

Serial 98  
Mineral Titles Bill 2010  
Mr Vatskalis

A Bill for an Act about exploration for, and extraction and processing of, minerals and extractive minerals in the Territory, and for related purposes

**NORTHERN TERRITORY OF AUSTRALIA**

**MINERAL TITLES ACT 2010**

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**Act No. [ ] of 2010**

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# NORTHERN TERRITORY OF AUSTRALIA

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Act No. [ ] of 2010

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An Act about exploration for, and extraction and processing of, minerals and extractive minerals in the Territory, and for related purposes

[Assented to [ ] 2010]  
[Second reading [ ] 2010]

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

## **Part 1            Introduction**

### **Division 1        Preliminary matters**

#### **1            Short title**

This Act may be cited as the *Mineral Titles Act 2010*.

#### **2            Commencement**

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

#### **3            Objects of Act**

The objects of this Act are as follows:

- (a) to establish a framework for granting and regulating mineral titles that authorise exploration for, and extraction and processing of, minerals and extractive minerals;
- (b) to facilitate the commercialisation of activities conducted under mineral titles by authorising the creation and transfer of interests in the titles;

- (c) to authorise other activities relating to minerals or extractive minerals to be conducted without mineral titles.

#### **4 Application of Act may be affected by other legislation**

- (1) This Act has effect subject to other Acts of the Territory and Commonwealth that may affect:
  - (a) rights and powers given under this Act; or
  - (b) obligations and functions imposed under this Act.

*Examples for subsection (1)*

- 1 *The Control of Roads Act and Water Act.*
- 2 *The ALRA and NTA.*

- (2) This Act operates in conjunction with the *Mining Management Act*, which deals with the authorisation and management of exploration for, and extraction and processing of, minerals or extractive minerals to ensure the protection of the environment.

#### **5 Land to which Act applies**

- (1) This Act applies to all the land of the Territory.
- (2) The ***land of the Territory*** includes:
  - (a) water on the land; and
  - (b) the coastal waters of the Territory as defined in section 3(1) of the *Coastal Waters (Northern Territory Powers) Act 1980* (Cth).

#### **6 Act binds Crown**

- (1) This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.
- (2) However, Part 4 does not bind the Crown in relation to exploration for, or extraction of, extractive minerals required by the Territory for the construction or maintenance of roads or other infrastructure.

## 7 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

*Note for section 7*

*Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.*

## Division 2 Interpretation

### 8 Definitions

In this Act:

**Aboriginal community living area**, see section 3 of the *Local Government Act*.

**Aboriginal land**, see section 3(1) of the ALRA.

**access area** means the area of land to which an access authority relates.

**access authority** means an authority granted under section 84(4).

**acting in an official capacity**, in relation to an official, means the official is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

**adjoining blocks** means 2 or more blocks each of which has at least one common side or point with another.

**ALRA** means the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

**approved determination of native title**, see section 253 of the NTA.

**approved form** means a form approved under section 162.

**area of land**, in relation to a title area, includes an area above, on or under the surface of the land comprising the title area.

**Atomic Energy Act** means the *Atomic Energy Act 1953* (Cth).

**authorised activities**, in relation to a mineral title, see section 11(3).

**authorised officer** means one of the following:

- (a) an authorised officer appointed under section 174;
- (b) a mining officer as defined in section 4 of the *Mining Management Act*.

**block**, see section 16(3).

**business day** means a day that is not a Saturday, Sunday or public holiday.

**caveat** means a caveat lodged under section 130(1).

**claimant** means a person who has given a notice of claim under section 110(1).

**commencement day**, see section 192(1).

**conditions**, of a mineral title, means the conditions for the title mentioned in section 85.

**converted mineral title**, for Part 12, see section 192(1).

**corresponding application**, for Part 12, see section 192(1).

**corresponding mineral title**, for Part 12, see section 192(1).

**corresponding title**, in relation to a mineral authority, see section 118(2)(a).

**council road** means a road vested in, or under the care, control and management of, a council under the *Local Government Act*.

**declared fossicking area** means an area of land declared to be a fossicking area under section 135(1).

**declared park or reserve**, see section 15(3).

**EL** means a mineral exploration licence.

**ELR** means a mineral exploration licence in retention.

**EMEL** means an extractive mineral exploration licence.

**EML** means an extractive mineral lease.

**EMP** means an extractive mineral permit.

**excluded land**, in an Aboriginal community living area, see section 184(1).

**existing application**, for Part 12, see section 192(1).

**existing interest**, for Part 12, see section 192(1).

**existing proposed title area**, see section 65(3).

**existing title area**, see section 65(3).

**exploration**, for minerals or extractive minerals, means all methods of searching for or evaluating deposits of minerals or extractive minerals (excluding by fossicking).

**extractive mineral**, see section 10.

**extractive mineral exploration licence**, see section 46(1).

**extractive mineral lease**, see section 54(1).

**extractive mineral permit**, see section 50(1).

**fossick**, see section 134(2).

**fossicker** means a person who fossicks.

**GDA 94** means the national datum known as Geocentric Datum of Australia 1994 used for surveying, mapping and spatial referencing of geographical data.

**general reserved land**, see section 113(2).

**guidelines** means the guidelines made under section 168(1).

**improvements**, on land, means any of the following:

- (a) a building used as a residence, or for a business or an agricultural purpose, and any other building or structure;
- (b) a road constructed by or for the landowner of the land;
- (c) a yard, fence, wall and any other barrier (for example, a gate);
- (d) a pipe, tank, trough, pump and any other thing for storing or raising water or another liquid;
- (e) a garden, orchard, plantation and any other similar land use.

**information** includes documents.

**infrastructure** includes electricity lines, telecommunication facilities, railways, roads, pipelines and ship loading facilities.

**Land Council**, for Aboriginal land, means the Land Council established under the ALRA for the land.

**land of the Territory**, see section 5(2).

**land register** means the land register as defined in section 4 of the *Land Title Act*.

**landowner**, see section 14.

**MA** means a mineral authority.

**mineral**, see section 9.

**mineral authority**, see section 118(2).

**mineral exploration licence**, see section 26(1).

**mineral exploration licence in retention**, see section 34(3).

**mineral lease**, for:

- (a) Part 12 – see section 192(1).
- (b) any other provision – see section 40(1).

**mineral rights interests**, see section 121(2)(e).

**mineral title**, see section 11(1).

**mineral title application** means an application made under:

- (a) Part 3 or 4; or
- (b) Part 5, Division 5; or
- (c) section 118 or 119.

**mining**, see section 12.

**ML** means a mineral lease.

**native title land** means land for which, under the NTA, there is an approved determination of native title that native title exists in the land.

**necessary criteria**, in relation to a mineral title application, means the criteria specified in section 58(2).

**non-compliant existing interest**, for Part 12, see section 192(1).

**non-compliant title**, for Part 12, see section 192(1).

**NTA** means the *Native Title Act 1993* (Cth).

**official** means one of the following:

- (a) the Minister;
- (b) a person assisting the Minister to take an action under section 171(2);
- (c) an authorised officer;
- (d) a person assisting an authorised officer in the exercise of a power or performance of a function under this Act as mentioned in section 179.

**operational year**, for a mineral title, means:

- (a) the period of 12 months immediately after the title comes into force; and
- (b) each subsequent period of 12 months.

**park or reserve**, see section 15(1).

**pastoral land** means land held under a pastoral lease as defined in section 3 of the *Pastoral Land Act*.

**preliminary exploration** means preliminary exploration of land for minerals or extractive minerals as mentioned in section 17.

**prescribed substance**, see section 5(1) of the Atomic Energy Act.

**private land** means land in relation to which a person is entitled to:

- (a) a fee simple interest; or
- (b) a lease from the Crown under the *Crown Lands Act* or *Special Purposes Leases Act*.

**proposed title area**, in relation to a mineral title application, means the title area described in the application.

**Ranger Project Area**, see section 4 of the Uranium Royalty Act.

**register** means the Mineral Titles Register kept under section 121(1).

**registration** means the entry in the register of information mentioned in section 121(2).



**relevant offence**, for Part 10, Division 3, see section 181.

**repealed Act**, see section 192(1).

**representative**, for Part 9, Division 3, see section 154.

**reserved land** means special reserved land, general reserved land or land reserved under section 115.

**seized thing**, for Part 10, Division 3, see section 181.

**special reserved land**, see section 112(2).

**technical work program**, see section 13.

**term**, of a mineral title, means the period for which the title is granted or renewed.

**Territory road** means a road vested in, or under the care, control and management of, the Territory.

**title** means a mineral title.

**title area** means:

- (a) generally – the area to which a mineral title relates; or
- (b) in relation to a specified type of mineral title – the area to which that type of mineral title relates.

**title holder** means:

- (a) generally – a person who is granted or issued with a mineral title; or
- (b) in relation to a specified type of mineral title – a person who is granted or issued with that type of mineral title.

**Tribunal** means the Lands, Planning and Mining Tribunal established by section 4 of the *Lands, Planning and Mining Tribunal Act*.

**Uranium Royalty Act** means the *Uranium Royalty (Northern Territory) Act 2009* (Cth).

**vacant Crown land** means land in relation to which no person is recorded in the land register as a registered owner or registered proprietor.

## 9 Mineral

(1) A **mineral** is:

- (a) any of the following naturally occurring substances that is obtainable by mining:
  - (i) an inorganic element or compound (for example, an inorganic carbonate compound);
  - (ii) an organic carbonate compound; or
- (b) coal, lignite, oil shale or salt; or
- (c) another substance prescribed by regulation.

(2) However, none of the following is a mineral:

- (a) an extractive mineral;
- (b) petroleum as defined in section 5(1) of the *Petroleum Act*;
- (c) water;
- (d) another substance prescribed by regulation.

## 10 Extractive mineral

An **extractive mineral** is:

- (a) soil, sand, gravel, rock or peat; or
- (b) another substance prescribed by regulation.

## 11 Mineral title

(1) A **mineral title** is all the documents comprising any one of the following instruments:

- (a) a mineral exploration licence (an **EL**);
- (b) a mineral exploration licence in retention (an **ELR**);
- (c) a mineral lease (an **ML**);
- (d) an extractive mineral exploration licence (an **EMEL**);
- (e) an extractive mineral permit (an **EMP**);
- (f) an extractive mineral lease (an **EML**);

(g) a mineral authority (an **MA**).

*Examples for subsection (1)*

1 A mineral exploration licence may comprise the EL as granted and the documents given by the Minister relating to each reduction of the title area of the EL and each renewal of the EL.

2 An extractive mineral permit may comprise the EMP as granted and a document given by the Minister varying a condition of the EMP.

(2) A mineral title is in force from the time it is granted or issued until:

(a) subject to section 68 – the term of the mineral title has ended;  
or

(b) the surrender or cancellation of the mineral title has taken effect; or

(c) another mineral title has been granted or issued to the title holder to replace the mineral title; or

(d) the mineral title no longer has effect for another reason (for example, because of the compulsory acquisition of the land comprising the title area).

(3) A mineral title gives the title holder the right to conduct activities (**authorised activities**) mentioned in the following provision:

(a) for an EL – section 26(1)(b);

(b) for an ELR – section 34(3)(b);

(c) for an ML – section 40(1)(b)(i) or (ii);

(d) for an EMEL – section 46(1)(b);

(e) for an EMP – section 50(1)(b);

(f) for an EML – section 54(1)(b);

(g) for an MA – section 118(2)(b).

(4) A reference in this Act to authorised activities includes a reference to the work necessary for conducting the activities.

## 12 Mining

(1) **Mining** is the extraction of minerals or extractive minerals from land of the Territory by one of the following methods:

(a) underground, surface or open-cut workings;

- (b) on-site leaching;
  - (c) dredging;
  - (d) another method prescribed by regulation.
- (2) To avoid doubt, the extraction of extractive minerals from land by a method mentioned in subsection (1), for the extractive minerals to be used in construction work, is mining.
- (3) However, the extraction of extractive minerals from land by a method mentioned in subsection (1) is not mining if:
- (a) it is incidental to construction work (for example, for the foundation of a building or for a road or rail cutting); or
  - (b) the extractive minerals are for use elsewhere on the land by the landowner (for example, to build a dam).
- (4) In addition, the extraction of extractive minerals from the natural surface of land only, under an extractive mineral permit, is not mining.

### 13 Technical work program

- (1) A **technical work program** is a summary of the following:
- (a) the technical work proposed to be carried out for conducting authorised activities under a mineral title;
  - (b) the proposed expenditure for carrying out the technical work;
  - (c) in relation to an application for the grant or renewal of a mineral title – the technical and financial resources available to the applicant for carrying out the technical work.
- (2) A technical work program must give sufficient information about the work to be carried out under the mineral title to enable the Minister to make a proper decision about:
- (a) an application relating to the title; or
  - (b) whether the holder of the title has met, or will meet, conditions or requirements under this Act.
- (3) A technical work program may include information about any of the following:
- (a) geological, geochemical or geophysical surveys;

- (b) the assessment of a mineral resource or extractive mineral resource and the work required to develop the resource;
- (c) work to assess the feasibility of mining;
- (d) other work in connection with exploration for, or mining of, minerals or extractive minerals.

#### 14 **Landowner**

A **landowner** is one of the following persons:

- (a) a person recorded in the land register, as defined in section 4 of the *Land Title Act*, as a person entitled to:
  - (i) the fee simple interest in land; or
  - (ii) a lease from the Crown under the *Crown Lands Act*, *Pastoral Land Act* or *Special Purposes Leases Act*;
- (b) if the land is an Aboriginal community living area – the association that holds the land;
- (c) if the land is Aboriginal land – the Land Trust, established under the ALRA, that holds the land;
- (d) if the land is native title land – the holder of the native title;
- (e) if the land is a park or reserve – the entity responsible for the care, control and management of the land;
- (f) if the land is under the care, control and management of the Conservation Land Corporation established by section 27 of the *Parks and Wildlife Commission Act* – that corporation.

