



NORTHERN TERRITORY OF AUSTRALIA

No. 28 of 1983

AN ACT

To amend the *Mining Act*

[Assented to 28 July 1983]

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

This Act may be cited as the *Mining Amendment Act 1983*.

2. PRINCIPAL ACT

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

3. RETROSPECTIVE OPERATION OF AMENDMENTS

The amendments effected by this Act shall be deemed to have come into operation on the commencement of the *Mining Act 1980*.

4. INTERPRETATION

Section 4 of the Principal Act is amended -

- (a) by omitting from the definition of "mineral lease" all words after and including "mineral lease or gold" and substituting "mining lease continued in force by virtue of section 191(5)";
- (b) by omitting from the definition of "mining tenement" the words "is continued by section 191(19) or (20)" and substituting "is conferred by section 61(2) or is continued by or under section 191(19) or (20)"; and

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- (c) by omitting from the definition of "tailings and other mining material" the words "and other" and substituting "or other".

5. POWERS OF HOLDERS OF MINER'S RIGHT

Section 11(1) of the Principal Act is amended by omitting paragraph (d) and substituting the following:

- "(d) to obtain a tailings licence in respect of any tailings or other mining material;"

6. INTERPRETATION

Section 13 of the Principal Act is amended by inserting in the definition of "block" after "means" the words ", subject to section 22(1A),".

7. MINISTER MAY GRANT EXPLORATION LICENCE

Section 16 of the Principal Act is amended by omitting sub-section (2) and substituting the following:

"(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."

8. APPLICATION

Section 17(1)(d)(ii) of the Principal Act is amended by omitting "each" and substituting "the first".

9. GRANT OF LICENCE

Section 22 of the Principal Act is amended -

- (a) by omitting from sub-section (1) "or part" and substituting ", or part (including, subject to section 16(2), part or parts of a block),"; and
- (b) by inserting after sub-section (1) the following:

"(1A) Where, in respect of a block, land the subject of an exploration licence granted under sub-section (1) includes part or parts of the block -

- (a) that part, or each of those parts, as the case may be, so included; and

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- (b) that part, or each of those parts, as the case may be, not so included,

of the block, shall, for the purposes of this Act, commencing on the date on which that exploration licence is so granted, each constitute a block."

10. SURRENDER

Section 31 of the Principal Act is amended by omitting sub-section (3) and substituting the following:

"(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 sub-section (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."

11. REPORT ON CEASING TO HOLD LICENCE AREA

Section 32 of the Principal Act is amended by omitting sub-section (1) and substituting the following:

"(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) - he ceases to hold the exploration licence;
- (d) in the case of a person referred to in paragraph (b)(i) - the licence area has been reduced; and

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- (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."

12. APPLICATION FOR LEASE

Section 38(2) of the Principal Act is amended by omitting "200 hectares" and substituting "1,000 hectares".

13. OCCUPATION OF LAND PENDING DETERMINATION OF APPLICATION

Section 56 of the Principal Act is amended -

- (a) by omitting from sub-section (1) "mining operation" and substituting "exploration or mining"; and
- (b) by omitting sub-section (2) and substituting the following:

"(2) Where land the subject of an application referred to in sub-section (1) -

- (a) is, or is part of, a mineral lease area; or
- (b) is held by the applicant under an exploration licence or an exploration retention lease,

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

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14. REPEAL AND SUBSTITUTION

Section 60 of the Principal Act is repealed and the following substituted:

"60. GRANT OF LEASE

"(1) Subject to this Act, after considering the recommendation under section 59 of the warden, the Minister may, in his discretion, grant to an applicant, for such term, not exceeding 25 years, 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 and the treatment of tailings or other mining material the property of the Crown on the lease area;
- (b) for the erection and use of machinery, conveyor apparatus, plant, buildings or other structures for or in connection with the -
 - (i) mining;
 - (ii) transporting;
 - (iii) treatment, processing or refining;
 - (iv) impounding and retaining of waste resulting from the mining, treatment, processing or refining; and
 - (v) stacking or storage,of specified minerals or a mineral or substance containing those minerals or that mineral;
- (c) for the erection and use of residential premises or recreational facilities for persons engaged in or connected with the mining or processing on a mineral lease of specified minerals or a mineral;
- (d) for the cutting and construction of water races, drains, dams and roads for the use thereof in connection with the mining or processing on a mineral lease of specified minerals or a mineral;
- (e) for the boring or sinking for, pumping or raising of, water for the use of that water for or in connection with the mining or processing on a mineral lease of specified minerals or a mineral;

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- (f) for the mining and use of extractive minerals for or in connection with all or any of the things specified in paragraphs (b), (c), (d) and (e); or
- (g) for such other purposes in connection with the mining or processing on a mineral lease of specified minerals or a mineral as the Minister thinks fit and specifies in the lease document.

