under this section, assist in making the inquiries.

(1B) A person must not:

- (a) refuse or fail to comply with; or
- (b) make a false statement in answer to,  
a request made under this section.

Penalty: \$2,000.

- (2) Before commencing a search under subsection (1), if there is a person who is or appears to be in charge of the premises, vehicle, vessel, aircraft or place, a mining officer must produce proof of his or her appointment, or, in the case of a person authorized under this section, of the authorization, to that person and to any other person about to be searched.
- (3) A female shall not be searched under this section except by a female.
- (4) The power conferred by subsection (1) to enter premises without a warrant does not include power to enter a room used solely for domestic purposes.
- (5) A vehicle, vessel, aircraft or any plant, motor, appliance, fitting, gear or equipment seized under subsection (1) shall be delivered into the custody of the Secretary or to a person authorized by the Secretary in that behalf and may be retained by the Secretary or that authorized person for 30 days after the date of the seizure or, if a prosecution for an offence against this Act in the commission of which it may have been used or otherwise involved is instituted within that period, until the prosecution is completed.
- (6) The Secretary, a person authorized under subsection (5) or the Territory shall not be liable, subject to reasonable care being taken, for any deterioration or damage to a vehicle, vessel, aircraft or any plant, motor, appliance, fitting, gear or equipment seized under subsection (1).

**190AA Limitation of time for bringing proceeding**

Proceedings for an offence against this Act or the Regulations may not be commenced after the expiration of 3 years after the time when the matter the subject of the proceedings arose.

**190B Forfeiture and other orders on conviction**

- (1) Where a court finds a person guilty a person of an offence against section 190, the court may order:
  - (a) the forfeiture to the Territory of any vehicle, vessel or aircraft or any plant, motor, appliance, fitting, gear, equipment or thing used in or in respect of the offence, whether or not it has been seized under section 190A(1)(d);
  - (b) the person to pay to the Territory the cost of restoring, removing or repairing any damage done (including to the environment) by that person in the commission of the offence; or
  - (c) the person to pay to the Territory an amount representing the value of any minerals or extractive minerals mined in the commission of the offence and not otherwise recovered by the Territory.
- (2) An order of the court under subsection (1) shall be in addition to, and not in substitution for, any other penalty which may be imposed by this Act.
- (3) Where the court makes an order under subsection (1)(b) or (c), the amount so ordered to be paid shall be recoverable as a judgment debt due to the Territory in a court of competent jurisdiction.
- (4) Any property forfeited to the Territory under subsection (1)(a) may be sold or otherwise disposed of as the Minister thinks fit.

**191 Savings and transitional**

- (2) Where an exploration licence granted under the repealed Act was in force immediately before the commencement of this Act:
  - (a) it continues in force, unless sooner surrendered or cancelled, until the expiration of a period of 6 years calculated from the date on which it was originally granted under the repealed Act, as though it were an exploration licence granted under, and on the commencement of, this Act; and



- (b) in respect of the licence area as comprised immediately before the commencement of this Act, the holder has the same rights in relation to the obtaining of an exploration retention licence, mineral lease or mineral claim under this Act as has the holder of an exploration licence granted under this Act.
- (3) Subject to subsection (4), an application for an exploration licence that had been made under the repealed Act and had not been processed before the commencement of this Act may, at the election of the applicant made within 60 days after the commencement of this Act, be processed as an application for an exploration licence under this Act as though it were an application made under this Act on the commencement of this Act, but shall otherwise lapse.
- (4) An application referred to in subsection (3) shall be deemed to be an application made only in respect of the whole blocks, within the meaning of Part IV, comprised in the area described in the application and be an application for the grant of an exploration licence for a period of 6 years.
- (5) Where a mining lease (other than a mining lease in respect of Aboriginal land) under the repealed Act was in force immediately before the commencement of this Act, the lease shall, on and from the commencement of this Act, be deemed to be a mineral lease granted under Part VI for the remainder of the term for which that lease was to remain in force under the repealed Act.
- (5A) Notwithstanding subsection (5), the holder of a mining lease referred to in that subsection, deemed under the subsection to be a mineral lease, shall maintain boundary marks erected and maintained in respect of the lease area under the repealed Act throughout the term for which the lease remains in force under this Act.
- (6) A mining lease referred to in subsection (5) deemed under that subsection to be a mineral lease is subject, on and from the commencement of this Act, to the provisions of this Act relating to the payment of rent and royalties in respect of a mineral lease and such rent and royalties shall, on and from the commencement of this Act, be apportioned unless otherwise provided in the Regulations.
- (7) Subject to section 191A, an application for a mineral lease or gold mining lease made under the repealed Act that had not been processed before the commencement of this Act may, at the election of the applicant made within 60 days after the commencement of this Act, be processed under this Act as though

it were an application under this Act for a mineral lease or a mineral claim made on the commencement of this Act, and any requirement of a provision of the repealed Act that had been met at that date relating to that application shall be deemed to be the equivalent requirement, if any, of this Act relating to the processing of an application for the grant of a mineral lease or mineral claim, as the case may be, under this Act, but shall otherwise lapse.