*Note for section 14(c) and (d)*

*A provision of this Act that deals with a matter relevant to a landowner of Aboriginal land or native title land is subject to a provision relating to that matter in the ALRA or NTA respectively – see section 4(1).*

#### 15 **Park or reserve**

- (1) A **park or reserve** is one of the following:
  - (a) a Commonwealth reserve as defined in section 528 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth);
  - (b) an area of land declared to be a park or reserve under section 9(4) or 12 of the *Territory Parks and Wildlife Conservation Act*;

- (c) a sanctuary as defined in section 3 of the *Cobourg Peninsula Aboriginal Land, Sanctuary and Marine Park Act*.
- (2) For subsection (1)(a), a Commonwealth reserve includes a park or reserve proclaimed under the *National Parks and Wildlife Conservation Act 1975* (Cth) that, under section 3 of the *Environmental Reform (Consequential Provisions) Act 1990* (Cth), was declared as a Commonwealth reserve.
- (3) A **declared park or reserve** is an area of land mentioned in subsection (1)(b).

## 16 Block

- (1) For this Act, the land of the Territory is taken to be divided into graticular sections by the following lines:
  - (a) the meridian of longitude 129 degrees east and each meridian of longitude east of it, with a distance of one minute between each of the meridians;
  - (b) the parallel of latitude 26 degrees south and each parallel of latitude north of it, with a distance of one minute between each of the parallels.
- (2) The geographical coordinates of the graticular sections are determined on the basis of GDA 94.
- (3) A **block** is so much of a graticular section as is within the land of the Territory.
- (4) A reference in this Act to a block includes a reference to part of a block.

## Part 2 Preliminary exploration of land

### 17 Authorised preliminary exploration

- (1) A person may enter an area of land of the Territory to conduct preliminary exploration of the land only in accordance with this Part.
- (2) The purpose of conducting preliminary exploration of land is to enable a person to assess the potential of the land for future exploration for minerals or extractive minerals under a mineral title.
- (3) Preliminary exploration of land may include any of the following activities:
  - (a) examination of geological characteristics;

- (b) with the Minister's approval – an airborne geoscientific survey;
  - (c) removal of small samples of minerals or extractive minerals for analysis;
  - (d) marking boundaries for a proposed application for a mineral title.
- (4) Only the following tools or equipment may be used for preliminary exploration:
- (a) hand-held and non-mechanical tools, excluding metal detectors;
  - (b) global positioning systems;
  - (c) other tools or equipment prescribed by regulation.

#### **18 Declared fossicking area – restriction on marking boundaries**

- (1) A person may conduct preliminary exploration in a declared fossicking area without giving notice of the intention, or obtaining consent, to do so.
- (2) However, a person conducting preliminary exploration in a declared fossicking area may mark boundaries for a proposed application for a mineral title only with the Minister's consent.

#### **19 Vacant Crown land – notice**

- (1) A person may conduct preliminary exploration on vacant Crown land in relation to which a person holds a licence granted under Part 7 of the *Crown Lands Act* only after:
  - (a) giving the holder of the licence a notice of the person's intention to do so; or
  - (b) taking all reasonable steps to give the notice.
- (2) A person may conduct preliminary exploration on any other vacant Crown land without giving notice of the intention, or obtaining consent, to do so.

#### **20 Pastoral land and native title land – notice**

A person may conduct preliminary exploration on pastoral land or native title land only after:

- (a) giving the landowner or occupier of the land, as specified by regulation, a notice of the person's intention to do so; or

- (b) taking all reasonable steps to give the notice.

## 21 When consent required

- (1) This section applies in relation to any of the following land (the **relevant land**):
  - (a) reserved land;
  - (b) private land;
  - (c) Aboriginal land;
  - (d) an Aboriginal community living area;
  - (e) a park or reserve.
- (2) A person may conduct preliminary exploration on the relevant land only with the written consent of the following person:
  - (a) in relation to reserved land – the Minister;
  - (b) in relation to any other relevant land – the landowner.
- (3) A person who consents to preliminary exploration on relevant land may impose reasonable conditions on the entry and use of the land for conducting preliminary exploration.
- (4) In relation to reserved land, the Minister must take into account the purpose of the reservation of the land before making a decision about:
  - (a) giving or withholding consent for preliminary exploration; or
  - (b) imposing conditions on the entry onto and use of the land for conducting preliminary exploration.
- (5) In relation to private land or a park or reserve:
  - (a) the landowner of the relevant land must not unreasonably withhold consent for a person to conduct preliminary exploration of the relevant land; and
  - (b) a dispute about the withholding of consent may be decided by the Tribunal on application by the person wishing to conduct the preliminary exploration.



**22 Requirements for title area or proposed title area**

- (1) In relation to land in a title area, a person who is not the title holder may conduct preliminary exploration of the land only as prescribed by regulation.
- (2) In relation to land in the proposed title area of an EL or EMEL, or an MA that corresponds to an EL or EMEL (the **relevant application**):
  - (a) the person who made the relevant application may conduct preliminary exploration in the proposed title area; and
  - (b) another person may conduct preliminary exploration in the proposed title area only as prescribed by regulation.

**23 Multiple requirements for preliminary exploration**

- (1) This section applies if:
  - (a) a person conducts or intends to conduct preliminary exploration on an area of land; and
  - (b) more than one provision of this Part applies in relation to the land (for example, because it is pastoral land and also the title area of an EL).
- (2) The person must comply with each requirement under this Part for the land.

**24 General obligations for preliminary exploration**

- (1) A person conducting preliminary exploration of land must comply with the reasonable conditions or requests of the landowner.
- (2) The person may use water conserved artificially by or for the landowner only with the landowner's consent.
- (3) If it is necessary for the person to stay overnight on the land, the person must take all reasonable steps to inform the landowner of that fact.
- (4) The person must have in the person's possession the documents required by regulation, which may include documents relating to the person's identity and proof of attempts to give notice of the preliminary exploration.
- (5) This section does not affect the person's obligation to comply with other laws in force in relation to the land.

## 25 Regulations relating to preliminary exploration

A regulation may provide for any of the following:

- (a) particular activities that may be conducted for preliminary exploration;
- (b) conditions relating to conducting particular activities for preliminary exploration;
- (c) information to be given to the Minister by a person conducting preliminary exploration;
- (d) circumstances when notice must be given, or steps must be taken for giving notice, to a landowner or occupier of land, of a person's entry onto land;
- (e) the contents of a notice or application to be given or made to the Minister, a landowner or an occupier of land;
- (f) procedures and limitations of time applicable to a matter mentioned in this section.

## Part 3 Minerals – exploration, evaluation, mining and processing

### Division 1 Mineral title for exploration for minerals

#### 26 Mineral exploration licence

- (1) A ***mineral exploration licence*** is a mineral title that gives the title holder:
  - (a) the right to occupy the title area specified in the EL; and
  - (b) the exclusive right to conduct exploration for minerals in the title area and other activities specified in section 31; and
  - (c) the exclusive right to apply for a mineral lease for all or part of the title area.
- (2) The rights of the title holder may be exercised only:
  - (a) during the period the EL is in force; and
  - (b) in accordance with this Act and the conditions of the EL.

## **27 Application for and grant of EL**

- (1) A person may apply in the approved form to the Minister for the grant of an EL.
- (2) The application must include:
  - (a) a description of the blocks comprising the proposed title area of the EL; and
  - (b) a technical work program for the first 2 operational years of the EL.
- (3) The Minister may grant an EL for a term not exceeding 6 years.

### *Notes for section 27*

- 1 Section 28, Part 5, Division 1 and section 163 include other provisions relevant to the application.
- 2 Part 5, Division 2 includes procedures relevant to making a decision about the application.

## **28 Title area of EL on grant**

- (1) The title area of an EL on the day it is granted may comprise a minimum of 4 adjoining blocks and a maximum of 250 blocks.
- (2) If the Minister considers it appropriate, the title area may be divided into a maximum of 3 separate areas in the same geographic area, each area comprising a minimum of 4 adjoining blocks.
- (3) Despite subsections (1) and (2), the Minister may grant an EL with a title area smaller than 4 adjoining blocks if there are circumstances to justify it (for example, because of the geography or natural configuration of the land).

## **29 Reduction of title area of EL**

- (1) This section applies in relation to the operational years of an EL:
  - (a) during the term for which the EL is first granted; and
  - (b) only if it is possible to reduce the title area to comply with subsection (3)(a).
- (2) Unless the Minister decides otherwise under subsection (4), the title area of an EL must be reduced at the end of each period of 2 operational years (a **reduction period**), including the last 2 operational years if the title holder applies for a renewal of the EL.

- (3) Before the end of a reduction period, the title holder must give the Minister a notice nominating the blocks to be retained in the title area of the EL:
  - (a) so that the title area after the reduction will comprise no more than 3 separate areas of at least 4 adjoining blocks each; and
  - (b) in the following way:
    - (i) if the title area comprises an even number of blocks – by nominating no more than half that number;
    - (ii) if the title area comprises an odd number of blocks – by increasing the number of blocks by one and nominating no more than half that number.
- (4) However, the Minister may, on application by the title holder or on the Minister's own initiative, decide:
  - (a) no reduction of the title area is required at the end of a reduction period; or
  - (b) a lesser reduction than is required under subsection (3)(b), as specified in the decision, is permitted at the end of a reduction period; or
  - (c) to defer the reduction of the title area by a period, specified in the decision, not exceeding 12 months.
- (5) Before making a decision under subsection (4), the Minister must take into account:
  - (a) the extent to which a reduction of the title area may affect the authorised activities conducted under the EL; and
  - (b) any other matter prescribed by regulation.

### **30 Renewal of EL**

- (1) Before the end of the term of an EL, the title holder may apply in the approved form to the Minister for the renewal of the EL for all or some of the blocks in the title area.
- (2) The Minister may renew the EL for a term not exceeding 2 years.
- (3) The EL may be renewed more than once.

### **31 Authorised activities under EL**

- (1) An EL gives the title holder the right to conduct activities in connection with exploration for minerals, including the following:
  - (a) digging pits, trenches and holes, and sinking bores and tunnels, in the title area;
  - (b) activities for ascertaining the quality, quantity or extent of ore or other material in the title area by drilling or other methods;
  - (c) the extraction and removal of samples of ore and other substances from the title area in amounts reasonably necessary for the evaluation of the potential for mining in the area.
- (2) Despite subsection (1)(c), the title holder may remove larger samples of ore and other substances from the title area:
  - (a) if the Minister is satisfied it is appropriate in the circumstances to do so; and
  - (b) has authorised the removal.

### **32 Conditions of EL**

- (1) Before starting to conduct authorised activities under an EL, the title holder must follow the procedures prescribed by regulation for giving notice to landowners or occupiers of land in the title area:
  - (a) of the intention to start conducting the activities; and
  - (b) of the entry of the title holder onto the land to conduct the activities.
- (2) The holder of an EL must:
  - (a) carry out the work necessary for the discovery and assessment of the potential value of minerals in the title area substantially in accordance with:
    - (i) the technical work program for the EL; and
    - (ii) the expenditure requirements specified in the EL; and
  - (b) if a mineral that may be of economic or scientific interest is discovered in the title area – give the Minister a notice of the discovery within 28 days after the mineral is discovered; and

- (c) if underground water is found when conducting authorised activities – notify the Minister of the find within 28 days and give the Minister the samples and data the Minister requires; and
  - (d) before the end of each operational year of the EL, give the Minister a technical work program for the authorised activities to be conducted in the title area in the next operational year.
- (3) The holder of an EL must not:
- (a) extract or remove ore or another substance from the title area unless authorised under section 31(1)(c) or (2); or
  - (b) sell a mineral discovered in the title area unless the Minister has approved the sale.

*Note for section 32*

*See Part 5, Division 4 for further conditions.*

## **Division 2 Mineral title for evaluation of minerals**

### **33 Application for designation of EL as ELR**

- (1) Before the end of the term of an EL, the title holder may apply in the approved form to the Minister for the EL to be designated as an exploration licence in retention in relation to:
  - (a) all of the title area of the EL; or
  - (b) one or more parts of the title area of the EL.
- (2) The title holder may apply for the designation only if:
  - (a) an ore body or anomalous zone of possible economic potential has been found in the proposed title area of the ELR; and
  - (b) the title holder reasonably believes that mining minerals in the proposed title area:
    - (i) is not currently commercially viable; or
    - (ii) may be currently commercially viable but further work is required for assessing its feasibility.
- (3) The application must include the following information:
  - (a) a description of the proposed title area of the ELR;

- (b) a technical work program for the proposed title area for the first operational year of the ELR.

*Notes for section 33*

- 1 *Part 5, Division 1 and section 163 include other provisions relevant to the application.*
- 2 *Part 5, Division 2 includes procedures relevant to making a decision about the application.*

### **34 Designation and issuing of ELR**

- (1) The Minister may decide to designate an EL as an ELR in relation to all, or one or more parts, of the title area of the EL if satisfied:
  - (a) about the matters mentioned in section 33(2)(a) and (b); and
  - (b) the applicant will have the technical and financial capacity to develop and mine the mineral deposits in the title area of the ELR.
- (2) After making a decision under subsection (1), the Minister must issue the applicant with a mineral exploration licence in retention.
- (3) A ***mineral exploration licence in retention*** is a mineral title that gives the title holder:
  - (a) the right to occupy the title area specified in the ELR; and
  - (b) the exclusive right to conduct the activities specified in section 37; and
  - (c) the exclusive right to apply for a mineral lease for all or part of the title area.
- (4) The rights of the title holder may be exercised only:
  - (a) during the period the ELR is in force; and
  - (b) in accordance with this Act and the conditions of the ELR.
- (5) The Minister may issue the ELR for a term not exceeding 5 years.

