

# NORTHERN TERRITORY OF AUSTRALIA

## MINING MANAGEMENT AMENDMENT ACT 2013

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### Act No. 22 of 2013

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# NORTHERN TERRITORY OF AUSTRALIA

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Act No. 22 of 2013

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An Act to amend the *Mining Management Act*

[Assented to 12 July 2013]  
[Second reading 16 May 2013]

The Legislative Assembly of the Northern Territory enacts as follows:

## **1 Short title**

This Act may be cited as the *Mining Management Amendment Act 2013*.

## **2 Commencement**

This Act commences on the day fixed by the Administrator by *Gazette* notice.

## **3 Act amended**

This Act amends the *Mining Management Act*.

## **4 Section 3 amended**

### **(1) Section 3(e)**

*omit*

activities.

*insert*

activities; and

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(2) After section 3(e)

*insert*

(f) to require the payment of a levy to provide funds for:

(i) a Mining Remediation Fund; and

(ii) the effective administration of this Act in relation to minimising or rectifying environmental harm caused by mining activities.

## **5 Section 4 amended**

Section 4

*insert (in alphabetical order)*

**Fund** means the Mining Remediation Fund mentioned in section 46A(1).

**levy**, see section 44A(2).

**Ranger Project Area**, see section 4 of the *Uranium Royalty (Northern Territory) Act 2009* (Cth).

**security** means a security required by section 43(1).

**unsecured mining activities**, see section 46B(2).

## **6 Section 5 amended**

After section 5(3)

*insert*

(4) This Act does not apply to an area of land on which the Darwin Port Corporation carries out, or has carried out, operations and works mentioned in paragraph (e) of the definition of **mining activity** in section 4.

## **7 Section 30 amended**

(1) Section 30, before "As"

*insert*

(1)

- 
- (2) Section 30(1)(b)

*omit*

nature

*insert*

nature, impact

- (3) After section 30(1)

*insert*

- (2) The Chief Executive Officer may recover the costs of an investigation under subsection (1)(b) as a debt payable by the operator for the site on which the incident occurred.

## **8 Section 37 amended**

Section 37(2) to (5)

*omit, insert*

- (2) An Authorisation is subject to the following conditions:
- (a) the operator for the mining site to which the Authorisation relates must comply with the mining management plan in force for the site;
  - (b) unless the Authorisation relates to the Ranger Project Area – the operator must:
    - (i) provide a security of the amount, in the form, and on the terms, specified in the condition; and
    - (ii) pay a levy of an amount specified in the condition;
  - (c) any other conditions the Minister considers appropriate for the mining activities specified in the mining management plan.
- (3) Without limiting subsection (2)(c), the Minister may impose conditions on an Authorisation about any of the following matters:
- (a) the protection of the environment;
  - (b) the outcomes of an environmental assessment of mining activities undertaken under the *Environmental Assessment Act*;

- 
- (c) the provision of social and economic benefits to communities outside the mining site that will be directly affected by the mining activities to be carried out on the site;
  - (d) the form and frequency of periodic reports about mining activities carried out on the mining site;
  - (e) the requirement for the operator to make an environmental mining report available to the public at specified intervals;
  - (f) the requirement to make other reports, or parts of reports, available to the public.

*Note for subsection (3)(e) and (f)*

*See section 45A if the operator does not comply with the condition.*

- (4) For subsection (3)(e), an **environmental mining report** is a report about an operator's environmental performance in carrying out activities for mining minerals, taking into account:
  - (a) the commitments given by, and the obligations imposed on, the operator in relation to an environmental assessment under the *Environmental Assessment Act*, and
  - (b) the obligations of the operator under the management system for the mining site.
- (5) An environmental mining report must:
  - (a) be in the form approved by the Chief Executive Officer; and
  - (b) include the information required by the approved form; and
  - (c) be made available to the public in a way that is specified in the approved form.

## **9 Part 4, Division 4 heading amended**

Part 4, Division 4, heading, at the end

*insert*

**and levy**

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<b>10</b>	<b>Section 43 replaced</b>
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Section 43

*repeal, insert*

**42A      Application of Division**

This Division does not apply in relation to the following:

- (a) an operator who carries out mining activities under an Authorisation relating to the Ranger Project Area;
- (b) an Authorisation granted in relation to the Ranger Project Area.

**43          Requirement for and purpose of security**

- (1) An operator who carries out mining activities under an Authorisation must provide the Minister with a security in relation to the activities in accordance with the condition of the Authorisation mentioned in section 37(2)(b)(i).
- (2) The purpose of the security is to secure any of the following:
  - (a) the operator's obligation to comply with this Act and the Authorisation;
  - (b) the payment of costs and expenses in relation to the Minister taking an action to prevent, minimise or rectify environmental harm caused by mining activities:
    - (i) on the mining site to which the Authorisation relates; or
    - (ii) outside the mining site if the environmental harm results from or may result from a mining activity carried out on the site;
  - (c) the payment of costs and expenses in relation to the Minister taking an action to complete rehabilitation of the mining site.

**43A        Calculation of security**

- (1) The Minister is to calculate the amount of security to be provided by an operator by reference to the level of disturbance likely to be caused by the mining activities to be carried out under the Authorisation granted to the operator.