- (8) An application for a renewal of a mineral lease or gold mining lease (other than a mineral lease or gold mining lease in respect of Aboriginal land) made under the repealed Act that had not been processed before the commencement of this Act shall be processed under this Act as though it were an application made under this Act for a renewal of a mineral lease, and any requirement of a provision of the repealed Act that had been met at that date relating to that application shall be deemed to be the equivalent requirement, if any, of this Act relating to the processing of an application for the grant of a mineral lease under this Act.
- (9) Subject to subsections (10) and (11), where, immediately before the commencement of this Act, there was in force a mining lease under the repealed Act in respect of Aboriginal land, the mining lease shall continue in force as though this Act had not come into operation.
- (10) On the expiration of a mining lease referred to in subsection (9), the provisions of this Act relating to the renewal of a mineral lease shall apply as though the mining lease referred to were a mineral lease granted under this Act.
- (11) A mining lease continued in force by virtue of subsection (9) is subject to the provisions of this Act relating to the payment of rent and royalties, as though it were a mineral lease of Aboriginal land granted under this Act, and such payments shall be apportioned from the commencement of this Act unless otherwise provided in the Regulations.
- (12) Subject to subsections (13) and (14), where immediately before the commencement of this Act there was in force a special mineral lease granted under the repealed Act, that lease shall continue in force as though this Act had not come into operation.
- (13) On or in relation to the expiration of a special mineral lease referred to in subsection (12), the provisions of this Act relating to the renewal of a mineral lease shall apply as though the special mineral lease referred to were a mineral lease granted under this Act.

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- (14) A special mineral lease continued in force by virtue of subsection (12) is subject to the provisions of this Act relating to the payment of rent and royalties, as though it were a mineral lease granted under this Act, and such payments shall be apportioned from the commencement of this Act unless otherwise provided in the Regulations.
- (15) An application for a special mineral lease made under the repealed Act that had not been processed before the commencement of this Act shall, on and from that commencement, but subject to subsections (15A) and (15B), be treated as an application for a mineral lease made on the commencement of this Act but, in relation to that application, sections 54(2), 55, 56(1) (so far as it relates to the use of the land for associated purposes), 57, 58, 59, 162 and 163 shall not apply and the Minister may, in his discretion, under section 60, grant the mineral lease notwithstanding that he has not considered a recommendation of a warden in relation to the application.
- (15A) Notwithstanding section 164, an application referred to in subsection (15) shall have, in relation to all other applications for a special mineral lease in respect of the same land made before the commencement of this Act, the same priority for consideration as it had under the repealed Act.
- (15B) A mineral lease granted in pursuance of subsection (15) may be granted for such term, not exceeding the term for which the special mineral lease could have been granted under the repealed Act, as the Minister thinks fit.
- (18) An application for a mineral claim or dredging claim made under the repealed Act that had not been processed before the commencement of this Act shall be processed under this Act as though it were an application under this Act for a mineral claim made on the commencement of this Act, and any requirement of a provision of the repealed Act that had been met at that date relating to that application shall be deemed to be the equivalent requirement, if any, of this Act relating to the processing of an application for the grant of a mineral claim.
- (19) Where, immediately before the commencement of this Act, the holder of a miner's right issued under the repealed Act was in lawful occupation of an area of land under the repealed Act as:
- (a) a prospecting area;
  - (b) a residence or business area;
  - (c) a machinery area;

- (d) a tailings area;
- (e) a washing area;
- (f) a market garden area; or
- (g) a quarrying area,

he may, notwithstanding the expiration of the term for which that miner's right was issued, continue to occupy that land under that title subject to the same terms and conditions as then applying, as though this Act had not come into operation.

- (20) Where, immediately before the commencement of this Act, the holder of a miner's right issued under the repealed Act was entitled to take, use, sell or dispose of water under the repealed Act as:

- (a) a stream water right;
- (b) a lagoon, lake, spring or swamp water right;
- (c) a watershed or stormwater right;
- (d) a dam, tank or reservoir water right;
- (e) a subterranean water right; or
- (f) a race or pipe track water right,

he shall, notwithstanding the expiration of the term for which that miner's right was issued, continue to be entitled to take, use, sell or dispose of water in pursuance of that right, subject to the same terms and conditions as then applying, as though this Act had not come into operation.

- (22) Where, immediately before the commencement of this Act, there was in force:

- (a) a reservation of land under section 147 or 147A of the repealed Act; or
- (b) an authorization under section 147(4) or 147B(1) of the repealed Act,

that reservation or authorization shall, on the commencement of this Act, be deemed to be a reservation of land under section 178(1), or an authorization made under section 178(2), as the case may be, of this Act, at the same time and on the same terms and conditions on and under which they were respectively made under sections 147, 147A or 147B of the repealed Act.