*Note for section 34*

*Part 5, Division 2 includes procedures relevant to making a decision for this section.*

### **35 Effect on EL**

- (1) The term and title area of an EL are not affected by:
  - (a) the making of an application under section 33; or

- (b) a refusal of the application by the Minister.
- (2) The issuing of an ELR for part of the title area of an EL removes the title area of the ELR from the title area of the EL.
- (3) An ELR issued for all of the title area of an EL replaces the EL.

### **36 Renewal of ELR**

- (1) Before the end of the term of an ELR, the title holder may apply in the approved form to the Minister for the renewal of the ELR for all or part of the title area.
- (2) The Minister may renew the ELR, for a term not exceeding 5 years, if satisfied about the following matters:
  - (a) the work carried out under the technical work program for the ELR;
  - (b) the title holder has the technical and financial capacity to continue to carry out that work;
  - (c) any other matters prescribed by regulation.
- (3) The ELR may be renewed more than once.

### **37 Authorised activities under ELR**

- (1) An ELR gives the title holder the right to continue conducting the authorised activities for an EL.
- (2) In particular, the title holder of an ELR has the right to carry out the studies and tests necessary to assess the development potential of ore bodies or anomalous zones in the title area for the evaluation of the commercial viability of mining and processing minerals in the area.

### **38 Conditions of ELR**

- (1) The conditions of an ELR are:
  - (a) the conditions specified in section 32 for an EL; and
  - (b) the title holder must apply for the grant of a mineral lease if the mining and processing of minerals in the title area of the ELR becomes commercially viable.



- (2) The Minister may impose additional conditions on an ELR relevant to the evaluation of the commercial viability of mining and processing minerals found in the title area.

*Note for section 38*

*See Part 5, Division 4 for further conditions.*

### **39 Requirement if mining and processing appear viable**

- (1) If the Minister is satisfied mining and processing of minerals in the title area of an ELR is commercially viable and should begin as soon as possible, the Minister may give the title holder a notice stating:
- (a) the title holder must, within the time specified by the notice:
    - (i) give the Minister written reasons why the title holder has not applied for a mineral lease for all or part of the title area of the ELR; or
    - (ii) apply for a mineral lease for all or part of the title area of the ELR; and
  - (b) if the title holder does not give reasons or apply for a mineral lease within the specified time, the Minister may cancel the ELR under this section.
- (2) The Minister may cancel the ELR after the time specified in the notice if:
- (a) the title holder does not give reasons or apply for a mineral lease within that time; or
  - (b) having regard to the reasons given by the title holder – the Minister is satisfied it is in the interests of the Territory that the ELR should be cancelled.

## **Division 3 Mineral title for mining and processing minerals**

### **40 Mineral lease**

- (1) A **mineral lease** is a mineral title that gives the title holder:
- (a) the right to occupy the title area specified in the ML; and
  - (b) the exclusive right to:
    - (i) conduct mining for minerals in the title area and other activities specified in section 44; or

- (ii) conduct activities in the title area that are ancillary to mining conducted under another ML granted to the title holder (for example, operating a treatment plant).
- (2) The rights of the title holder may be exercised only:
  - (a) during the period the ML is in force; and
  - (b) in accordance with this Act and the conditions of the ML.

#### **41 Application for and grant of ML**

- (1) A person may apply in the approved form to the Minister for the grant of an ML.
- (2) An application for the grant of an ML must include the following information:
  - (a) a description of the land comprising the proposed title area of the ML;
  - (b) evidence of an ore body or anomalous zone of likely economic value in the proposed title area, unless the ML is required to conduct activities mentioned in section 40(1)(b)(ii);
  - (c) a summary of the work proposed to be carried out for conducting authorised activities under the ML.
- (3) The Minister may grant an ML for the term the Minister considers appropriate.

##### *Notes for section 41*

- 1 *Part 5, Division 1 and section 163 include other provisions relevant to the application.*
- 2 *Part 5, Division 2 includes procedures relevant to making a decision about the application.*

#### **42 Requirement to construct new road**

- (1) This section applies in relation to an application for the grant of an ML for a proposed title area that includes an existing road constructed by a person other than the applicant for the ML.
- (2) If, immediately or soon after the grant of an ML, the existing road will become unusable because of the authorised activities being (or soon to be) conducted under the ML, the Minister may:
  - (a) require the applicant to construct another road, to a standard acceptable to the Minister, for use instead of the existing road; and

- (b) grant an ML only if the applicant gives the Minister a written undertaking that the applicant will comply with the requirement under paragraph (a).
- (3) If the existing road will not become unusable immediately or soon after the grant of an ML because of the authorised activities to be conducted under the ML, but may become unusable for that reason in the future, the Minister may grant an ML only if the applicant gives the Minister a written undertaking that the applicant will comply with a future requirement of the Minister as mentioned in subsection (2)(a).
- (4) If the Minister grants an ML in accordance with subsection (2) or (3), the Minister may include a condition in the ML relating to the required construction of the other road.

#### **43 Renewal of ML**

- (1) Before the end of the term of an ML, the title holder may apply in the approved form to the Minister for the renewal of the ML for all or part of the title area.
- (2) The Minister may renew the ML for the term the Minister considers appropriate.
- (3) The ML may be renewed more than once.

#### **44 Authorised activities under ML**

- (1) An ML that gives the title holder the right to conduct mining in the title area also gives the title holder the right to conduct the following activities:
  - (a) exploration for minerals in the title area;
  - (b) the evaluation, processing or refining of minerals in the title area;
  - (c) the treatment of tailings and other material in the title area;
  - (d) the storage of waste and other material in the title area;
  - (e) the removal of minerals from the title area;

- (f) other activities, as specified in the ML, in connection with an activity mentioned in this subsection.
- (2) An ML mentioned in subsection (1) also gives the title holder the right to conduct any of the following activities:
- (a) mining extractive minerals in the title area;
  - (b) fossicking in the title area as a commercial operation;
  - (c) other activities, as specified in the ML, in connection with an activity mentioned in this subsection.

#### 45 **Conditions of ML**

The holder of an ML must:

- (a) comply with all contractual arrangements entered into with the Territory relating to the mining and development of mineral deposits in the title area and the processing of the minerals; and
- (b) conduct authorised activities in relation to the title area in a way that interferes as little as possible with the rights of other occupiers of land in the vicinity of the title area.

*Note for section 45*

*See Part 5, Division 4 for further conditions.*

## **Part 4 Extractive minerals – exploration, surface extraction and mining**

### **Division 1 Mineral title for exploration for extractive minerals**

#### **46 Extractive mineral exploration licence**

- (1) An **extractive mineral exploration licence** is a mineral title that gives the title holder:
- (a) the right to occupy the title area specified in the EMEL; and
  - (b) the exclusive right to conduct exploration for extractive minerals in the title area and other activities specified in section 48; and
  - (c) the exclusive right to apply for an extractive mineral permit or extractive mineral lease for all or part of the title area.

- (2) The rights of the title holder may be exercised only:
  - (a) during the period the EMEL is in force; and
  - (b) in accordance with this Act and the conditions of the EMEL.

#### **47 Application for and grant of EMEL**

- (1) A person may apply in the approved form to the Minister for the grant of an EMEL.
- (2) The application must include:
  - (a) a description of the blocks comprising the proposed title area of the EMEL, which must not exceed 4; and
  - (b) a technical work program for the proposed term of the EMEL and an estimate of the proposed expenditure on exploration.
- (3) The Minister may grant an EMEL for a term not exceeding 2 years.
- (4) An EMEL is not renewable.

##### *Notes for section 47*

- 1 Part 5, Division 1 and section 163 include other provisions relevant to the application.
- 2 Part 5, Division 2 includes procedures relevant to making a decision about the application.

#### **48 Authorised activities under EMEL**

An EMEL gives the title holder the right to conduct the following activities in the title area:

- (a) activities in connection with exploration for extractive minerals that are reasonably necessary for the exploration;
- (b) other related activities as specified in the EMEL.

#### **49 Condition of EMEL**

It is a condition of an EMEL that, before starting to conduct authorised activities under the EMEL, the title holder must follow the procedures specified by regulation for giving notice to landowners or occupiers of land in the title area:

- (a) of the intention to start conducting the activities; and

- (b) of the entry of the title holder onto the land to conduct the activities.

*Note for section 49*

*See Part 5, Division 4 for further conditions.*

## **Division 2 Mineral title for surface extraction of extractive minerals**

### **50 Extractive mineral permit**

- (1) An **extractive mineral permit** is a mineral title that gives the title holder:
- (a) the right to occupy the title area specified in the EMP; and
  - (b) the exclusive right in the title area to extract, from the natural surface of the land only, extractive minerals and to conduct the activities specified in section 53; and
  - (c) the exclusive right to apply for an extractive mineral lease for all or part of the title area.
- (2) The rights of the title holder may be exercised only:
- (a) during the period the EMP is in force; and
  - (b) in accordance with this Act and the conditions of the EMP.
- (3) A person does not require an EMP for the extraction of extractive minerals if the extraction is incidental to a construction project and not for the sale of the extractive minerals.

*Examples for subsection (3)*

- 1 *The extraction of sand or gravel from pastoral land by the landowner to construct a dam or road on the land.*
- 2 *The extraction of soil or rock from land during the construction of a building on the land.*

### **51 Application for and grant of EMP**

- (1) A person may apply to the Minister in the approved form for the grant of an EMP.
- (2) The application must include the following information:
- (a) a description of the land comprising the proposed title area of the EMP, which must not exceed 100 hectares;

- (b) a summary of the work proposed to be carried out for conducting authorised activities under the EMP.
- (3) The Minister may grant an EMP for a term not exceeding 5 years.

*Notes for section 51*

- 1 *Part 5, Division 1 and section 163 include other provisions relevant to the application.*
- 2 *Part 5, Division 2 includes procedures relevant to making a decision about the application.*

## **52 Renewal of EMP**

- (1) Before the end of the term of an EMP, the title holder may apply in the approved form to the Minister for the renewal of the EMP for all or part of the title area.
- (2) The Minister may renew the EMP for a period not exceeding 5 years.
- (3) The EMP may be renewed more than once.

## **53 Authorised activities under EMP**

An EMP gives the title holder the right to conduct the following activities in connection with the extraction of extractive minerals from the natural surface of the land in the title area:

- (a) the temporary storage and temporary processing of the extractive minerals in the title area;
- (b) the removal of the extractive minerals from the title area;
- (c) other related activities as specified in the EMP.

*Note for Part 4, Division 2*

*See Part 5, Division 4 for the conditions of an EMP.*

## **Division 3 Mineral title for mining extractive minerals**

### **54 Extractive mineral lease**

- (1) An **extractive mineral lease** is a mineral title that gives the title holder:
  - (a) the right to occupy the title area specified in the EML; and
  - (b) the exclusive right to conduct mining for extractive minerals in the title area and other activities specified in section 57.

- (2) The rights of the title holder may be exercised only:
  - (a) during the period the EML is in force; and
  - (b) in accordance with this Act and the conditions of the EML.

## **55 Application for and grant of EML**

- (1) A person may apply in the approved form to the Minister for the grant of an EML.
- (2) The application must include the following information:
  - (a) a description of the land comprising the proposed title area of the EML, which must not exceed 100 hectares;
  - (b) a summary of the work proposed to be carried out for conducting authorised activities under the EML.
- (3) The Minister may grant an EML for a term not exceeding 10 years.

### *Notes for section 55*

- 1 Part 5, Division 1 and section 163 include other provisions relevant to the application.
- 2 Part 5, Division 2 includes procedures relevant to making a decision about the application.

## **56 Renewal of EML**

- (1) Before the end of the term of an EML, the title holder may apply in the approved form to the Minister for the renewal of the EML for all or part of the title area.
- (2) The Minister may renew the EML for a term not exceeding 10 years.
- (3) The EML may be renewed more than once.

## **57 Authorised activities under EML**

An EML gives the title holder the right to conduct the following activities in connection with the mining of extractive minerals in the title area:

- (a) the processing of extractive minerals in the title area;
- (b) the removal of extractive minerals from the title area;
- (c) storage of waste and other material in the title area;



- (d) other related activities as specified in the EML.

*Note for Part 4, Division 3*

*See Part 5, Division 4 for the conditions of an EML.*

## **Part 5 Mineral titles – general provisions**

### **Division 1 Mineral title applications**

#### **58 Necessary criteria for mineral title application**

- (1) A person who makes a mineral title application must meet the necessary criteria for the application.
- (2) The ***necessary criteria*** for a mineral title application are as follows:
  - (a) the applicant must have given the Minister all the information required to make a proper decision;
  - (b) the applicant must have complied with requirements under this Act;
  - (c) if the applicant currently holds one or more mineral titles – the applicant must have complied substantially with the conditions of each mineral title, to the extent required by the Minister;
  - (d) any other necessary criteria specified by regulation for the application.

#### **59 Age restriction on individuals who may make application**

A person who is an individual may make a mineral title application only if the person has attained 18 years of age.

#### **60 Grant application – declared fossicking area**

A person who intends to apply for the grant of a mineral title for any land in a declared fossicking area must first apply to the Minister for consent to include the land in the proposed title area of the application.

#### **61 Grant application – Aboriginal community living area**

A person is not entitled to apply for the grant of a mineral title for any excluded land in an Aboriginal community living area unless the person has written consent to do so given by the landowner for the area.