- 
- (2) A regulation may deal with any of the following:
- (a) a minimum amount of a security to be provided by an operator;
  - (b) procedures relevant to the calculation of a security;
  - (c) criteria on which the calculation of a security is to be based.
- (3) Any part of a security not required for a purpose mentioned in section 43(2) is refundable.

## **11 Sections 44A and 44B inserted**

After section 44, in Part 4, Division 4

*insert*

### **44A Requirement for and purpose of levy**

- (1) An operator who carries out mining activities under an Authorisation must pay an annual levy in accordance with the condition of the Authorisation mentioned in section 37(2)(b)(ii).
- (2) A **levy** is a tax in relation to mining activities that is levied for the purpose of providing revenue:
  - (a) for the Fund; and
  - (b) for the effective administration of this Act in relation to minimising or rectifying environmental harm caused by mining activities.

### **44B Amount of levy**

- (1) The levy to be paid by an operator is 1% of the security provided by the operator.
- (2) A regulation may deal with matters relevant to the levy.
- (3) A levy paid by an operator is non-refundable.

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12	Part 4A inserted
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After section 46

*insert*

## **Part 4A            Mining Remediation Fund**

### **46A            Establishment of Fund**

- (1) The Mining Remediation Fund must be established under the *Financial Management Act*.
- (2) A regulation may deal with matters relevant to the Fund.

### **46B            Purpose of Fund**

- (1) The purpose of the Fund is to hold money in trust to be used by the Agency in connection with minimising or rectifying environmental harm caused by unsecured mining activities.
- (2) ***Unsecured mining activities*** are mining activities, whether carried out by a person before or after the commencement of this section, in relation to which the person:
  - (a) provided no security; or
  - (b) provided a security that has been expended.
- (3) The money held in the Fund may be used for the purpose mentioned in subsection (1) regardless of whether:
  - (a) there is an operator currently carrying out mining activities on land on which the unsecured mining activities were carried out; and
  - (b) the operator is not the person mentioned in subsection (2); and
  - (c) the operator has provided security or paid a levy in relation to the activities currently being carried out.

### **46C            Payments into Fund**

- (1) Subject to subsection (2), at least 33% of the amount of each levy paid by an operator must be paid into the Fund.
- (2) A regulation may increase the minimum percentage required to be paid to the Fund.



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**46D      Payments from Fund**

Without limiting the purpose for which money in the Fund may be used, as specified in section 46B(1), payments may be made from the Fund for costs and expenses incurred in relation to any of the following:

- (a) the identification of environmental harm caused by unsecured mining activities;
- (b) the assessment of the risk of that harm;
- (c) investigations and scientific studies relating to that harm;
- (d) the preparation of remediation plans necessary because of that harm;
- (e) carrying out both long-term and short-term remedial works required because of that harm;
- (f) engaging persons with appropriate expertise to carry out other activities in relation to that harm.

**13      Section 78 amended**

Section 78(1)(b)

*omit*

12 months

*insert*

3 years

**14      Section 80A inserted**

After section 80, in Part 9, Division 2

*insert*

**80A      Court may order reimbursement of investigation costs**

If a person is found guilty of an offence against this Act, the Court may, in addition to any other order it may make under this Act or the *Sentencing Act*, make an order requiring the offender to reimburse the costs and expenses incurred by the Agency in investigating the offence.

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**15      Section 92 amended**

After section 92(2)(h)

*insert*

(ha) charges that may be imposed for an activity carried out in the administration of this Act;

**16      Part 12 inserted**

After section 99

*insert*

**Part 12              Transitional matters for Mining Management  
Amendment Act 2013**

**100      Definition**

In this Part:

***commencement day*** means the day on which this Part commences.

**101      Payment of levy**

- (1) This section applies in relation to an operator who is carrying out mining activities under an Authorisation that:
  - (a) was granted before the commencement day; and
  - (b) includes a condition that the operator must provide a security in relation to those mining activities.
- (2) As soon as practicable after the commencement day, the Minister must give the operator a notice under section 38(2) varying the Authorisation to include the condition mentioned in section 37(2)(b).
- (3) The variation must not have retrospective operation to a day earlier than the commencement day.
- (4) A regulation may deal with matters relevant to the variation of the Authorisation.
- (5) Without limiting subsection (4), a regulation may deal with the following:
  - (a) payment of the levy on a pro rata basis;

- 
- (b) the entitlement of the operator to enter into an arrangement with the Minister for payment of the levy in instalments.

**102 Starting proceeding**

Section 78(1)(b) as in force on and after the commencement day applies regardless of whether the Chief Executive Officer first became aware of the commission of the alleged offence before the commencement day.

**103 Court order for reimbursement of investigation costs**

Section 80A applies regardless of whether:

- (a) the offence was committed before the commencement day; or
- (b) the costs and expenses were incurred before the commencement day.

**17 Act further amended**

The Schedule has effect.

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**Schedule      Act further amended**

section 17

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 38(2)	may	may on the Minister's own initiative
section 45A	section 37	section 37(3)(e) or (f)