- (23) Each register or record kept, registration or record made, certificate or instrument issued, permit, permission, authority, notice or information given or return made, for any purpose, under the repealed Act and in force or effect immediately before the commencement of this Act, shall continue in force and have effect as if kept, made, issued or given under this Act.
- (24) An interest, whether legal or equitable, created before the commencement of this Act in relation to a mining tenement, exploration licence, lease or title granted or issued under the repealed Act and in force immediately before the commencement of this Act, shall continue to have the same force and effect after the commencement of this Act as it had before that commencement.
- (25) Subject to subsection (26) any compensation assessed, agreed upon or paid for any purpose under the repealed Act shall be deemed to have been assessed, agreed upon or paid, as the case may be, under this Act, and any liability to pay such compensation shall be enforced under this Act and be recoverable in accordance with its provisions.
- (26) Nothing in this Act shall be construed as conferring on a person a right to compensation in respect of any thing done or omitted to be done, or in respect of any damage suffered, before the commencement of this Act if that person would not have been entitled under the repealed Act to compensation in respect of that thing or damage.
- (27) A warden, mining registrar and the principal registrar appointed under the repealed Act and holding office immediately before the commencement of this Act shall, on the commencement of this Act, be deemed to have been appointed under this Act as a warden, a mining registrar or the principal registrar, as the case may be.
- (28) Notwithstanding the repeals effected by section 3, any title granted under the *Northern Territory Mining Act 1903* of the State of South Australia in its application to the Territory, and in force immediately before the commencement of this Act, shall continue in force as though this Act had not come into operation.
- (29) Notwithstanding the repeals effected by section 3, the provisions of section 35 of the repealed Act continue to apply to and in relation to the holder of a miner's right issued under the repealed Act who, immediately before the commencement of this Act, held land under that miner's right and who was then in actual occupation of that land for residence or business purposes within the meaning of that section, in relation to his continued occupation of that land for those purposes.

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- (30) Where, immediately before the commencement of section 2 of the *Mining Amendment Act 1991*, which section repealed the *Coal Act*, a coal lease granted under the *Coal Act* was in force, the lease shall, on and from that commencement, be deemed to be a mineral lease granted under Part VI for the mining of coal for the remainder of the term for which that lease was to remain in force under the *Coal Act* subject to the same reservations, covenants, conditions and provisions (including for the amount and payment of rent) of the coal lease.

#### **191A Saving of specific applications**

- (1) Notwithstanding the repeals effected by section 3, where the holder of an exploration licence or a prospecting authority under the *Mining Act* as then in force applied before 4 June 1976 for a lease or other interest (other than an exploration licence) under that Act in respect of land consisting wholly or in part of Aboriginal land, and the lease or interest had not, before the commencement of this Act, been granted, the provisions of the repealed Act shall continue to apply to and in relation to that application and, subject to subsection (2), to and in relation to a lease or interest subsequently granted in respect of that application, as though this Act had not come into operation.
- (2) The holder of a lease or other interest granted in respect of an application referred to in subsection (1) shall, in respect of minerals (other than prescribed substances within the meaning of the *Atomic Energy Act 1953* of the Commonwealth) obtained from the relevant area, pay royalties to the Crown at such times, at such rates, in such manner and subject to such conditions, as are from time to time prescribed by or under this or any other law in force in the Territory in relation to minerals obtained from a mining lease.

#### **191B Royalty payments**

Notwithstanding the repeals effected by section 3, until provisions are made under this Act, or by or under another law of the Territory, in relation to the payment of royalties in respect of minerals or extractive minerals obtained from a mineral lease area, extractive mineral lease area or extractive mineral permit area, the provisions of the repealed Act shall apply to and in relation to the assessment and payment of royalties in respect of minerals obtained as though this Act had not come into operation.

#### **191C Fossicking under miner's right**

- (1) A corporation or person who has a right to fossick under a miner's right in force immediately before the commencement of the *Mining Amendment Act 1996* shall be able to continue to exercise that right

to fossick for not more than 18 months after the commencement of that Act (as if a right to fossick under the *Mining Act* as amended by that Act), and on the expiration of the 18 month period:

- (a) that right will cease to be enforceable; and
  - (b) an exercise of that right will constitute a contravention of or a failure to comply with the provisions of or under the *Mining Act* as amended by the *Mining Amendment Act 1996*.
- (2) A corporation or person who is the holder of a right to fossick referred to in subsection (1) may, at any time before the expiration of the 18 month period referred to in that subsection, surrender his or her miner's right and apply to the mining registrar for the grant of a fossicker's permit, and the mining registrar shall thereupon, in its stead, issue the corporation or person a fossicker's permit within the meaning of the *Mining Act* as amended by the *Mining Amendment Act 1996*.
- (3) No fee is payable in respect of a fossicker's permit issued under subsection (2).
- (4) A fossicker's permit issued under subsection (2) shall:
- (a) be granted for the same term as the miner's right it replaces; and
  - (b) be non-transferable.

**191D Compensation – time limit on claims**

A claim for compensation payable under this Act that is not made within 3 years after the doing of the activity giving rise to the claim is, by virtue of this section, statute barred.

**191E Compensation other than money in respect of native title**

Where:

- (a) compensation is payable under this Act to a native title holder for the effect of a prescribed mining act on native title; and
- (b) the native title holder requests that the whole or part of the compensation should be in a form other than money,

the person liable to pay the compensation must consider the request.

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**192 Regulations**

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to this Act.
- (2) Without limiting the generality of subsection (1), the Regulations may provide for:
  - (a) determining the dimensions, boundaries, form, position and extent of classes of mining tenements and of exploration retention licences, and their subsequent adjustment;
  - (b) determining the manner in which miners desirous of applying for a class of mining tenements or an exploration retention licence shall mark out the proposed tenement or licence area and the requirements to be complied with by such miners in relation thereto;
  - (c) the forms of classes of mining tenements, licences, permits, certificates, notices, orders, miner's rights or other documents granted, issued or used under or for the purposes of this Act;
  - (d) the keeping of registers and the registration and mode of effecting registration of mining tenements, exploration licences or exploration retention licences or interest therein or transfer, assignment or sublease thereof and any encumbrance thereon, and the registration and mode of effecting or obtaining the registration of any such mining tenement, exploration licence, interest, encumbrance, transfer, assignment or sublease in the case of death, bankruptcy or liquidation, or of the sale under a mortgage, or decree, judgment or order of the court;
  - (e) the inspection of registers kept under this Act and the Regulations;
  - (f) the manner in which applications for variation, suspension or exemption in relation to the conditions of an exploration licence, mining tenement or an exploration retention licence may be applied for, granted and registered;
  - (g) the manner in which compensation for the refusal of an application by the holder of an exploration retention licence for a mineral lease shall be ascertained and paid;
  - (h) the manner in which mining tenements are to be surveyed;