**62 Grant application – EL for Aboriginal land**

- (1) A person must not, under Part IV of the ALRA, enter into negotiations with a Land Council for consent to the grant of an EL for Aboriginal land unless the person:
  - (a) has applied under this Act for the EL; and
  - (b) has the Minister's consent to enter into the negotiations.
- (2) For subsection (1)(b), the Minister may:
  - (a) give consent conditionally or unconditionally; or
  - (b) withdraw consent at any time during the negotiations under the ALRA and refuse to grant the EL; or
  - (c) refuse to give consent and refuse to grant the EL.
- (3) If section 48(1) of the ALRA applies in relation to particular Aboriginal land, a person must not make an application for an EL except with the Minister's approval.

**63 Grant application – ML for Aboriginal land**

- (1) A person is not entitled to apply for the grant of an ML for Aboriginal land unless the person holds an EL or ELR for the land.
- (2) Subsection (1) does not apply in relation to any of the following:
  - (a) a person who is a traditional Aboriginal owner in relation to the land as defined in section 3(1) of the ALRA;
  - (b) a person who made an application for the grant of an ML for the land before it became Aboriginal land;
  - (c) the Ranger Project Area;
  - (d) the Noranda Project Area described by regulation;
  - (e) the Pancontinental Project Area described by regulation.

**64 Grant application – EMP or EML for Aboriginal land**

As soon as practicable after a person applies for the grant of an EMP or EML for Aboriginal land, the Minister must give notice of the application to the Land Council for the land comprising the proposed title area.

**65 Applications relating to same land or existing title area or existing proposed title area**

- (1) If 2 or more applications for the grant of a mineral title for the same area of land are lodged with the Agency on the same business day, the Minister must consider and decide each application in accordance with this Act.
- (2) A person is not entitled to apply for the grant of an EL for an area of land previously in or comprising the title area of an EL until after the end of 30 days after that EL ceases to be in force for the land.
- (3) A person (***the applicant***) is not entitled to apply for the grant of a mineral title, or the designation of an ELR, for an area of land in or comprising an existing title area or existing proposed title area except as prescribed by regulation.

- (4) In subsection (3):

***designation of an ELR*** means the designation of an EL as an ELR under section 34.

***existing proposed title area*** means the proposed title area described in an application for the grant of a mineral title, or the designation of an ELR, lodged with the Agency:

- (a) by a person other than the applicant; and
- (b) on a business day earlier than the business day on which the applicant's application is lodged.

***existing title area*** means the title area of a mineral title held by a person other than the applicant.

*Note for section 65*

*See section 163(6) for information about a business day.*

**66 Grant application – required information and notice**

- (1) Each application for the grant of a mineral title must include a list of landowners whose land comprises all or part of the proposed title area.
- (2) No later than 14 days after lodging an application for the grant of a mineral title, the applicant must serve a notice of the making of the application on each landowner listed in the application.
- (3) The Minister may also require the applicant to serve a notice of the making of the application on other specified persons within a specified time.

- (4) No later than 14 days after service of a notice under this section, the applicant must give the Minister proof of service.

*Note for subsections (2) to (4)*

*Under section 166, the Minister may extend the specified time.*

## **67 Renewal application – prescribed rent required**

An application for the renewal of a mineral title must be accompanied by the rent prescribed by regulation for that mineral title for the first operating year after the renewal.

## **68 Renewal application – effect on mineral title**

If the holder of a mineral title applies for renewal of the title before the end of its current term, the title continues in force until the Minister's decision takes effect in relation to the renewal or refusal to renew the title.

## **69 Variation or replacement of application**

- (1) A mineral title application may be:
- (a) varied; or
  - (b) withdrawn and replaced by 2 or more applications.
- (2) The variation or replacement may be:
- (a) on the applicant's initiative; or
  - (b) as recommended by the Minister.

*Examples for section 69*

- 1 *A variation of the proposed title area because of the geography or natural configuration of the land.*
- 2 *A variation of the proposed title area because several other mineral titles are in force for part of that area and the Minister considers the title areas of those titles should not be covered by the title area of the new title.*
- 3 *Separate applications to facilitate different processes because part of the proposed title area is subject to processes under the ALRA or NTA.*

## **Division 2 Decision process for mineral title applications**

### **70 Initial consideration of mineral title application**

- (1) Before making a decision about a mineral title application, the Minister must take into account whether the applicant has met the necessary criteria for the application.

- (2) If the Minister is satisfied the applicant has not met the necessary criteria for the application, the Minister may refuse the application.
- (3) The Minister may also refuse the application if satisfied it is appropriate to do so for another reason.
- (4) Without limiting subsection (3), the Minister may be satisfied it is appropriate to refuse an application for the grant or renewal of a mineral title if there is clear evidence that the applicant is not a fit and proper person to hold the mineral title.

## **71 Public notice of application for grant of mineral title**

- (1) This section applies if, after considering an application for the grant of a mineral title, the Minister is satisfied:
  - (a) there is no reason to refuse the application under section 70; and
  - (b) the applicant has paid the advertising costs of giving public notice of the application, if required by the Minister.
- (2) The Minister must publish, in a newspaper circulating throughout the Territory, a notice stating that the application for a mineral title has been made.
- (3) The notice must include the following information:
  - (a) the name of the applicant;
  - (b) the type of mineral title to which the application relates;
  - (c) a description or map of the proposed title area that clearly indicates its location and boundaries;
  - (d) a statement that a landowner of land in or comprising the proposed title area may, in writing and within the period specified in the notice, object to the grant of the mineral title;
  - (e) a statement that any other person may, in writing and within the period specified in the notice, make written submissions about the application;
  - (f) the address where objections and submissions may be given to the Minister;
  - (g) other details about the application that the Minister considers will allow a person to make proper objections or submissions.

- (4) The period specified under subsection (3)(d) or (e) must be at least 30 days after the day on which the notice is published.
- (5) This section applies in relation to an application for the grant of an MA only if the Minister requires it.

## **72 Objections and submissions about grant of mineral title**

- (1) As soon as practicable after the end of the period mentioned in section 71(4), the Minister must give the applicant for the grant of the mineral title:
  - (a) a copy of each objection and submission given to the Minister as provided by section 71(3)(d) and (e); and
  - (b) a notice stating the applicant's right to respond to any of the objections or submissions in accordance with subsection (2).
- (2) If the applicant wishes to respond to an objection or submission, the applicant:
  - (a) must, within 21 days after the date of the notice given under subsection (1)(b), give the Minister a written response; and
  - (b) may give a copy of the response to the person who made the objection or submission.

## **73 Grant or issue of title for land in declared park or reserve**

- (1) The Minister may grant or issue a mineral title for land in a declared park or reserve only after consulting with the Minister administering the *Territory Parks and Wildlife Conservation Act* (the **relevant minister**) and taking into account the opinion of the relevant minister.
- (2) The relevant minister may specify conditions in relation to the grant of any of the following mineral titles for land in a declared park or reserve:
  - (a) an ML, EMP or EML; or
  - (b) an MA that corresponds to an ML, EMP or EML.
- (3) If land in a declared park or reserve is also declared to be a wilderness zone under section 12 of the *Territory Parks and Wildlife Conservation Act*, the relevant minister may specify conditions in relation to any of the following:
  - (a) the grant of an EL or EMEL;

- (b) the grant of an MA that corresponds to an EL or EMEL;
  - (c) the issuing of an ELR or the grant of an MA that corresponds to an ELR.
- (4) If the relevant minister specifies conditions under subsection (2) or (3), the Minister may grant or issue the relevant mineral title only in accordance with the conditions.

#### **74 Grant relating to Aboriginal land or native title land**

- (1) If any of the proposed title area of an application for the grant of a mineral title comprises Aboriginal land, the Minister may grant a mineral title for that land only if satisfied the applicant has obtained the permit, consent or agreement required under the ALRA.
- (2) If the Minister is satisfied the grant of a mineral title will be a future act in relation to any of the proposed title area of the application for the grant, the Minister may grant the mineral title only if satisfied all procedures under the NTA relevant to the future act have been followed.
- (3) In this section:

**future act**, see section 233 of the NTA.

#### **75 Grant to tenants in common**

If the Minister grants a mineral title to 2 or more persons, the mineral title is held by the persons as tenants in common:

- (a) in the percentages specified in the mineral title (as indicated in the application for the grant); or
- (b) if no percentage is specified – in equal shares.

#### **76 Survey of particular title areas**

- (1) This section applies in relation to any of the following applications:
  - (a) an application under section 33 for the designation of an EL as an ELR;
  - (b) an application under Part 3 or 4 for the grant of an ML, EML or EMP;
  - (c) an application under section 118(1) for the grant of an MA, if the Minister requires a survey of the proposed title area of the MA.

- (2) The applicant must survey the proposed title area of the mineral title, and give the Minister a copy of the plan of survey, before the Minister may issue the ELR or grant the ML, EML, EMP or MA (as applicable).
- (3) However, if the Minister is satisfied there are reasons to justify a delay in surveying the proposed title area of the mineral title, the Minister may:
  - (a) issue or grant the title before the proposed title area is surveyed; and
  - (b) require the applicant to complete a survey of the title area within a specified period not exceeding 6 months; and
  - (c) include the requirement under paragraph (b) as a condition of the title.
- (4) In relation to an application for the grant of an ML or EML, if the title area to be surveyed:
  - (a) exceeds the size prescribed by regulation – the applicant must:
    - (i) have the title area surveyed by a licensed surveyor as defined in section 4 of the *Licensed Surveyors Act*; and
    - (ii) give the Minister a copy of the plan of survey for the title area certified by the Surveyor-General under the *Licensed Surveyors Act*; or
  - (b) does not exceed the size prescribed by regulation – the applicant must survey the title area as prescribed by regulation.
- (5) In relation to an application for the designation of an EL as an ELR, or the grant of an EMP or MA, the applicant must survey the title area as prescribed by regulation.

## **77 Discretions relating to title area**

- (1) On the grant of a mineral title, the Minister may exclude land from the title area if the Minister considers it appropriate to do so (for example, to prevent authorised activities being conducted over or in the vicinity of a public road or railway line).
- (2) If the exclusion of land under subsection (1) has the effect of dividing the title area into separate parts, those parts are taken to form a single title area.



- (3) If the reason for the exclusion of the land no longer exists (for example, if a public road is permanently closed), the exclusion ceases to have effect and the title area is varied accordingly.
- (4) The Minister may grant a single mineral title for separate title areas if there are circumstances to justify it (for example, because of the geography or natural configuration of the land).
- (5) However, if a provision of Part 3 or 4 specifies a minimum size for the title area, the total area of the separate title areas must not be less than the specified size.

*Note for subsections (4) and (5)*

*Section 28 deals with separate areas for an EL.*

## **78 Deciding application for grant of mineral title**

- (1) This section applies in relation to an application for the grant of a mineral title, after:
  - (a) all the procedures under this Division relevant to the application are completed; and
  - (b) the Minister has considered:
    - (i) all objections, submissions, and responses mentioned in section 72; and
    - (ii) all other matters he or she is required by this Act to consider before making a decision about the application.
- (2) The Minister may decide to take one of the following actions:
  - (a) grant the mineral title for all of the proposed title area;
  - (b) grant the mineral title for part of the proposed title area and refuse to grant the title for the remaining proposed title area;
  - (c) refuse to grant the mineral title;
  - (d) refer the application to the Tribunal for a hearing and recommendation.
- (3) If the Minister refers the application to the Tribunal, the Minister may make a decision mentioned in subsection (2)(a), (b) or (c) after considering the Tribunal's recommendation.
- (4) However, the Minister is not obliged to follow a recommendation of the Tribunal.

- (5) Without limiting subsection (2)(c), the Minister may decide to refuse to grant a person a mineral title (a ***new title***) for an area of land in or comprising an existing title area or existing proposed title area if the Minister considers:
- (a) the authorised activities to be conducted under the new mineral title would be significantly incompatible with the work being carried out, or to be carried out, in the existing title area or existing proposed title area; or
  - (b) in relation to an existing title area and an application for the grant of an EL or EMEL – the existing title area substantially covers the proposed title area of the EL or EMEL.

## **79 Deciding other mineral title applications**

- (1) This section applies in relation to any mineral title application, except an application for the grant of a mineral title, after:
- (a) all the procedures under this Division relevant to the application are completed; and
  - (b) the Minister has considered all the matters he or she is required by this Act to consider before making a decision about the application.
- (2) The Minister may decide to:
- (a) make the decision or take the action applied for; or
  - (b) refuse to do so.

## **Division 3 Rights under mineral titles**

### **80 Rights relating to occupation of title area**

- (1) The right of the holder of a mineral title to occupy the land in the title area includes the right to enter and occupy the land with the persons, vehicles and equipment required for conducting authorised activities under the title.
- (2) However, if a mineral title is granted for land in or comprising an existing title area or existing proposed title area, the holder of the mineral title must not exercise the right under subsection (1) except as prescribed by regulation.
- (3) After a mineral title ceases to be in force, the person who held the title immediately before the cessation has the right to enter the title area for compliance with the condition in section 99.

**81 Right to use water in title area**

The holder of a mineral title has the right to:

- (a) take or divert water in the title area (except water artificially conserved by or for a landowner in the title area), or sink a well or bore in the title area and take water from the well or bore; and
- (b) use that water in connection with the authorised activities being conducted in the title area and for domestic use while conducting those activities.

**82 Right to use water in title area of EL or EMEL**

The holder of a mineral title has, in relation to the title area of an EL or EMEL held by another person, the right to use water in the title area of the EL or EMEL as necessary for conducting authorised activities under the holder's mineral title.

**83 Right to construct road for access to title area**

- (1) The holder of a mineral title has the right to enter land to construct or maintain a road, and do other work, to enable the title holder to have access to the title area by the shortest practicable route from any of the following:
  - (a) a council road or Territory road;
  - (b) a railway line;
  - (c) an airstrip;
  - (d) the sea or a waterway.
- (2) The title holder may use the assistance of any persons, and use the vehicles and equipment necessary, to do the work mentioned in subsection (1).