"(2) The granting of a mineral lease for the purpose specified in sub-section (1)(a) authorizes the lessee to do on the lease area all or any of the things specified in sub-section (1)(b), (c), (d), (e) and (f) in connection with the minerals or a mineral specified in the lease document.

"(3) A mineral lease may be granted for any one or more of the purposes specified in or under sub-section (1)(b) to (g) inclusive."

15. CONSENT OF OWNER REQUIRED IN RESPECT OF CERTAIN AREAS

Section 72 of the Principal Act is amended by omitting "approval in writing" and substituting "consent in writing".

16. MINISTER TO BE SATISFIED OF ARRANGEMENTS

Section 74 of the Principal Act is amended -

- (a) by omitting from sub-section (1) "sub-section (2)" and substituting "this section"; and
- (b) by adding at the end the following:

"(3) Where, in respect of private land, the Minister is satisfied that, for the purposes of this section, an applicant has been unable to locate the owner or occupier of that land, the Minister may grant to the applicant a mineral lease comprised of that land, or partly of that land, upon such terms and conditions as he thinks fit in respect of the payment under section 73 of compensation to that owner or occupier, as the case may be, if that owner or occupier, as the case may be, is located after that grant."

17. APPLICATION FOR CLAIM

Section 82(1) of the Principal Act is amended by inserting after "at any time," the words "unless otherwise provided in the Regulations,".

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18. GRANT OF MINERAL CLAIM

Section 86 of the Principal Act is amended by omitting "for a term of 10 years" and substituting "for such term, not exceeding 10 years, as the Minister thinks fit".

19. NEW SECTION

The Principal Act is amended by inserting after section 86 the following:

"86A. SECURITY FOR COMPLIANCE WITH ACT, &c.

"Before granting a mineral claim under this Division, the Minister may require the applicant for the claim to lodge with the Minister a security in such form, for such amount and from such person as the Minister thinks fit, to secure the applicant's compliance with this Act and the conditions to which that claim is to be subject."

20. APPLICATION FOR EXTRACTIVE MINERAL LEASE

Section 96(1) of the Principal Act is amended by inserting after "at any time," the words "unless otherwise provided in the Regulations,".

21. NEW SECTION

The Principal Act is amended by inserting after section 101 the following:

"101A. SECURITY FOR COMPLIANCE WITH ACT

"Before granting an extractive mineral lease under this Division, the Minister may require the applicant to lodge with him a security in such form, for such amount and from such person as the Minister thinks fit, to secure the applicant's compliance with this Act and the conditions to which the lease is to be subject."

22. APPLICATION FOR EXTRACTIVE MINERAL PERMIT

Section 107 of the Principal Act is amended by omitting sub-section (1) and substituting the following:

"(1) Subject to this Division, a miner may, at any time, unless otherwise provided in the Regulations, apply to a mining registrar to be granted an extractive mineral permit in respect of any land."

23. FORM OF APPLICATION

Section 108 of the Principal Act is amended by omitting paragraphs (f) and (g) and substituting the following:

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- "(f) be accompanied by particulars of the applicant's proposals for progressive and final rehabilitation of 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 the proposed permit area;
- (h) where the application relates to private land, be accompanied by the written consent of the owner of that land to the application being made; and
- (j) state the names and addresses of the occupiers of land that will be, or is likely to be, affected by the grant of the proposed permit."

24. REPEAL AND SUBSTITUTION

Section 110 of the Principal Act is repealed and the following substituted:

"110. NOTICE TO LANDHOLDERS

"The mining registrar shall, as soon as practicable after an application referred to in section 107(1) has been made, serve written notice on the persons referred to in section 108(j), and such other persons as he thinks may be affected by the grant of an extractive mineral permit, that the application has been made."