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- (j) the annual rent to be paid in respect of the grant or renewal of an exploration licence or exploration retention licence;
  - (k) the annual rent to be paid in respect of the grant or renewal of any class of mining tenement and the manner in and times at which payments shall be made;
  - (m) the fees payable for:
    - (i) the grant and issue of a miner's right;
    - (ii) the issuing of duplicate copies of lost miner's rights;
    - (iii) the application for the grant or renewal of an exploration licence, exploration retention licence or mining tenement;
    - (iv) the registration of transfers and other dealings or encumbrances affecting an exploration licence, exploration retention licence or mining tenement, or a interest therein;
    - (v) the lodgement of a caveat;
    - (vi) the application for a variation, suspension or exemption affecting a condition of an exploration licence, exploration retention licence or a mining tenement; and
    - (vii) the application for transmission of an interest in an exploration licence, exploration retention licence or mining tenement through death or bankruptcy;
  - (n) subject to section 175(3), the royalties to be paid in respect of minerals or extractive minerals obtained from land the subject of a mineral lease, extractive mineral lease or extractive mineral permit, including:
    - (i) the rate;
    - (ii) the manner and times of payment;
    - (iii) the method of calculation of payment;
    - (iv) the assessment of royalties;
    - (v) the collection of assessed royalties;
    - (vi) securing the payment of royalties;
    - (vii) the keeping of records and books of account in relation to minerals or extractive minerals obtained from the land;

- (viii) the furnishing of returns and records; and
- (ix) the inspection of, and the taking of extracts from, records or books kept, including the prescribing of persons who may carry out such inspections;
- (p) the fees and costs of proceedings in the warden's court;
- (q) the location, procedure and practice of warden's courts;
- (r) the production and other statistical returns to be furnished by owners and managers of mines;
- (s) the powers and duties of wardens, mining registrars, surveyors, mining officers, officers, bailiffs and assistants appointed or deemed to have been appointed under this Act;
- (t) the manner of doing or performing any thing by this Act required to be done or performed;
- (u) determining and enforcing the distance at which shafts and other mine workings are to be kept from public and private roads, ways and passages and from private land, dwellings and other buildings and improvements; and
- (v) the mode in which the rights, privileges and interests of the holders of exploration licences, exploration retention licences and mining tenements may be exercised or enjoyed, and for limiting, qualifying or restricting the exercise and enjoyment of those rights, privileges and interests, and generally for the protection of such holders in the exercise and enjoyment of their rights, privileges and interests.

### **193 Validation of certain exploration licences**

Where, before the commencement of the *Mining Amendment Act 1998*, a single exploration licence was purportedly granted over a licence area comprised of a group of blocks (within the meaning of this Act as in force at the time of the grant) each of which did not have a common side or point with another block, the grant of the exploration licence, and all actions subsequently taken by virtue of the exploration licence, are declared to be and to always have been, and are to be taken to be and to always have been, as valid, effectual and lawful as if the exploration licence had been granted after the commencement of the *Mining Amendment Act 1998*.

## Schedule

section 3

Number and Year	Short Title
9 of 1939	<i>Mining Ordinance 1939</i>
15 of 1940	<i>Mining Ordinance 1940</i>
6 of 1942	<i>Mining Ordinance 1942</i>
1 of 1945	<i>Mining Ordinance 1945</i>
9 of 1947	<i>Mining Ordinance 1947</i>
6 of 1952	<i>Mining Ordinance 1952</i>
6 of 1953	<i>Mining Ordinance 1953</i>
19 of 1953	<i>Mining Ordinance (No. 2) 1953</i>
22 of 1953	<i>Mining Ordinance (No. 3) 1953</i>
2 of 1955	<i>Mining Ordinance 1954</i>
24 of 1955	<i>Mining Ordinance 1955</i>
23 of 1956	<i>Mining Ordinance 1956</i>
19 of 1957	<i>Mining Ordinance 1957</i>
38 of 1957	<i>Mining Ordinance (No. 2) 1957</i>
10 of 1958	<i>Mining Ordinance 1958</i>
11 of 1958	<i>Mining Ordinance (No. 2) 1958</i>
11 of 1960	<i>Mining Ordinance 1960</i>
25 of 1962	<i>Mining Ordinance 1962</i>
49 of 1962	<i>Mining Ordinance (No. 2) 1962</i>
8 of 1965	<i>Mining Ordinance 1964</i>
20 of 1964	<i>Mining Ordinance (No. 2) 1964</i>
32 of 1964	<i>Mining Ordinance (No. 3) 1964</i>
29 of 1965	<i>Mining Ordinance 1965</i>
24 of 1966	<i>Mining Ordinance 1966</i>
39 of 1967	<i>Mining Ordinance 1967</i>
10 of 1969	<i>Mining Ordinance 1969</i>
48 of 1970	<i>Mining Ordinance (No. 2) 1970</i>
20 of 1971	<i>Mining Ordinance 1970</i>
39 of 1971	<i>Mining Ordinance 1971</i>
51 of 1971	<i>Mining Ordinance (No. 2) 1971</i>
59 of 1972	<i>Mining Ordinance 1972</i>
55 of 1976	<i>Mining Ordinance 1976</i>
34 of 1977	<i>Mining Ordinance 1977</i>
9 of 1978	<i>Mining Ordinance 1978</i>
62 of 1978	<i>Mining Ordinance (No. 2) 1978</i>
111 of 1978	<i>Mining Ordinance (No. 3) 1978</i>
3 of 1979	<i>Mining Act (No. 4) 1978</i>
8 of 1979	<i>Mining Act (No. 5) 1978</i>
27 of 1979	<i>Mining Act 1979</i>