**84 Right to enter and use land outside title area**

- (1) The holder of a mineral title has the right to enter land outside the title area (the **relevant land**) to construct, maintain and use infrastructure associated with conducting authorised activities under the mineral title if the title holder also holds an access authority for the relevant land.
- (2) The holder of a mineral title may apply to the Minister for the grant of an access authority.

- (3) At least 14 days before making the application, the title holder must:
- (a) give written notice of the intention to apply for the access authority:
    - (i) to each landowner of the relevant land; and
    - (ii) if a mineral title is in force for any of the relevant land – to the title holder; and
  - (b) publish a notice of the intention in a newspaper circulating in the area in which the relevant land is situated; and
  - (c) obtain the consent of owners of classes of relevant land, as prescribed by regulation, to enter the land for the purposes mentioned in subsection (1).
- (4) The Minister may grant an access authority to the title holder, subject to the conditions specified in the access authority, if the Minister is satisfied:
- (a) the infrastructure to be constructed is necessary for conducting authorised activities under the mineral title; and
  - (b) the applicant has complied with subsection (3).

## **Division 4 Conditions of mineral titles**

### **85 Conditions generally**

- (1) Obligations and restrictions specified in this Division for the holder of a mineral title are conditions that apply in addition to any other conditions specified by this Act in relation to the mineral title.
- (2) Other conditions in relation to mineral titles are specified in the following provisions:
- (a) for an EL – section 32;
  - (b) for an ELR – section 38;
  - (c) for an ML – section 45;
  - (d) for an EMEL – section 49;
  - (e) for an MA – section 118(2)(d).

- (3) The Minister may include the conditions in a mineral title that the Minister considers appropriate, including conditions requiring the title holder to obtain the Minister's approval before taking a particular action.
- (4) The conditions the Minister includes in a renewed mineral title may be different to the conditions included in the mineral title before the renewal.

**86 Conducting authorised activities**

The holder of a mineral title must actively conduct authorised activities in the title area.

**87 Compliance with requirements and other laws**

The holder of a mineral title must:

- (a) comply with all requirements under this Act; and
- (b) when conducting authorised activities – comply with any requirement under a law in force in the Territory in relation to the use of land or natural resources; and
- (c) ensure any person acting for the title holder complies with such a requirement.

**88 Consent required to disturb improvements or particular roads**

When conducting authorised activities, the holder of a mineral title must not:

- (a) without the written consent of the landowner, damage or otherwise disturb improvements on land in the title area; or
- (b) without the written consent of the Minister responsible for administering the *Control of Roads Act*, damage or otherwise disturb a Territory road; or
- (c) without the written consent of the Minister responsible for administering the *Local Government Act*, damage or otherwise disturb a council road.

**89 Allowing authorised officer entry to title area**

The holder of a mineral title must allow an authorised officer to enter the title area to exercise a power or perform a function conferred on the authorised officer by this Act.

**90 Water conserved in title area**

The holder of a mineral title must not use any water artificially conserved by or for the landowner of land in the title area without the consent of the landowner.

**91 Timber in title area**

The holder of a mineral title must not cut timber in the title area except for the authorised activities conducted under the title.

**92 Animals in title area**

- (1) The holder of a mineral title must not interfere with any animal in the title area that is owned by, or under the control of, the landowner of land in or adjoining the title area.
- (2) A reference in subsection (1) to interference with an animal includes a reference to:
  - (a) impounding or otherwise disturbing the animal; and
  - (b) preventing the pasturing of the animal in any part of the area that is not fenced off for authorised activities.

**93 Drill cores, cuttings and other geological samples**

- (1) As soon as practicable after the holder of an EL, ELR or EMEL recovers a drill core, cutting or other geological sample from the title area, the title holder must give the Minister notice of the recovery.
- (2) The notice must include a description of the place where the geological sample was recovered.
- (3) As soon as practicable after the title holder ceases to conduct authorised activities under the EL, ELR or EMEL, the title holder must give the Minister each geological sample recovered that has not been disposed of under subsection (4).
- (4) The holder of an EL, ELR or EMEL may dispose of a geological sample before ceasing to conduct authorised activities under the title only with the consent of the Minister.

**94 Reports**

- (1) The holder of a mineral title must give the Minister reports about the authorised activities conducted under the title, and other matters, as required by this Act or prescribed by regulation.

- (2) Without limiting subsection (1), a regulation may provide for any of the following reports to be given by the holder of a mineral title:
- (a) an annual report about the authorised activities conducted under the title in an operational year;
  - (b) a report about the expenditure for conducting the authorised activities for an operational year;
  - (c) a production report about minerals or extractive minerals extracted under the title;
  - (d) a report about the reserves of minerals the title holder believes to be in the title area;
  - (e) a report about the work carried out under the title up to the time when:
    - (i) the title ceases to be in force for all or part of the title area; or
    - (ii) the title holder makes an application under Division 5;
  - (f) a report about the rehabilitation of all or part of the title area before the title ceases to be in force.
- (3) A regulation may provide for a matter relating to the giving of reports, including any of the following:
- (a) the form or content of a report;
  - (b) the time for giving a report;
  - (c) the imposition of a late fee for failure to give a report within the time specified by regulation;
  - (d) the amalgamation of:
    - (i) reports required under this Act and under the *Mining Management Act*; or
    - (ii) reports required in relation to 2 or more mineral titles held by the same person; or
    - (iii) reports to be given by related bodies corporate as defined in section 4 of the Corporations Act 2001.

## **95 Payment of fees and rent**

- (1) The holder of a mineral title must pay fees and rent in relation to the title as prescribed by regulation.

- (2) A regulation may provide for a matter relevant to the payment of a fee or rent, including any of the following:
- (a) an amount (of a fixed sum or as calculated) payable for a particular matter;
  - (b) if an amount is to be calculated – the method of calculation;
  - (c) the time in which a fee or rent must be paid;
  - (d) the way in which the payment may be made;
  - (e) when a refund of a fee or rent is payable and matters relevant to the refund;
  - (f) the fee payable for late lodgment of a report or other document, which may be a cumulative amount.

**96 Payment of royalty**

The holder of a mineral title must comply with any requirement under an Act of the Territory or Commonwealth about the payment of royalty specified for the mineral title.

*Note for section 96*

*Section 185 deals with royalty payable in relation to a prescribed substance.*

**97 Transfer of mineral title interest**

The holder of a mineral title may transfer a legal or equitable interest in the title only in accordance with section 123.

**98 Notice of changes**

- (1) The holder of a mineral title must give the Minister a notice of a change, within 14 days after its occurrence, relating to any of the following:
- (a) the title holder's name;
  - (b) the title holder's address or other contact details;
  - (c) circumstances prescribed by regulation.
- (2) Without limiting subsection (1)(c), a regulation may prescribe changes relating to the title holder's financial position or technical capability.



- (3) A person who is appointed as an administrator, liquidator or controller under the Corporations Act 2001 for the holder of a mineral title must, as soon as practicable after the appointment, give a notice to the Minister about the appointment.

## **99 Removal of equipment**

- (1) No later than 3 months after a mineral title ceases to be in force, the person who held the mineral title immediately before the cessation must remove from the former title area all plant, machinery and other equipment placed there by the person.
- (2) Subsection (1) does not apply:
- (a) if the mineral title ceases to be in force because another mineral title has been granted or issued to the person for the same title area; or
  - (b) if the plant, machinery or other equipment is of historical or educational value and has become the property of the Territory under an agreement between the Minister and the person; or
  - (c) in relation to anything necessary for the structural safety of a mine.

*Note for section 99*

*See sections 80(3), 166 and 172 for other provisions relevant to this condition.*

## **Division 5 Variations, subdivisions, amalgamations, surrenders and cancellations**

### **100 Variation of conditions of mineral title**

- (1) This section applies only to conditions included in a mineral title by the Minister.
- (2) The Minister may decide to vary the conditions of a mineral title by taking one or more of the following actions:
- (a) amending a condition;
  - (b) suspending a condition for a specified period;
  - (c) removing a condition.
- (3) The Minister may make the decision:
- (a) on the Minister's initiative after consulting with the title holder; or

- (b) on application by the title holder.

### **101 Division of title area into separate parts**

- (1) The Minister may decide to divide the title area of a mineral title into 2 or more parts if the Minister considers it appropriate to do so.
- (2) The Minister may make the decision:
  - (a) on the Minister's initiative after consulting with the title holder;  
or
  - (b) on application by the title holder.
- (3) After dividing the title area into parts, the Minister may:
  - (a) vary the description of the title area in the mineral title as necessary; or
  - (b) cancel the mineral title and issue a mineral title for each part.

### **102 Amalgamation of title areas**

- (1) The Minister may decide to amalgamate all or part of 2 or more adjoining title areas (the ***original title areas***) if the mineral titles relating to those areas (the ***original titles***) are held by the same person and authorise substantially the same activities.
- (2) The Minister may make the decision:
  - (a) on the Minister's initiative after consulting with the holder of the original titles; or
  - (b) on application by the holder of the original titles.
- (3) After the amalgamation, the Minister may cancel the original titles and issue a mineral title to replace the original titles.
- (4) The Minister may impose conditions on the replacement mineral title that are different from the conditions of the original titles.

### **103 Application for acceptance of surrender**

- (1) The holder of a mineral title may apply to the Minister to accept the surrender of all or part of the title area and may specify in the application the day on which the title holder wishes the surrender to take effect.
- (2) The holder of an EL may surrender part of the title area only if the surrender will leave no more than 3 separate areas of land in the title area, each comprising at least 4 adjoining blocks.

- (3) If the holder of an ELR, ML, EMP or EML applies to surrender part of the title area, the title holder must:
  - (a) have surveyed the remaining title area as specified by regulation; and
  - (b) give the Minister a copy of the survey report with the application.
- (4) The Minister may, by notice, accept the surrender of all or part of a title area after taking into account whether the applicant has complied with:
  - (a) the conditions of the mineral title for all of the title area; and
  - (b) if the mineral title is subject to the *Mining Management Act* – all of the provisions of that Act applicable to the title.
- (5) The Minister may refuse to accept a surrender if the Minister considers it appropriate to do so.

*Note for subsection (5)*

*One reason for a refusal may be because work for the rehabilitation of the title area to be surrendered has not been completed.*

#### **104 Request for surrender of all or part of EL title area**

- (1) The Minister may give the holder of an EL a notice requesting the surrender of all or a specified part of the title area to enable the land to be used for a purpose beneficial to the Territory as prescribed by regulation.
- (2) The notice must give the holder of the EL 2 months in which to respond to the Minister's request and, if the holder does not respond within that time, the holder is taken to have agreed to the surrender.

#### **105 Cancellation or partial cancellation of mineral title**

- (1) The Minister may cancel:
  - (a) a mineral title; or
  - (b) a mineral title for part (the ***relevant part***) of the title area.
- (2) Before making a decision under subsection (1), the Minister must be satisfied the title holder:
  - (a) has contravened a condition of the mineral title; or

- (b) became liable to pay an amount to the Territory under this Act and did not pay the amount within 3 months after becoming liable; or
  - (c) has not used good work practices in conducting authorised activities in the title area or relevant part; or
  - (d) in relation to an EL – no longer has the financial resources to carry out the technical work program for all or the relevant part of the title area; or
  - (e) has not, for a continuous period of 2 years, conducted authorised activities in the title area or relevant part to a degree consistent with genuine exploration, mining or processing of minerals or extractive minerals (as applicable).
- (3) The Minister must give the title holder a notice stating the Minister's intention to cancel the mineral title, and give the title holder an opportunity to make submissions in relation to the proposed cancellation, as prescribed by regulation.
- (4) This section does not prevent the Minister from also commencing proceedings against the title holder for:
- (a) an offence against a provision of this Act; or
  - (b) the recovery of an amount payable to the Territory under this Act.

## **Division 6 Security and compensation**

### **106 Requirement for security**

- (1) The Minister may require security for compensation that may become payable:
- (a) for damage and loss mentioned in section 107 or 108; or
  - (b) under the NTA, whether the liability to pay the compensation is incurred by the Territory or another person in connection with a matter to which this Act applies.
- (2) The Minister may require security:
- (a) before or during the consideration of an application for the grant or renewal of a mineral title; or
  - (b) before approving an application for the transfer of a mineral rights interest under section 123; or

- (c) at any time during the term of a mineral title.
- (3) In assessing the need for security, the Minister must take into account any agreement about the payment of compensation between the parties concerned.
- (4) A requirement for security may specify any of the following:
  - (a) the amount of the security;
  - (b) the form of the security;
  - (c) how and by whom the security must be given;
  - (d) any other matter prescribed by regulation.
- (5) Security may be in the form of cash, a negotiable instrument or a bank guarantee.

#### **107 General entitlement to compensation**

- (1) A person who has an interest in land is entitled to compensation from the holder of a mineral title for:
  - (a) damage to the land, and any improvements on the land, caused by activities conducted under the title; and
  - (b) any loss suffered as a result of that damage (for example, loss suffered as a result of being deprived of the use of the land).
- (2) However, if the damage is caused to land in a park or reserve or pastoral land by exploration activities, a person who has an interest in the land is entitled to compensation only in relation to damage in excess of what is reasonably necessary for conducting those activities.
- (3) A person who has an interest in land is not entitled to compensation in relation to minerals or extractive minerals known or thought to be on or under the land.
- (4) For this section, a person has an interest in land if the person:
  - (a) is recorded in the land register as a registered owner or registered proprietor of the land; or
  - (b) holds a licence granted under Part 7 of the *Crown Lands Act*, or
  - (c) in relation to land in a park or reserve – is the landowner.

(5) In this section:

**exploration activities** means exploration for minerals or extractive minerals and includes activities or work conducted in connection with the exploration.

