

NORTHERN TERRITORY OF AUSTRALIA

MINING AMENDMENT ACT 1999

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No. 54 of 1999

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# NORTHERN TERRITORY OF AUSTRALIA

No. 54 of 1999

## AN ACT

to amend the *Mining Act* and to make certain transitional arrangements in relation to certain applications under that Act

[Assented to 4 December 1999]  
[Second reading 20 October 1999]

**The Legislative Assembly of the Northern Territory enacts as follows:**

**1. Short title**

This Act may be cited as the *Mining Amendment Act 1999*.

**2. Principal Act**

The *Mining Act* is in this Act referred to as the Principal Act.

**3. Interpretation**

Section 13 of the Principal Act is amended—

(a) by inserting before the definition of "block" the following:

" '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;" and

(b) by inserting after the definition of "block" the following:

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

**4. New section**

The Principal Act is amended by inserting after section 14 the following:

**"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."

**5. New section**

The Principal Act is amended by inserting after section 16 the following:

**"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."

#### **6. Grant of mineral lease**

Section 60 of the Principal Act is amended by omitting from subsection (1) "calculated from the first day of January preceding that grant,".

#### **7. Grant of mineral claim**

Section 86 of the Principal Act is amended by omitting "calculated from the first day of January preceding that grant".

#### **8. Grant of extractive mineral lease**

Section 101 of the Principal Act is amended by omitting subsection (1)(aa) and substituting the following:

"(aa) for the term the Minister thinks fit;".

**9. Notification and objection procedures for permit above highwater mark**

Section 110 of the Principal Act is amended –

- (a) by omitting from subsection (1) "the making of the application for the extractive mineral permit" and substituting "the applicant's intention to apply for an extractive mineral permit"; and
- (b) by omitting from subsection (2) "the making of the application" and substituting "the applicant's intention to apply for an extractive mineral permit".

**10. Consideration of application for permit above highwater mark**

Section 111 of the Principal Act is amended by inserting before subsection (1) the following:

"(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."

**11. Application for renewal – extractive mineral permit**

Section 115 of the Principal Act is amended –

- (a) by omitting subsection (2) and inserting the following:

"(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."; and

- (b) by omitting subsection (4).

**12. Form of application**

Section 162 of the Principal Act is amended by omitting subsection (1)(f) and substituting the following:

"(f) is to be accompanied by the prescribed fee;"

**13. Refusal of application**

Section 162A of the Principal Act is amended –

- (a) by omitting from subsection (2)(a) "and" (last occurring); and  
(b) by omitting subsection (2)(b) and substituting the following:

"(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."

**14. New sections**

The Principal Act is amended by inserting after section 164A the following:

**"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).

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"(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."



**15. Transitional provision: applications for prescribed mining acts that are not future acts**

(1) This section applies in relation to applications for prescribed mining acts that are not future acts and were pending immediately before the commencement of this section.

(2) Where, but for this subsection, both this section and an earlier transitional provision would apply in relation to an application, this section applies in relation to the application and the earlier transitional provision does not apply in relation to the application.

(3) Where this section applies, the Secretary may notify the applicant in writing that the applicant is required to serve written notice of the making of the application on the owners and occupiers whom the applicant is required under the Principal Act to notify of the making of the application within 14 days after receiving the notice or within the further time allowed in writing by the Secretary.

(4) Where an applicant is required under the Principal Act to notify an owner or occupier of the making of an application, the applicant is to be taken to have complied with that requirement if the applicant serves written notice of the making of the application on the owner or occupier within 14 days after being advised in writing by the Secretary under subsection (3) that the owner or occupier is to be served or within the further time allowed in writing by the Secretary under subsection (3) to notify the owner or occupier.

(5) Subject to subsections (6) to (10) inclusive, section 163 of the Principal Act applies in respect of an application.

(6) The Secretary is to be taken to have complied with section 163(1) of the Principal Act if the Secretary publishes the notice referred to in that provision as soon as practicable after the Secretary advises the applicant that the owners and occupiers referred to in subsection (3) are to be served.

(7) For the purposes of section 163(1)(f) and (g) of the Principal Act, the date to be specified in the notice published in accordance with subsection (6) is the date that is 21 days after the day on which the Secretary advises the applicant that the owners and occupiers referred to in subsection (3) are to be served.

(8) Subject to subsections (9) and (10), a notice that was published in respect of an application in accordance with section 163(1) of the Principal Act before the commencement of this section is to be disregarded.

(9) An objection or comment in respect of an application lodged under section 163(2) of the Principal Act before the commencement of this section is to be taken to have been lodged under section 163(2) of the Principal Act in

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response to the notice in respect of the application published in accordance with subsection (6).

(10) Nothing in this section is to be taken to prevent a person who lodged an objection or comment in respect of an application under section 163(2) of the Principal Act before the commencement of this section from lodging a further objection or comment in respect of the same application under section 163(2) of the Principal Act after that commencement.

(11) In this section, "earlier transitional provision" means a transitional provision that was in force immediately before the commencement of this section and is about notifying an owner or occupier of the making of an application and publishing notice of the application under section 163 of the Principal Act.

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