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## ENDNOTES

### 1 KEY

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = not commenced	

### 2 LIST OF LEGISLATION

#### ***Mining Act 1980 (Act No. 15, 1982)***

Assent date	15 April 1982
Commenced	1 July 1982 ( <i>Gaz</i> G25, 25 June 1982, p 10)

#### ***Mining Act 1980 Amendment Act (No. 2) 1981 (Act No. 17, 1982)***

Assent date	15 April 1982
Commenced	15 April 1982

#### ***Mining Act 1980 Amendment Act 1982 (Act No. 18, 1982)***

Assent date	15 April 1982
Commenced	15 April 1982

#### ***Mining Amendment Act 1983 (Act No. 28, 1983)***

Assent date	28 July 1983
Commenced	1 July 1982 (s 3, s 2 <i>Mining Act 1980</i> (Act No. 15, 1982) and <i>Gaz</i> G25, 25 June 1982, p 10)

#### ***Criminal Law (Regulatory Offences) Act 1983 (Act No. 68, 1983)***

Assent date	28 November 1983
Commenced	1 January 1984 (s 2, s 2 <i>Criminal Code Act 1983</i> (Act No. 47, 1983), <i>Gaz</i> G46, 18 November 1983, p 11 and <i>Gaz</i> G8, 26 February 1986, p 5)

#### ***Mining Amendment Act 1984 (Act No. 45, 1984)***

Assent date	25 September 1984
Commenced	s 4: 1 July 1982; rem: 16 January 1985 (s 2, s 2 <i>Mining Act 1980</i> (Act No. 15, 1982), <i>Gaz</i> G25, 25 June 1982, p 10 and <i>Gaz</i> G2, 16 January 1985, p 2)

#### ***Mining Amendment Act 1985 (Act No. 63, 1985)***

Assent date	24 December 1985
Commenced	28 January 1986 ( <i>Gaz</i> S3, 28 January 1986)

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**Statute Law Revision Act 1986 (Act No. 64, 1986)**

Assent date 19 December 1986  
Commenced 19 December 1986

**Mining Amendment Act 1988 (Act No. 15, 1988)**

Assent date 15 June 1988  
Commenced 15 June 1988

**Mining Amendment Act 1989 (Act No. 10, 1989)**

Assent date 5 April 1989  
Commenced 13 April 1989 (Gaz S19, 13 April 1989)

**Miscellaneous Acts Amendment (Aboriginal Community Living Areas) Act 1989 (Act No. 78, 1989)**

Assent date 22 December 1989  
Commenced 1 March 1990 (Gaz S12, 28 February 1990)

**Mining Amendment Act 1991 (Act No. 27, 1991)**

Assent date 17 June 1991  
Commenced 17 June 1991

**Real Property (Consequential Amendments) Act 1991 (Act No. 33, 1991)**

Assent date 25 June 1991  
Commenced 1 October 1991 (Gaz S49, 1 October 1991)

**Mining Amendment Act (No. 2) 1991 (Act No. 47, 1991)**

Assent date 26 September 1991  
Commenced 20 November 1991 (Gaz G46, 20 November 1991, p 5)

**Mining Amendment Act 1992 (Act No. 15, 1992)**

Assent date 23 April 1992  
Commenced 1 July 1992 (s 2, s 2 *Water Act 1992* and Gaz S35, 30 June 1992)

**Amending Legislation**

**Statute Law Revision Act 1992 (Act No. 46, 1992)**

Assent date 7 September 1992  
Commenced 7 September 1992 (s 4(2))

**Water (Consequential Amendments) Act 1992 (Act No. 27, 1992)**

Assent date 5 June 1992  
Commenced 1 July 1992 (s 2, s 2 *Water Act 1992* and Gaz S35, 30 June 1992)

**Pastoral Land (Consequential Amendments) Act 1992 (Act No. 39, 1992)**

Assent date 25 June 1992  
Commenced 26 June 1992 (s 2, s 2 *Pastoral Land Act 1992* (Act No. 17, 1992) and Gaz S33, 26 June 1992)

**Mining Amendment Act (No. 2) 1992 (Act No. 49, 1992)**

Assent date 18 September 1992  
Commenced 18 September 1992

**Statute Law Revision Act 1993 (Act No. 6, 1993)**

Assent date 18 March 1993  
Commenced 18 March 1993

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**Mining Amendment Act 1993 (Act No. 25, 1993)**

Assent date 24 June 1993  
Commenced 18 August 1993 (*Gaz* G33, 18 August 1993, p 5)

**Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)**

Assent date 30 June 1993  
Commenced 1 July 1993 (s 2, s 2 *Public Sector Employment and Management Act 1993* (Act No. 11, 1993) and *Gaz* S53, 29 June 1993)

**Statute Law Revision Act (No. 2) 1993 (Act No. 70, 1993)**

Assent date 9 November 1993  
Commenced 9 November 1993

**Mining Amendment Act 1994 (Act No. 1, 1994)**

Assent date 10 March 1994  
Commenced 21 March 1994 (*Gaz* S21, 21 March 1994)

**Mining Amendment Act (No. 2) 1994 (Act No. 26, 1994)**

Assent date 18 May 1994  
Commenced 29 June 1994 (*Gaz* G26, 19 June 1994, p 3)

**Statute Law Revision Act 1994 (Act No. 50, 1994)**

Assent date 20 September 1994  
Commenced 20 September 1994

**Statute Law Revision Act 1995 (Act No. 14, 1995)**

Assent date 23 June 1995  
Commenced 23 June 1995

**Mining Amendment Act 1996 (Act No. 10, 1996)**

Assent date 20 March 1996  
Commenced 7 May 1996 (*Gaz* S11, 7 May 1996)

**Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)**

Assent date 19 April 1996  
Commenced s 7: 19 April 1996; rem: 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz* S15, 13 June 1996)

**Mining Amendment Act (No. 2) 1997 (Act No. 15, 1997)**

Assent date 11 April 1997  
Commenced 11 April 1997

**Mining Amendment Act 1998 (Act No. 21, 1998)**

Assent date 30 March 1998  
Commenced 3 June 1998 (*Gaz* G21, 3 June 1998, p 2)

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***Mining Amendment Act (No. 2) 1998 (Act No. 52, 1998)***

Assent date 28 August 1998  
Commenced 1 October 1998 (*Gaz S37*, 1 October 1998)

**Amending Legislation**

***Lands and Mining (Miscellaneous Amendments) Act 1998 (Act No. 93, 1998)***

Assent date 23 December 1998  
Commenced pts 2 – 5, 7, 8, 10 – 13 and s 272: 1 October 1998;  
rem: 23 December 1998 (s 2)

***Mining Amendment Regulations (SL No. 11, 1999)***

Notified 16 April 1999  
Commenced 16 April 1999

***Mining Amendment Regulations (SL No. 43, 1998)***

Notified 1 October 1998  
Commenced 1 October 1998

***Lands and Mining (Miscellaneous Amendments) Act 1998 (Act No. 93, 1998)***

Assent date 23 December 1998  
Commenced pts 2 – 5, 7, 8, 10 – 13 and s 272: 1 October 1998;  
rem: 23 December 1998 (s 2)

***Mining Amendment Act (No. 3) 1998 (Act No. 97, 1998)***

Assent date 29 December 1998  
Commenced 25 August 1999 (*Gaz G33*, 25 October 1999, p 2)

***Lands and Mining (Miscellaneous Amendments) Act 1999 (Act No. 1, 1999)***

Assent date 19 February 1999  
Commenced pt 2: 1 October 1998; pt 4: 23 December 1998;  
rem: 19 February 1999 (s 2)

***Mining Amendment Regulations (SL No. 11, 1999)***

Notified 16 April 1999  
Commenced 16 April 1999

**Amending Legislation**

***Amendments of Mining Amendment Regulations (SL No. 14, 1999)***

Notified 20 April 1999  
Commenced 20 April 1999

***Lands and Mining (Miscellaneous Amendments) Act (No. 2) 1999 (Act No. 26, 1999)***

Assent date 17 June 1999  
Commenced 17 June 1999

***Statute Law Revision Act 1999 (Act No. 27, 1999)***

Assent date 18 June 1999  
Commenced s 7(2): 25 August 1999; rem: 18 June 1999 (s 2)

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**Mining Amendment Act 1999 (Act No. 54, 1999)**

Assent date 4 December 1999  
Commenced 4 December 1999

**Amending Legislation**

**Statute Law Revision Act 2000 (Act No. 19, 2000)**

Assent date 6 June 2000  
Commenced s 6: 4 December 1999 (*Gaz* G27, 12 July 2000, p 2)

**Statute Law Revision Act 2000 (Act No. 19, 2000)**

Assent date 6 June 2000  
Commenced s 6: 4 December 1999; rem: 12 July 2000 (*Gaz* G27, 12 July 2000, p 2)

**Mining Amendment Act 2000 (Act No. 30, 2000)**

Assent date 27 June 2000  
Commenced pt 5: 4 December 1999; rem: 27 June 2000 (s 2)

**Land Title (Consequential Amendments) Act 2000 (Act No. 45, 2000)**

Assent date 12 September 2000  
Commenced 1 December 2000 (s 2, s 2 *Land Title Act 2000* (Act No. 2, 2000) and *Gaz* G38, 27 September 2000, p 2)

**Law of Property (Consequential Amendments) Act 2000 (Act No. 46, 2000)**

Assent date 12 September 2000  
Commenced 1 December 2000 (s 2, s 2 *Law of Property Act 2000* (Act No. 1, 2000) and *Gaz* G38, 27 September 2000, p 2)

**Mining Amendment Act 2001 (Act No. 44, 2001)**

Assent date 19 July 2001  
Commenced 1 January 2002 (s 2, s 2 *Mining Management Act 2001* (Act No. 43, 2001) and *Gaz* G46, 21 November 2001, p 2)