25. APPLICATION FOR TAILINGS LICENCE

Section 122 of the Principal Act is amended -

- (a) by omitting from sub-section (1) "Subject to sub-section (2), a miner may, at any time," and substituting "A miner may, at any time, unless otherwise provided in the Regulations,"; and
- (b) by omitting sub-sections (2) and (3) and substituting the following:

"(2) A miner shall not make an application for a tailings licence in respect of any tailings or other mining material on private land unless he has first obtained from the owner of that land consent to his making that application."

26. NOTICE TO LANDHOLDER

Section 124 of the Principal Act is amended by omitting sub-section (1).

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27. JURISDICTION

Section 145(j) of the Principal Act is amended by inserting after "Territory" the words ", or, in respect of a mining tenement which is a mineral lease, the provisions of the mineral lease".

28. DEALINGS WITH INTEREST

Section 173(2) of the Principal Act is amended by omitting paragraphs (a), (b) and (c) and substituting the following:

- "(a) 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
- (b) with the Minister's approval of the instrument referred to in paragraph (a).".

29. RESERVATION OF LAND FROM OCCUPATION

Section 178(2) of the Principal Act is amended by omitting all words after and including "to occupy" and substituting "to occupy and use that land or part of that land for -

- (c) exploration;
- (d) mining;
- (e) the treatment, processing or refining of minerals or extractive 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.".

30. REPEAL AND SUBSTITUTION

Section 184 of the Principal Act is repealed and the following substituted:

"184. COMPENSATION TO PASTORAL LESSEES AND OWNERS OF PRIVATE LAND

"(1) Where the holder of an exploration licence, mining tenement (other than a mineral lease in respect of private land), or licence granted under section 125(1), or his servant or agent causes -

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- (a) in the case of the holder of an exploration licence or his servant or agent -
 - (i) damage to private land, including improvements on that land; or
 - (ii) damage to land comprised in a pastoral lease or pastoral homestead lease under the *Crown Lands Act*, including improvements on that land, 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 mining tenement or licence granted under section 125(1) or his servant or agent - damage to land and improvements referred to in paragraph (a), other than land or improvements on land the subject of the mining tenement or licence,

that holder of the exploration licence, mining tenement, or licence granted under section 125(1), as the case may be, shall pay to the owner and occupier of the private land or lessee, as the case may be, compensation for that damage and any loss arising therefrom, in accordance with this section.

"(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 an exploration licence, mining tenement or licence referred to in that sub-section.

"(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 sub-section.

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"(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 licence granted under section 125(1), 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."

31. NEW SECTION

The Principal Act is amended by inserting after section 186 the following:

"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."

32. SAVINGS AND TRANSITIONAL

Section 191 of the Principal Act is amended -

- (a) by omitting from sub-section (2)(a) "this Act had not come into operation" and substituting "it were an exploration licence granted under, and on the commencement of, this Act";
- (b) by omitting sub-sections (5) and (6) and substituting the following:

"(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.

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"(6) A mining lease referred to in sub-section (5) deemed under that sub-section 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.";

(c) by omitting from sub-section (7) "may be, under this Act" and substituting "may be, under this Act, but shall otherwise lapse";

(d) by omitting sub-sections (9), (10) and (11) and substituting the following:

"(9) Subject to sub-sections (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 sub-section (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 sub-section (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."; and

(e) by omitting sub-section (17) and substituting the following:

"(17) At any time within the period of 12 months after the commencement of this Act, where land continued to be occupied under a mineral claim or dredging claim continued in force by virtue of sub-section (16), the holder of that claim may -

(a) where the mineral claim or dredging claim was granted in respect of minerals other than extractive minerals - apply under section 82 of this Act for the grant of a mineral claim; and

(b) where the mineral claim or dredging claim was granted in respect of extractive minerals - apply under section 96 of this Act for an extractive mineral lease or apply under section 107 of this Act for an extractive mineral permit,

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in relation to the whole or part of the area under occupation, in substitution therefor, and upon so applying shall, notwithstanding the other provisions of this Act, be entitled to the grant of that mineral claim, extractive mineral lease or extractive mineral permit, as the case may be."

33. SAVING OF SPECIFIC APPLICATIONS

Section 191A of the Principal Act is amended by inserting after "of an exploration licence" the words "or a prospecting authority".