#### **108 Title holder's entitlement to compensation**

The holder of a mineral title is entitled to compensation from the holder of an access authority (**the authority holder**) for damage, and any loss suffered as a result of the damage, in relation to the title holder's interest in the title area because of the authority holder's entry into the title area or actions taken under the access authority.

#### **109 Written agreement relating to compensation**

- (1) A person who may be entitled to compensation mentioned in section 107 or 108 may enter into a written agreement about the matter with a person who may be liable to pay the compensation.
- (2) However, an agreement mentioned in subsection (1) must not be inconsistent with this Division.

#### **110 Claiming compensation**

- (1) A person who may be entitled to be paid compensation mentioned in section 107 or 108 may give the person who may be liable to pay the compensation a notice of claim stating the following:
  - (a) the details of the damage caused and any loss suffered;
  - (b) the date (or approximate date) on which the damage and any loss occurred;
  - (c) the amount of compensation claimed for the damage and any loss;
  - (d) any other information relevant to the claim.
- (2) The notice of claim must be given by the claimant within:
  - (a) 3 years after the occurrence of the damage for which compensation is claimed; or
  - (b) a longer period as ordered by the Tribunal on application by the claimant.

- (3) The parties to the compensation claim must make genuine efforts to reach agreement, within a reasonable time after the notice of claim is given, about the payment of compensation.
- (4) An agreement between the parties to the compensation claim must be in writing and signed by each party.
- (5) The claimant may request payment of all or part of the compensation in a form other than money (for example, payment by transferring property or providing goods and services) as specified by the claimant.
- (6) The person liable to pay compensation to the claimant must consider a request made under subsection (5) and pay the compensation in the specified form if it is reasonable and practicable to do so.

#### **111 Application to Tribunal if no agreement about compensation**

- (1) A claimant may apply to the Tribunal for a decision about the claimant's claim under section 110 if the claimant reasonably believes no agreement can be reached in relation to any of the following:
  - (a) liability for the damage caused;
  - (b) the amount of compensation payable;
  - (c) payment of all or part of the compensation in a form other than money;
  - (d) any other matter relevant to the claim.
- (2) The application must be made within:
  - (a) 12 months after the claimant gives the notice of claim under section 110(1); or
  - (b) a longer period as ordered by the Tribunal on application by the claimant.

## **Part 6                    Reserved land, mineral authorities and related matters**

### **Division 1            Reserved land**

#### **112            Special reserved land – no activities**

- (1) This section applies only in relation to an area of land that is not in the title area of a mineral title.
- (2) The Minister may, by *Gazette* notice, reserve the land (***special reserved land***) from:
  - (a) exploration for minerals or extractive minerals generally; and
  - (b) extraction of minerals or extractive minerals generally.
- (3) The reservation of special reserved land takes effect on the day specified in the *Gazette* notice.
- (4) The Minister may revoke the reservation of special reserved land only:
  - (a) after taking into account the purpose for which the land was reserved; and
  - (b) if satisfied it is in the interests of the Territory to do so.
- (5) A person is not entitled to apply for the grant of a mineral title for special reserved land.
- (6) The Minister must not delegate to another person the power to reserve, or vary or revoke the reservation of, special reserved land.

#### **113            General reserved land – limited or no activities**

- (1) This section applies only in relation to an area of land that is not in the title area of a mineral title.
- (2) The Minister may, by *Gazette* notice, reserve the land (***general reserved land***) from one or more of the following:
  - (a) exploration for:
    - (i) minerals generally; or
    - (ii) one or more specified minerals;



- (b) extraction of:
    - (i) minerals generally; or
    - (ii) one or more specified minerals;
  - (c) exploration for extractive minerals;
  - (d) extraction of extractive minerals.
- (3) The notice must include the following information:
- (a) a description of the land to be reserved;
  - (b) the day on which the reservation will take effect;
  - (c) if the Minister decides a period for which the land will be reserved (the **reservation period**) – that period;
  - (d) any of the following details as decided by the Minister:
    - (i) the activities from which the land is reserved;
    - (ii) the type of mineral title for which a person may apply in relation to the general reserved land;
    - (iii) the type of mineral title for which a person is not entitled to apply in relation to the general reserved land;
  - (e) any conditions imposed by the Minister in relation to the general reserved land.
- (4) If the notice includes a reservation period – the Minister may:
- (a) at the end of the reservation period – reserve the land under this section for a further reservation period; or
  - (b) before the end of the reservation period:
    - (i) invite applications under section 117(1) for specified mineral titles for all or part of the general reserved land; or
    - (ii) vary the reservation; or
    - (iii) revoke the reservation in relation to all or part of the general reserved land; or
  - (c) take no action under paragraph (a) or (b), in which case the reservation ceases to have effect at the end of the reservation period.

- (5) The Minister may continue to reserve the same land under this section for the period the Minister considers appropriate.
- (6) The Minister may revoke the reservation of general reserved land under subsection (4)(b)(iii) only:
  - (a) after taking into account the purpose for which the land was reserved; and
  - (b) if satisfied it is in the interests of the Territory to do so.

**114 Reservation of land in title area on cessation of title**

- (1) This section applies only in relation to an area of land that is in the title area of a mineral title other than an MA.
- (2) The Minister may, by *Gazette* notice, state that the land will become special reserved land or general reserved land on the day the mineral title ceases to be in force.
- (3) The notice must include the following information:
  - (a) a description of the land;
  - (b) the day on which the mineral title will cease to be in force;
  - (c) if the land is to be general reserved land – the information mentioned in section 113(3)(c) to (e).
- (4) On the day the mineral title for the land ceases to be in force, the reservation of the land takes effect as if the land had been reserved under section 112 or 113 (as appropriate).

**115 Reservation of land for activities by Territory**

- (1) The Minister may, by *Gazette* notice, reserve an area of land in the title area of an EL to enable the Territory to conduct exploration for, and extraction of, extractive minerals for the construction or maintenance of roads or other infrastructure by the Territory.
- (2) The Minister may do so only:
  - (a) after consulting with the holder of the EL; and
  - (b) if the reservation of the land will not substantially interfere with the authorised activities being conducted under the EL.

**116 Publication of areas of reserved land**

- (1) The Minister must publish on the Agency's website one or both of the following:
  - (a) a brief description of each area of reserved land;
  - (b) a map showing each area of reserved land.
- (2) The Minister must also publish on the Agency's website information about the notices published under sections 112 to 115.

**117 Invitation to apply for mineral title for general reserved land**

- (1) The Minister may, by *Gazette* notice:
  - (a) state that the general reserved land described in the notice may be released for the grant of a mineral title otherwise prohibited by a notice under section 113; and
  - (b) invite applications under Part 3 or 4 for the grant of a mineral title for any of the general reserved land.
- (2) The notice must include the following information:
  - (a) the type of mineral title for which a person may apply in relation to the general reserved land to be released;
  - (b) the period within which an application must be made;
  - (c) any conditions imposed by the Minister relating to the release of the general reserved land and the making of an application.
- (3) The Minister may invite applications under subsection (1) only:
  - (a) after taking into account the purpose for which the land was reserved; and
  - (b) if satisfied it is in the interests of the Territory to do so.
- (4) The reservation of the general reserved land ceases to have effect on the day a mineral title under Part 3 or 4 is granted for the land.

## **Division 2 Mineral authorities on reserved land**

### **118 Application for and grant of mineral authority for general reserved land**

- (1) A person may apply to the Minister for the grant of a mineral authority for general reserved land if:
  - (a) the application is not otherwise prohibited by a notice under section 113; and
  - (b) the Minister has not, under section 117, invited applications for the grant of mineral titles for the land.
- (2) Subject to subsections (3) and (4), a **mineral authority** is a mineral title that:
  - (a) corresponds to a mineral title, as specified in the MA, that may be granted under Part 3 or 4 (the **corresponding title**); and
  - (b) gives the title holder of the MA the same rights as a holder of the corresponding title, including the right to conduct the authorised activities under the MA that may be conducted under the corresponding title; and
  - (c) imposes the same obligations as the corresponding title; and
  - (d) is subject to the same conditions specified by this Act for the corresponding title.
- (3) When the Minister grants an MA, the Minister may specify in it that a provision of this Act relating to the corresponding title does not apply in relation to the MA.
- (4) Also, a regulation may exclude:
  - (a) all MAs from the application of a provision of this Act relating generally to all corresponding titles; or
  - (b) an MA from the application of a provision of this Act relating to the corresponding title for that MA.
- (5) The Minister may grant or renew an MA for the period the Minister considers appropriate.

### **119 Other applications relating to MA**

The holder of an MA may make an application under this section for a renewal of the MA, or for another decision or action mentioned in Part 3 or 4 in relation to the MA, as if it were the corresponding title.

**120 Entitlement to apply for ML, EMP or EML**

- (1) The holder of an MA that corresponds to an EL or ELR may apply under Part 3, Division 3 for the grant of an ML for all or part of the title area of the MA.
- (2) The holder of an MA that corresponds to an EMEL may apply under Part 4, Division 2 or 3 (as applicable) for the grant of an EMP or EML for all or part of the title area of the MA.
- (3) On the grant of an ML, EMP or EML (the ***new title***), the MA and reservation of the land under section 113 cease to have effect in relation to the title area of the new title.

**Part 7 Mineral Titles Register and caveats**

**Division 1 Register**

**121 Register**

- (1) The Minister must keep a Mineral Titles Register.
- (2) The register is a record of information relating to the following:
  - (a) applications relating to mineral titles;
  - (b) mineral titles;
  - (c) dealings with applications for mineral titles;
  - (d) dealings with mineral titles;
  - (e) legal and equitable interests held by persons in applications and mineral titles mentioned in paragraphs (a) and (b) (***mineral rights interests***);
  - (f) caveats;
  - (g) matters included in each register mentioned in section 205.
- (3) The Minister may:
  - (a) keep information in the register in any form the Minister considers appropriate; and
  - (b) publish on the Agency's website information from the register that the Minister considers appropriate for public inspection.

- (4) However, the Minister may withhold particular information if the Minister considers it necessary to do so to preserve confidentiality.
- (5) A person may inspect the register during the normal business hours of the Agency and, on request, may be given a copy or summary of information in the register.
- (6) A regulation may provide for any of following:
  - (a) the information to be entered in the register;
  - (b) a fee payable by a person for any of the following:
    - (i) making an application or lodging a document under this Part;
    - (ii) inspecting the register;
    - (iii) a copy or summary of information given to the person.

## **122 Instruments relating to mineral rights interests**

- (1) A mineral rights interest is not capable of being created, transferred, assigned, mortgaged, charged, devolved or dealt with in any way except by written instrument (an ***instrument of dealing***).
- (2) The registration of an instrument of dealing does not give the mineral rights interest evidenced by the instrument any validity or effect it would not have had if this Division had not been enacted.
- (3) The Minister is not required to decide the validity of information given by a person in an instrument of dealing.

## **123 Registration of transfer of mineral rights interest**

- (1) A person who intends to transfer all or part of the person's mineral rights interest to another person must apply to the Minister for approval and registration of the transfer.
- (2) The application must be:
  - (a) in the approved form; and
  - (b) include the details of the proposed transfer; and
  - (c) signed by all the parties to the transfer.
- (3) The Minister must approve and register the transfer unless satisfied there are circumstances why he or she should refuse the application.

- (4) On application by either party to the transfer, the Minister must give the parties a notice of the approval of the transfer, which may include a statement that the transfer will be registered on a date or occurrence, or subject to a condition, specified in the notice.
- (5) The instrument of transfer has no effect under this Act until it is registered.

#### **124 Registration of devolution of mineral rights interest**

- (1) A person on whom a mineral rights interest has devolved by operation of law must apply in the approved form to the Minister for registration of the devolution.

*Example for subsection (1)*

*Devolution on a person because of the death or bankruptcy of the holder of a mineral title.*

- (2) The applicant must give the Minister documentary evidence of the devolution.
- (3) The Minister must register the devolution unless satisfied there are circumstances why he or she should refuse the application.
- (4) The devolution has no effect under this Act until it is registered.

#### **125 Registration of other dealings**

- (1) This section applies in relation to an agreement, arrangement, mortgage or dealing (a **general dealing**) relating to a mineral rights interest that is not a transfer or devolution of the interest.
- (2) A person may apply in the approved form to the Minister for registration of a general dealing.
- (3) The Minister must register the general dealing unless satisfied there are circumstances why he or she should refuse to do so.
- (4) The registration of the general dealing gives it priority over another general dealing, relating to the same mineral rights interest, that:
  - (a) if registered – was lodged for registration at a later date; or
  - (b) is not registered.
- (5) However, the priority mentioned in subsection (4) does not apply if the other general dealing:
  - (a) is a charge that is required to be lodged under the Corporations Act 2001, Part 2K.2; or

- (b) relates to an estate or interest in land (whether freehold or leasehold) registered under the *Land Titles Act*.

#### **126 Notice of registration and refusal of application**

- (1) After the Minister has registered a transfer of a mineral rights interest under section 123(3), the Minister must give notice of the registration to each party to the transfer.
- (2) After the Minister has registered a devolution of a mineral rights interest under section 124(3), or a general dealing under section 125(3), the Minister must give notice of the registration to the applicant for registration.
- (3) If the Minister considers it appropriate, the Minister may give notice of a registration under this Division to a person who has an interest in the registration.
- (4) If the Minister refuses an application under this Division, the applicant may apply to the Tribunal for a review of the decision.

#### **127 Correction of register**

- (1) On the Minister's own initiative or on application under subsection (3), the Minister may correct an error in the register.
- (2) The Minister must correct an error if satisfied the correction is necessary to ensure registration of accurate information relating to a mineral title or an application for the grant of a mineral title.
- (3) A person may apply to the Minister to correct the register in relation to any of the following matters:
  - (a) the omission of information;
  - (b) the erroneous inclusion of information;
  - (c) an error or defect in information recorded.