**Mining Amendment Act 2002 (Act No. 30, 2002)**

Assent date 16 July 2002  
Commenced 12 December 2002 (*Gaz* G49, 11 December 2002, p 2)

**Statute Law Revision Act (No. 2) 2002 (Act No. 59, 2002)**

Assent date 7 November 2002  
Commenced 7 November 2002

**3**

**SAVINGS AND TRANSITIONAL PROVISIONS**

- s 3 *Mining Amendment Act 1988* (Act No. 15, 1988)
- s 87 *Mining Amendment Act 1989* (Act No. 10, 1989)
- s 22 *Mining Amendment Act (No. 2) 1998* (Act No. 21, 1998)
- s 23 *Mining Amendment Act (No. 2) 1998* (Act No. 21, 1998) (rep s 7 *Mining Amendment Act 2000* (Act No. 30, 2000); s 23 amd r 19 *Mining Amendment Regulations* (SL No. 11, 1999); r 19 sub r 4 *Mining Amendment Regulations* (SL No. 14, 1999))
- r 16 *Mining Amendment Regulations* (SL No. 11, 1999) (amd r 2 *Mining Amendment Regulations* (SL No. 14, 1999); amd s 8 *Mining Amendment Act 2000* (Act No. 30, 2000))



r 17 *Mining Amendment Regulations* (SL No. 11, 1999) as amd by r 3 *Mining Amendment Regulations* (SL No. 14, 1999) as amd by s 9 *Mining Amendment Act 2000* (Act No. 30, 2000)  
 s 15 *Mining Amendment Act 1999* (Act No. 54, 1999) (amd s 10 *Mining Amendment Act 2000* (Act No. 30, 2000))  
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- s 4 amd No. 17, 1982, s 4; No. 28, 1983, s 4; No. 63, 1985, s 4; No. 64, 1986, s 4; No. 10, 1989, s 4; No. 33, 1991, s 7; No. 15, 1992, s 3; No. 6, 1993, s 8; No. 25, 1993, s 4; No. 28, 1993, s 3; No. 26, 1994, s 4; No. 10, 1996, s 4; No. 17, 1996, s 6; No. 21, 1998, s 4; No. 52, 1998, s 4; SL No. 43, 1998, r 4; No. 93, 1998, s 90; No. 97, 1998, s 4; No. 19, 2000, s 9; No. 45, 2000 s 11; No. 44, 2001, s 4
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- s 11 amd No. 28, 1983, s 5; No. 10, 1989, s 6; No. 27, 1992, s 3; No. 26, 1994, s 6; No. 10, 1996, s 5; No. 21, 1998, s 6; No. 93, 1998, s 94
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- s 21 amd No. 10, 1989, ss 12 and 86; No. 21, 1998, s 7
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- s 24 amd No. 10, 1989, s 86; No. 25, 1993, s 20; No. 44, 2001, s 14
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s 40	sub No. 10, 1989, s 23
s 41	amd No. 10, 1989, s 24; No. 25, 1993, s 20; No. 93, 1998, s 106; No. 26, 1999, s 25; No. 30, 2002, s 7
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s 60	sub No. 28, 1983, s 14 amd No. 10, 1989, s 38; No. 49, 1992, s 3; No. 25, 1993, s 9; No. 93, 1998, s 113; No. 26, 1999, s 26; No. 54, 1999, s 6; No. 44, 2001, s 6
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s 72	amd No. 28, 1983, s 15; No. 45, 1984, s 3 rep No. 10, 1989, s 41
s 73	rep No. 10, 1989, s 41

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s 74	amd No. 28, 1983, s 16 rep No. 10, 1989, s 41
ss 75 – 78	rep No. 10, 1989, s 41
s 79	amd No. 97, 1998, s 10 sub No. 44, 2001, s 8
s 80	amd No. 10, 1989, s 42; No. 21, 1998, s 11; No. 97, 1998, s 10
s 81	amd No. 97, 1998, s 10
s 82	amd No. 28, 1983, s 17; No. 10, 1989, s 43; No. 93, 1998, s 118
s 83	amd No. 10, 1989, ss 44 and 86; No. 25, 1993, ss 10 and 20; No. 21, 1998, s 12; No. 93, 1998, s 119; No. 97, 1998, s 10
s 84	sub No. 25, 1993, s 11 amd No. 93, 1998, s 120
s 84A	ins No. 10, 1989, s 45
s 85	amd No. 30, 2002, s 11
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s 87	amd No. 10, 1989, s 47; No. 25, 1993, s 13; No. 10, 1996, s 7
s 89	amd No. 10, 1989, s 86; No. 25, 1993, s 20; No. 44, 2001, s 9
s 89A	ins No. 93, 1998, s 123
s 90	amd No. 10, 1989, s 48; No. 47, 1991, s 6; No. 93, 1998, s 124; No. 97, 1998, s 10
s 92	amd No. 25, 1993, s 20; No. 97, 1998, s 10; No. 44, 2001, s 14
s 93	amd No. 97, 1998, s 10 sub No. 44, 2001, s 10
s 94	amd No. 10, 1989, s 49; No. 21, 1998, s 13; No. 97, 1998, s 10
s 95	amd No. 97, 1998, s 10
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s 95B	ins No. 93, 1998, s 126
s 96	amd No. 28, 1983, s 20; No. 10, 1989, s 50 sub SL No. 43, 1998, r 6 amd No. 93, 1998, s 127
s 96A	ins SL No. 43, 1998, r 6
s 97	amd No. 10, 1989, s 86; No. 25, 1993, s 20; SL No. 43, 1998, r 7; No. 93, 1998, s 128; No. 97, 1998, s 10; No. 44, 2001, s 11
s 99	sub No. 25, 1993, s 14 amd SL No. 43, 1998, r 8; No. 93, 1998, s 129; No. 97, 1998, s 10
s 99A	ins No. 93, 1998, s 130
s 100	sub SL No. 43, 1998, r 9 amd No. 93, 1998, s 131
s 100A	ins No. 93, 1998, s 132
s 101	amd No. 10, 1989, s 51; No. 25, 1993, s 15; SL No. 43, 1998, r 10; No. 93, 1998, s 133; No. 54, 1999, s 8 sub No. 44, 2001, s 12
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s 103	amd No. 10, 1989, s 52; No. 47, 1991, s 7; SL No. 43, 1998, r 13; No. 93, 1998, s 136; No. 97, 1998, s 10
s 104	amd No. 10, 1989, s 53; No. 93, 1998, s 137

