

NORTHERN TERRITORY OF AUSTRALIA

MINING AMENDMENT ACT 1998

No. 21 of 1998

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NORTHERN TERRITORY OF AUSTRALIA

No. 21 of 1998

AN ACT

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

[Assented to 30 March 1998]

This Act may be cited as the *Mining Amendment Act 1998*.

2. COMMENCEMENT

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

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

4. INTERPRETATION

Section 4 of the Principal Act is amended by inserting after the definition of "Aboriginal land" in subsection (1) the following:

"'clerk', in relation to a warden's court established under section 141, means —

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- (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;".

5. NEW SECTION

The Principal Act is amended by inserting in Part II, after section 8, the following:

"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).".

6. POWERS OF HOLDER OF MINER'S RIGHT

Section 11 of the Principal Act is amended by omitting from subsection (1)(d) "taking possession of and".

7. OCCUPATION OF LAND PENDING DETERMINATION OF APPLICATION

Section 21 of the Principal Act is amended by omitting from subsection (2)(d) "taken possession of and".

8. GRANT OF LICENCE

Section 22 of the Principal Act is amended by omitting subsections (1A) and (2).

9. POWER OF LICENSEE

Section 23 of the Principal Act is amended —

- (a) by omitting "An exploration" and substituting "(1) Subject to subsection (2), an exploration"; and

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(b) by adding at the end the following:

"(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.".

10. LICENSEE TO NOMINATE BLOCKS TO BE RETAINED

Section 27 of the Principal Act is amended by omitting from subsection (2) "2 separate areas" and substituting "3 separate areas".

11. REPORTS ON CEASING TO HOLD LEASE

Section 80 of the Principal Act is amended by omitting all words after "as the Secretary allows," and substituting "lodge at the office of the Secretary —

(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.".

12. FORM OF APPLICATION

Section 83 of the Principal Act is amended by omitting from subsections (2) and (3) "taking possession of and".

13. REPORT ON CESSATION OF MINERAL CLAIM

Section 94 of the Principal Act is amended by omitting all words after "of the Secretary" and substituting "a comprehensive report —

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- (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."

14. POWERS OF HOLDER OF FOSSICKER'S PERMIT

Section 130D of the Principal Act is amended by omitting from subsection (1)(c) "*Conservation Commission Act*" and substituting "*Parks and Wildlife Commission Act*".

15. FOSSICKING AREAS

Section 131 of the Principal Act is amended —

- (a) by omitting from subsection (1)(d) "*Conservation Commission within the meaning of the Conservation Commission Act*" and substituting "*Parks and Wildlife Commission of the Northern Territory established by the Parks and Wildlife Commission Act*"; and
- (b) by omitting subsection (2)(c) and substituting the following:
 - "(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*; or".

16. ESTABLISHMENT OF COURTS

Section 141 of the Principal Act is amended by omitting subsection (2) and substituting the following:

"(2) There is a clerk of each warden's court."

17. COURT OF RECORD

Section 144 of the Principal Act is amended by omitting from subsection (2) "the clerk" and substituting "a clerk".

18. RECORDS TO BE KEPT

Section 154 of the Principal Act is amended by omitting "the clerk" and substituting "a clerk".

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19. COPIES OF JUDGMENTS, &c.

Section 158 of the Principal Act is amended by omitting from subsection (2) "the clerk" and substituting "a clerk".

20. REPEAL AND SUBSTITUTION

Section 161 of the Principal Act is repealed and the following substituted:

"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."

21. NEW SECTION

The Principal Act is amended by inserting after 162 the following:

"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."

22. PRIORITY IN CONSIDERING APPLICATIONS

Section 164 of the Principal Act is amended —

(a) by omitting from subsection (3) "taken possession of and"; and

(b) by adding at the end the following:

"(4) For the purpose of ascertaining priority under subsection (2), an application for the grant of an exploration licence that is received at an office of the Secretary or a mining registrar after the office closes for business on a particular day is to be taken to be lodged on the next day the office is open for business.

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"(5) The hours during which an office of the Secretary or a mining registrar is open for business are to be set out in guidelines made under section 8AA.".

23. REFUND OF RENT

Section 170 of the Principal Act is amended -

- (a) by omitting from subsection (1) all words after "is not granted," and substituting "the prescribed rent that accompanied the application is to be refunded to the person who paid the prescribed rent";
- (b) by omitting from subsection (2) "to the applicant the difference between the amount of the rent paid by him at the time of lodging his application" and substituting "to the person who paid the prescribed rent that accompanied the application the difference between that amount of rent"; and
- (c) by adding at the end the following:

"(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).".

24. CANCELLATION, &c.

Section 171 of the Principal Act is amended -

- (a) by omitting from subsection (3) "and cause a copy of that notice to be published in the Gazette";
- (b) by omitting subsection (4) and substituting the following:

"(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.";

- (c) by omitting from subsection (5) "or the 14 days period referred to in subsection (3) has expired, whichever is the later"; and

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(d) by adding at the end the following:

"(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."

25. SEARCH AND SEIZURE

Section 190A of the Principal Act is amended —

- (a) by omitting from subsection (1) "is satisfied that there are reasonable grounds for suspecting" and substituting "suspects"; and
- (b) by inserting after subsection (1) the following:

"(1A) Where a member of the Police Force, an inspector 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, inspector or person authorised under this section, assist in making the inquiries.

"(1B) A person must not —

- (a) refuse or fail to comply with; or

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(b) make a false statement in answer to,
a request made under this section.

Penalty: \$2,000."

26. NEW SECTION

The Principal Act is amended by inserting after section 190A the following:

"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."

27. SAVINGS AND TRANSITIONAL

(1) Section 191 of the Principal Act is amended by omitting from subsection 30 "provisions as contained in" and substituting "provisions (including for the amount and payment of rent) of".

(2) Subsection (1) is to be taken to have come into operation on the commencement of section 2 of the *Mining Amendment Act 1991*.

28. NEW SECTION

The Principal Act is amended by adding at the end the following:

"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*."