#### **128 Minister's certificates**

- (1) The Minister may give a person a signed certificate, certifying a matter relating to particular information recorded in the register, if the person:
  - (a) applies to the Minister for the certificate; and
  - (b) pays the fee prescribed by regulation for the application.



- (2) A certificate mentioned in subsection (1), purporting to be signed by the Minister, is admissible in a proceeding as evidence of the matter certified.

**129 Application of *Law of Property Act***

- (1) The *Law of Property Act* applies to an interest in relation to land granted, created or taking effect under this Act.
- (2) However, if there is an inconsistency between this Act and the *Law of Property Act*, this Act prevails.
- (3) In this section:

*interest*, see section 4 of the *Law of Property Act*.

**Division 2 Caveats**

**130 Lodgment, acceptance and registration of caveat**

- (1) A person claiming a legal or equitable interest in a mineral title, or in an application relating to a mineral title, may lodge with the Minister a caveat forbidding the registration, except in accordance with section 133, of dealings with the title or application that are received by the Minister after the Minister has accepted the caveat.
- (2) The caveat must be:
- (a) in the approved form; and
  - (b) specify the name of the caveator and the address at which the caveator may be given notices; and
  - (c) specify the interest claimed in the mineral title or application; and
  - (d) be signed by the caveator or the caveator's representative.
- (3) The caveat may specify dealings to which the caveat does not apply.
- (4) The Minister may accept the caveat and, as soon as practicable after doing so, must enter it in the register.

*Note for subsection (4)*

*The Minister need not accept a caveat if the form of the caveat is deficient or the fee prescribed for its lodgment has not been paid – see section 163(3) and (5).*

- (5) The caveat comes into force when the Minister accepts the caveat.

**131 When caveat ceases to be in force**

- (1) The caveat ceases to be in force if:
  - (a) it is withdrawn under subsection (2); or
  - (b) the Tribunal orders under section 132(3) that it be removed from the register or cancelled; or
  - (c) section 133(1)(a) applies and no notice of continuance is accepted under section 133(3)(b).
- (2) The caveator may withdraw the caveat by giving the Minister a notice of the withdrawal.
- (3) If the caveat ceases to be in force (the **cancelled caveat**), the caveator must not lodge another caveat claiming the same interest as specified in the cancelled caveat.

**132 Notice of caveat and application for cancellation or removal**

- (1) The Minister must give notice of the acceptance of a caveat to the holder of the mineral title, or person who made the application, to which the caveat relates.
- (2) The title holder or applicant may apply to the Tribunal for a summons ordering the caveator to appear before the Tribunal to give reasons why the caveat should not be removed from the register or cancelled.
- (3) The Tribunal may make the orders it considers appropriate, including an order that:
  - (a) the caveat be removed from the register; or
  - (b) if the caveat has not yet been entered in the register – the caveat be cancelled.

**133 Effect of caveat on registration of particular dealing**

- (1) If, after accepting a caveat, the Minister receives an instrument (**the dealing**) purporting to deal with the mineral title or application to which the caveat relates, the Minister:
  - (a) must give the caveator a notice of the receipt of the dealing; and
  - (b) may enter the dealing in the register only after the caveat ceases to have effect in relation to the dealing.

- (2) The caveat ceases to have effect in relation to the dealing:
  - (a) at the end of 30 days after notice is given to the caveator under subsection (1)(a); or
  - (b) if a notice of continuance of the caveat is accepted under subsection (3)(b) – on acceptance of the notice.
- (3) After the caveator receives a notice under subsection (1)(a):
  - (a) the caveator may lodge with the Minister a notice of the continuation of the caveat; and
  - (b) the Minister must accept the notice of continuance if the caveator:
    - (i) lodges the notice before the end of the period mentioned in subsection (2)(a); and
    - (ii) pays any fee prescribed by regulation for the lodgment.
- (4) This section does not apply in relation to a dealing mentioned in section 130(3).

## **Part 8                      Fossicking**

### **134                      Authorised fossicking**

- (1) A person may enter land of the Territory to fossick only in accordance with this Part.
- (2) For this Part, to **fossick** is to do any of the following except as a commercial fossicking activity:
  - (a) search for a mineral by hand or any hand-held instrument (for example, a hand-held metal-detecting device) to a depth not exceeding 1 metre below the line of the natural surface of the land;
  - (b) extract a mineral by hand or a hand-held instrument that is not power-operated;
  - (c) remove a mineral following a search or extraction done in accordance with paragraph (a) or (b).

- (3) For subsection (2), a **commercial fossicking activity**:
- (a) is an activity conducted as part of a business trading in minerals discovered while fossicking, from which the person conducting the activity derives an income constituting the whole or a substantial part of the person's livelihood; but
  - (b) is not the occasional sale by a fossicker of minerals found while fossicking.
- (4) For subsection (2)(a) and (b), searching for or extracting a mineral by a method that involves the use of explosives is not fossicking.
- (5) A reference in this section to a mineral:
- (a) does not include a reference to any of the following:
    - (i) diamonds, fossils of vertebrate animals, and meteorite fragments;
    - (ii) another mineral or substance excluded by regulation; and
  - (b) includes a reference to a substance prescribed by regulation.

### 135 Fossicking area declaration

- (1) The Minister may, by *Gazette* notice (a **fossicking area declaration**), declare a specified area of land to be a fossicking area.
- (2) Unless the specified area of land is vacant Crown land, the Minister may make a fossicking area declaration for the land only with the written consent of the landowner.
- (3) If an approved determination of native title is made over all or part of the land in a declared fossicking area, the Minister must consider the effect of the approved determination on the land and vary or revoke the fossicking area declaration as required.
- (4) In this section:

**Crown land**, see section 3 of the *Crown Lands Act*.

### 136 No restrictions on fossicking on particular land

A person may fossick on the following land without giving notice of the intention, or obtaining consent, to do so:

- (a) vacant Crown land;

- (b) a declared fossicking area;
- (c) the proposed title area of an EL or EMEL;
- (d) the title area of an EMEL.

### **137 When consent required**

- (1) This section applies in relation to any of following land (the ***relevant land***):
  - (a) reserved land, except reserved land in a declared fossicking area;
  - (b) Aboriginal land;
  - (c) an Aboriginal community living area;
  - (d) a park or reserve.
- (2) A person may fossick on the relevant land with the written consent of the following person:
  - (a) in relation to reserved land – the Minister;
  - (b) in relation to any other relevant land – the landowner.
- (3) In relation to reserved land, the Minister must take into account the purpose of the reservation of the land before making a decision about giving or withholding consent for a person to fossick on the land.

### **138 Requirements for private land and pastoral land**

- (1) A person may fossick on private land:
  - (a) with the written consent of the landowner or occupier as specified by regulation; and
  - (b) if required by regulation – after the person has notified the occupier of the land of the person's intended entry onto the land, or taken all reasonable steps to do so.
- (2) A person may fossick on pastoral land:
  - (a) after giving notice to the landowner or occupier as specified by regulation; and
  - (b) if required by regulation – after the person has notified the occupier of the land of the person's intended entry onto the land, or taken all reasonable steps to do so.

- (3) A regulation may prescribe the circumstances when a person intending to fossick on pastoral land requires the written consent of the landowner or occupier of the land.

### **139 Requirements for title area of EL**

- (1) A person may fossick in the title area of an EL for any mineral except gold without giving notice of the intention, or obtaining consent, to do so.
- (2) A person who intends to fossick for gold in the title area of an EL may do so only after giving notice to the holder of the EL as specified by regulation.
- (3) A regulation may prescribe the circumstances when a person intending to fossick for gold in the title area of an EL requires the written consent of the holder of the EL.

### **140 Requirements for other title areas and proposed title areas**

A person may fossick in the title area or proposed title area of an ML, EMP or EML with the written consent of the relevant title holder or relevant applicant as prescribed by regulation.

### **141 Multiple requirements for fossicking**

- (1) This section applies if:
  - (a) a person conducts or intends to conduct fossicking on an area of land; and
  - (b) more than one provision of this Part applies in relation to the land (for example, because it is reserved land and also a park or reserve).
- (2) The person must comply with each requirement under this Part for the land.

### **142 General obligations relating to fossicking**

- (1) A fossicker in a declared fossicking area must comply with any conditions imposed by the Minister for the area in the declaration under section 135(1).
- (2) A fossicker on any land must comply with other laws in force in relation to the land.

**143            Regulations relating to fossicking**

A regulation may provide for any of the following:

- (a) particular activities that may be conducted for fossicking;
- (b) conditions relating to conducting particular activities for fossicking;
- (c) information to be given to the Minister by a person conducting fossicking;
- (d) circumstances when notice must be given, or steps must be taken for giving notice, to a landowner or occupier of land, of a person's entry onto land;
- (e) the contents of a notice or application to be given or made to the Minister, a landowner or an occupier of land;
- (f) procedures and limitations of time applicable to a matter mentioned in this section.

**Part 9            Legal proceedings**

**Division 1        General matters**

**144            Prosecution**

- (1) An offence against this Act may be prosecuted by summary proceedings before the Court of Summary Jurisdiction.
- (2) A prosecution under this Act must not be commenced more than 3 years after the occurrence of the alleged offence.

**145            Minerals and extractive minerals extracted unlawfully**

All minerals and extractive minerals extracted from land in contravention of this Act remain the property of the Territory.

## **Division 2      Offences relating to mineral titles, authorised activities and other matters**

### **146      Contravention of condition of mineral title**

The holder of a mineral title commits an offence if the title holder:

- (a) engages in conduct; and
- (b) the conduct results in a contravention of a condition of the mineral title or an access authority held by the title holder.

Fault elements:

The title holder:

- (a) intentionally engages in the conduct; and
- (b) is reckless about whether the conduct will result in a contravention of the condition.

Maximum penalty:      500 penalty units.

### **147      Conducting activities without mineral title**

(1) A person commits an offence if the person:

- (a) conducts exploration for, or mining or other extraction of, minerals or extractive minerals on an area of land of the Territory; and
- (b) no mineral title is in force giving the person the right to conduct the activities on the land.

Fault elements:

The person:

- (a) intentionally conducts exploration for, or mining or other extraction of, minerals or extractive minerals on an area of land of the Territory; and
- (b) is reckless about whether a mineral title is in force giving the person the right to conduct the activities on the land.

Maximum penalty:      5 000 penalty units or imprisonment for 5 years.



**148 Interference with authorised activities or rights**

A person must not interfere with:

- (a) authorised activities being conducted under a mineral title; or
- (b) the exercise by the title holder of a right under the mineral title or under an access authority granted to the title holder.

Fault element: The person intentionally interferes with the authorised activities or the exercise of the right.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

**149 Entering into unlawful agreement about compensation**

A person commits an offence if the person:

- (a) enters into an agreement relating to the payment of compensation under section 107 or 108; and
- (b) the agreement is contrary to a provision of Part 5, Division 6 relating to an entitlement to, or the payment of, compensation.

Fault elements:

The person:

- (a) intentionally enters into the agreement; and
- (b) is reckless about whether the agreement is contrary to a provision of Part 5, Division 6 relating to an entitlement to, or the payment of, compensation.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

**150 Misleading information and documents**

- (1) A person must not give misleading information to an official acting in an official capacity.

Fault elements:

The person:

- (a) intentionally gives the information to the official; and
- (b) knows the information is misleading; and

(c) knows the official is acting in an official capacity.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(2) A person must not give a document containing misleading information to an official acting in an official capacity.

Fault elements:

The person:

- (a) intentionally gives the document to the official; and
- (b) knows the document contains misleading information; and
- (c) knows the official is acting in an official capacity.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(3) Subsection (2) does not apply if the person, when giving the document:

- (a) draws the misleading aspect of the document to the official's attention; and
- (b) to the extent to which the person can reasonably do so – gives the official the information necessary to correct the document.

(4) In this section:

***misleading information*** means information that is misleading in a material particular or because of the omission of a material particular.

## 151 Obstruction of official

(1) A person must not obstruct an official acting in an official capacity.

Fault elements:

The person:

- (a) knows the official is acting in an official capacity; and
- (b) intentionally obstructs the official.

Maximum penalty: 100 penalty units.

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes a reasonable excuse.

(3) In this section:

**obstruct** includes resist and hinder.

### **152        Additional penalty for continuing offence**

In addition to any penalty imposed for an offence against section 146, 147 or 148, the court may impose a penalty not exceeding 10 penalty units for each day during which the offence continues after the day on which it was committed.

### **153        Additional orders on finding of guilt**

(1) In addition to any penalty imposed for an offence against section 146, 147 or 148 (including a penalty imposed under section 152), the court may make any of the following orders:

(a) the offender must pay to the Territory the cost of repairing any damage done (including, for example, damage to the environment) by the offender in the commission of the offence;

(b) the offender must pay to the Territory an amount equal to the value of any minerals or extractive minerals extracted in the commission of the offence and not otherwise recovered by the Territory;

(c) the offender must forfeit to the Territory any thing used in connection with the offence, whether or not it has been seized under section 178.

*Examples for subsection (1)(c)*

*Vehicles, vessels, aircraft, plant, machinery and equipment.*

(2) An amount ordered to be paid under subsection (1)(a) or (b), may be recovered by the Territory in a court of competent jurisdiction.

(3) The Minister may sell or otherwise dispose of property forfeited to the Territory under subsection (1)(c).

## **Division 3        Criminal liability**

### **154        Definition**

In this Division:

**representative**, of a person, means an employee or agent of the person.

**155        Liability of representative**

- (1) It is not a defence to a prosecution for an offence against a provision of this Act that the defendant was, at the time of the commission of the offence, another person's representative.
- (2) However, it is a defence if the defendant proves the defendant was, at the time of the commission of the offence:
  - (a) another person's representative; and
  - (b) under the direct or indirect supervision of the other person.