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s 105	amd No. 25, 1993, s 20; No. 97, 1998, s 10
s 106	rep No. 10, 1989, s 54 ins No. 93, 1998, s 138
s 107	amd No. 28, 1983, s 22; No. 10, 1989, s 55; No. 52, 1998, s 6 sub SL No. 43, 1998, r 14 amd No. 93, 1998, s 139
s 107A	ins SL No. 43, 1998, r 14
s 108	amd No. 28, 1983, s 23; No. 10, 1989, s 56; No. 25, 1993, s 20; No. 52, 1998, s 7; SL No. 43, 1998, r 15; No. 93, 1998, s 140; No. 97, 1998, s 10; No. 44, 2001 s 14
s 110	sub No. 28, 1983, s 24; No. 25, 1993, s 16 amd No. 70, 1993, s 8; No. 52, 1998, s 8; SL No. 43, 1998, r 16; No. 93, 1998, s 141; No. 97, 1998, s 10; No. 27, 1999, s 15; No. 54, 1999, s 9
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s 111A	ins No. 93, 1998, s 144
s 112	amd No. 10, 1989, s 58; No. 52, 1998, s 10 sub SL No. 43, 1998, r 17 amd No. 93, 1998, s 145
s 113	amd No. 25, 1993, s 20; No. 52, 1998, s 11 sub SL No. 43, 1998, r 17 rep No. 93, 1998, s 146
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s 116	rep No. 10, 1989, s 61
s 118	amd No. 52, 1998, s 13
s 119	amd No. 25, 1993, s 20; No. 52, 1998, s 14; No. 97, 1998, s 10
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s 121	rep No. 10, 1989, s 62 ins SL No. 43, 1998, r 20 rep No. 93, 1998, s 148
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s 123	rep No. 10, 1989, s 62
s 124	amd No. 28, 1983, s 26 rep No. 10, 1989, s 62
ss 125 – 129	rep No. 10, 1989, s 62
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s 130A	ins No. 10, 1996, s 10
s 130B	ins No. 10, 1996, s 10 amd No. 93, 1998, s 149
s 130C	ins No. 10, 1996, s 10 amd No. 93, 1998, s 150
s 130D	ins No. 10, 1996, s 10 amd No. 21, 1998, s 14; No. 93, 1998, s 151; No. 97, 1998, s 10
s 130E	ins No. 10, 1996, s 10
s 131	amd No. 10, 1989, ss 63 and 86; No. 39, 1992, s 3; No. 10, 1996, s 11; No. 21, 1998, s 15; No. 52, 1998, s 15; No. 93, 1998, s 152
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s 133	amd No. 10, 1989, s 65; No. 10, 1996, s 13
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s 135	amd No. 10, 1989, s 86
s 137	amd No. 17, 1982, s 5; No. 18, 1982, s 3; No. 10, 1989, s 66
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s 140C	ins No. 52, 1998, s 16
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s 140FA	ins No. 26, 1999, s 29
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s 140J	ins No. 52, 1998, s 16
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s 140JA	ins No. 93, 1998, s 163
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s 140JB	ins SL No. 11, 1999, r 8
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s 140M	ins No. 52, 1998, s 16
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s 140S	ins SL No. 43, 1998, r 36 amd No. 93, 1998, s 172; No. 97, 1998, s 10
s 140T	ins SL No. 43, 1998, r 36 sub No. 93, 1998, s 173
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s 162A	ins No. 10, 1989, s 70 amd No. 47, 1991, s 10; No. 52, 1998, s 18; No. 54, 1999, s 13
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s 166B	ins No. 93, 1998, s 178 amd No. 97, 1998, s 10
s 166C	ins No. 93, 1998, s 178 amd No. 97, 1998, s 10
s 166D	ins No. 26, 1999, s 37
s 167	amd No. 10, 1989, s 86; No. 25, 1993, s 20
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s 169	amd No. 10, 1989, s 86; No. 25, 1993, s 20; No. 30, 2002, s 13
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s 172	amd No. 10, 1989, s 86; No. 25, 1993, s 20; No. 93, 1998, s 180; No. 97, 1998, s 10
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s 190A	ins No. 10, 1989, s 85 amd No. 21, 1998, s 25; No. 44, 2001, s 14
s 190AA	ins No. 21, 1998, s 26
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