**156        Conduct of representative**

- (1) This section applies to a prosecution for an offence against a provision of this Act.

*Note for subsection (1)*

*This section deals with prosecutions of individuals. Part IIAA, Division 5, of the Criminal Code contains provisions about corporate criminal responsibility.*

- (2) Conduct engaged in by a representative of a person within the scope of the representative's actual or apparent authority is taken to have been also engaged in by the person.
- (3) However, subsection (2) does not apply if the person proves the person took reasonable steps to prevent the conduct.
- (4) In deciding whether the person took reasonable steps to prevent the conduct, a court must consider:
  - (a) any action the person took to ensure the representative had a reasonable knowledge and understanding of the requirement to comply with the contravened provision; and
  - (b) the level of management, control or supervision that was appropriate for the person to exercise over the representative.
- (5) Subsection (4) does not limit the matters the court may consider.
- (6) If it is relevant to prove a person had a fault element in relation to a physical element of an offence, it is enough to show:
  - (a) the conduct relevant to the physical element was engaged in by a representative of the person within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the fault element in relation to the physical element.

- (7) A person may rely on section 43AX of the Criminal Code in relation to conduct by a representative that would be an offence by the person only if:
- (a) the representative was under a mistaken but reasonable belief about the facts that, had they existed, would have meant that the conduct would not have constituted an offence; and
  - (b) the person proves the person exercised due diligence to prevent the conduct.

*Note for subsection (7)*

*Section 43AX of the Criminal Code provides a person is not criminally responsible if the person engaged in conduct under a mistake of fact in relation to an offence of strict liability.*

- (8) A person (the **defendant**) may not rely on section 43BA of the Criminal Code in relation to a physical element of an offence brought about by another person if the other person is a representative of the defendant.

*Note for subsection (8)*

*Section 43BA of the Criminal Code provides a person is not criminally responsible in circumstances of an intervening conduct or event.*

- (9) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (2) or (6).
- (10) In this section:

**fault element** includes intention, knowledge, recklessness, opinion, belief and purpose, but does not include negligence.

**person** means an individual.

## **157        Offence – other partners and managers taken to have committed offence of partner**

- (1) If a person (the **offender**) who is a partner in a partnership commits an offence against a provision of this Act in the course of the activities of the partnership, each other partner in the partnership, and each other person who is concerned with, or takes part in, the management of the partnership, is:
- (a) taken to have committed the offence; and
  - (b) liable to the same penalty for the offence as an individual.

- (2) Subsection (1) does not apply if:
- (a) the other partner or person was not in a position to influence the conduct of the offender; or
  - (b) the other partner or person, being in a position to influence the conduct of the offender, took reasonable steps and exercised due diligence to prevent the conduct.

*Note for subsection (2)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*

- (3) This section does not affect the liability of the offender.
- (4) This section applies whether or not the offender is prosecuted for, or convicted of, the offence.
- (5) This section does not apply if the offender would have a defence to a prosecution for the offence.
- (6) In this section:

**partnership** does not include an incorporated limited partnership formed under the *Partnership Act*.

**158        Offence – managers of unincorporated associations taken to have committed offence of other manager**

- (1) If a person (the **offender**) who is concerned with, or takes part, in the management of an unincorporated association commits an offence against a provision of this Act in the course of the activities of the association, each other person who is concerned with, or takes part in, the management of the unincorporated association is:
- (a) taken to have committed the offence; and
  - (b) liable to the same penalty for the offence as an individual.
- (2) Subsection (1) does not apply if:
- (a) the other person was not in a position to influence the conduct of the offender; or
  - (b) the other person, being in a position to influence the conduct of the offender, took reasonable steps and exercised due diligence to prevent the conduct.

*Note for subsection (2)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*

- (3) This section does not affect the liability of the offender.
- (4) This section applies whether or not the offender is prosecuted for, or convicted of, the offence.
- (5) This section does not apply if the offender would have a defence to a prosecution for the offence.

**159        Criminal liability of executive officer of body corporate**

- (1) An executive officer of a body corporate commits an offence if:
  - (a) the body corporate commits an offence (a **relevant offence**) by contravening a provision of this Act; and
  - (b) the officer was in a position to influence the conduct of the body corporate in relation to the contravention; and
  - (c) the officer failed to take reasonable steps to prevent the contravention; and
  - (d) the officer was reckless about whether the contravention would happen.

Maximum penalty:        The maximum penalty that may be imposed on an individual for the relevant offence.

- (2) In deciding whether the executive officer took (or failed to take) reasonable steps to prevent the contravention, a court must consider the following:
  - (a) any action the officer took directed towards ensuring the following (to the extent the action is relevant to the contravention):
    - (i) the body corporate arranged regular professional assessments of the body corporate's compliance with the contravened provision;
    - (ii) the body corporate implemented any appropriate recommendation arising from an assessment under subparagraph (i);
    - (iii) the body corporate's representatives and contractors had a reasonable knowledge and understanding of the requirement to comply with the contravened provision;
  - (b) any action the officer took when the officer became aware that the contravention was, or could be, about to happen.

- (3) Subsection (2) does not limit the matters the court may consider.
- (4) This section does not affect the liability of the body corporate.
- (5) This section applies whether or not the body corporate is prosecuted for, or convicted of, the relevant offence.
- (6) This section does not apply if the body corporate would have a defence to a prosecution for the relevant offence.
- (7) In this section:

**executive officer**, of a body corporate, means a director or other person who is concerned with, or takes part in, the management of the body corporate.

## **Division 4 Applications to Tribunal**

### **160 Making application to Tribunal**

A person permitted by this Act to make an application to the Tribunal, may do so under the *Lands, Planning and Mining Tribunal Act*.

### **161 Regulations may provide for other applications to Tribunal**

The regulations may provide for:

- (a) other matters under this Act in relation to which a person may make an application to the Tribunal; and
- (b) procedures relevant to those applications in addition to any procedures under the *Lands, Planning and Mining Tribunal Act*.

## **Part 10 Administration and enforcement**

### **Division 1 General administration**

#### **162 Approved forms**

- (1) The Minister:
  - (a) must approve a form for a provision of this Act that requires a document to be in the approved form; and
  - (b) may approve a form for another document required to be given under this Act.



- (2) The Minister must publicise an approved form in a way decided by the Minister (for example, on the Internet).

### **163 Applications, notices and other information**

- (1) An application made, or a notice or other information given, to the Minister under this Act must be lodged with the Agency in a way that is acceptable to the Minister.
- (2) If there is an approved form for an application or other document, the application or document must be made substantially in accordance with the approved form.
- (3) An application must include:
  - (a) the information relating to the application required by this Act; and
  - (b) if there is an approved form for the application – the information required by the form; and
  - (c) any further information prescribed by regulation for the application.
- (4) The Minister may require information given under this Act to be verified in the way the Minister specifies.
- (5) If a fee has been prescribed for making an application or giving a notice or information to the Minister, the fee must be paid on lodgment of the application, notice or information.
- (6) An application or other document lodged with the Agency after 4 pm on a business day is taken to have been received on the next business day.

### **164 Requirements of Minister**

- (1) Before making a decision relating to any application under this Act, the Minister may require the applicant to give the Minister additional information, or take an action, relevant to the application.
- (2) At any time during the period a mineral title is in force, the Minister may require the title holder to give the Minister information, or take an action, relevant to the mineral title.

### **165 Minister to give written notice of decisions and requirements**

- (1) A decision, requirement, approval, consent, authorisation or notice made or given by the Minister under this Act must be in writing and served on the person to whom it is directed.

- (2) If the Minister decides to refuse an application made under this Act, the Minister must give the applicant a notice of the refusal that includes the reasons for the decision.
- (3) However, subsection (2) does not apply to an application prescribed by regulation.

**166 Minister may extend time**

- (1) If this Act, or an instrument under this Act, specifies a time for a person to take an action, the Minister may extend the time if satisfied there are circumstances to justify the extension.
- (2) The Minister may extend the time on the Minister's own initiative or on the written request of the person required to take the action.

**167 Constructive consent of landowner**

- (1) This section applies if a provision of this Act requires a person to obtain the written consent of a landowner before the person may take an action (for example, enter the landowner's land).
- (2) If the person has served on the landowner a notice requesting the consent, and the landowner has not responded in writing to the request within 2 months after the day of service, the landowner is taken to have given consent.

**168 Guidelines**

- (1) The Minister may make guidelines for the administration of this Act.
- (2) The guidelines must be consistent with this Act.
- (3) The Minister may publish the guidelines in the way the Minister considers appropriate (for example, on the Internet).
- (4) A person acting under this Act must have regard to the guidelines.

**169 Delegation**

- (1) The Minister may delegate any of the Minister's powers and functions under this Act, other than as mentioned in section 112(6), to one or both of the following:
  - (a) the Chief Executive Officer;
  - (b) a public sector employee from time to time holding, acting in or performing the duties of a named office, designation or position in the Agency.

- (2) A power or function may be delegated under subsection (1)(b) to more than one public sector employee.

**170 Release or publication of information**

- (1) The Minister may release or publish information contained in a report given under section 94 only as prescribed by regulation.
- (2) A regulation may provide for matters relevant to the release or publication of information mentioned in subsection (1), including any of the following:
- (a) the information that must not be released or published;
  - (b) the method of:
    - (i) release of information to particular people; or
    - (ii) publication of information;
  - (c) the periods or circumstances when particular information may be released or published.
- (3) This section does not apply in relation to information kept in the register.

**171 Action if condition or requirement contravened**

- (1) This section applies if:
- (a) a condition of a mineral title requires the title holder to take an action in relation to the title area; or
  - (b) the Minister requires the holder of a mineral title to take an action in relation to the title area.
- (2) If the title holder does not comply with the requirement, the Minister may enter the title area and take the action the Minister considers necessary.
- (3) The Minister may take the action:
- (a) regardless of whether the mineral title is still in force; and
  - (b) with the assistance that is necessary.
- (4) The costs incurred by the Minister in taking the action are payable to the Territory by the title holder.

## 172 Action relating to removal of equipment

- (1) This section applies if a person who previously held a mineral title has not complied with the condition in section 99, requiring the removal of plant, machinery and other equipment (each of which is **relevant equipment**).
- (2) The Minister may serve a notice on the person requiring the person to give the Minister reasons, within a specified time of not less than 14 days after the day of service, why the relevant equipment should not be sold or removed.
- (3) If the person does not give the Minister a notice within the time specified under subsection (2), or the Minister is not satisfied with the reasons given by the person, the Minister may:
  - (a) give notice, in a newspaper circulating in the area in which the relevant equipment is located, of the sale of the equipment by public auction to be held on a specified date (which must be at least 7 days after the date of publication of the notice); and
  - (b) hold the auction as notified.
- (4) The purchaser of relevant equipment acquires good title to it and has the right to enter onto the land on which it is located and remove the equipment.
- (5) Any of the relevant equipment not sold at auction becomes the property of the Territory.
- (6) The Minister must pay to the person who previously held the mineral title the money remaining from the sale of relevant equipment after the Minister has deducted amounts to pay:
  - (a) the expenses incurred by the Territory in holding the auction; and
  - (b) any debts owed by the person to the Territory or any other person under this Act.
- (7) This section does not limit the operation of section 171 in relation to the former title area of the mineral title.

**173 Decision not to be challenged solely for irregularity**

- (1) If the Minister makes a decision or takes an action relating to an application under this Act, the decision or action is not open to challenge solely because of:
  - (a) an informality or irregularity in:
    - (i) the making of the application; or
    - (ii) the procedures followed in making the decision or taking the action; or
  - (b) the applicant's failure to comply fully with requirements under this Act; or
  - (c) in relation to a mineral title application – the applicant's failure to meet all the necessary criteria.
- (2) However, this section does not apply in relation to an irregularity or failure involving fraud.

**Division 2 Authorised officers**

**174 Appointment of authorised officer**

The Minister may appoint a public sector employee to be an authorised officer.

**175 Identity card**

- (1) The Minister must give an authorised officer an identity card stating the person's name and that the person is an authorised officer.
- (2) The identity card must:
  - (a) show a recent photograph of the authorised officer; and
  - (b) show the card's date of issue; and
  - (c) be signed by the officer.
- (3) A person who ceases to be an authorised officer must return the person's identity card to the Minister within 14 days after the cessation.

Maximum penalty: 10 penalty units.

- (4) An offence against subsection (3) is an offence of strict liability.

- (5) It is a defence to a prosecution for an offence against subsection (3) if the person establishes a reasonable excuse.
- (6) This section does not prevent the issue of a single identity card to a person for this and another Act.

### **176 Functions of authorised officer**

An authorised officer has the following functions:

- (a) to monitor compliance with this Act;
- (b) to inspect the title areas of mineral titles to assess whether the activities being conducted by title holder are in accordance with this Act and the conditions of the mineral title;
- (c) to inspect access areas to assess whether the holders of the access authorities are complying with the conditions of the authorities;
- (d) to inspect reserved land to assess whether unauthorised activities are being conducted on the land;
- (e) to receive and investigate complaints about the following:
  - (i) mineral titles and activities conducted under mineral titles;
  - (ii) exploration for, or extraction of, minerals or extractive minerals generally;
- (f) to give advice and information to persons involved in exploration for and extraction of minerals or extractive minerals, the Minister and the public;
- (g) to collect and collate statistics, as required by the Minister, about the following:
  - (i) exploration for and extraction of minerals and extractive minerals;
  - (ii) the mineral and extractive mineral industries.

### **177 General powers**

- (1) Subject to this Act, an authorised officer may do any of the following in relation to a mineral title:
  - (a) at any time, enter and inspect the title area and any associated access area;

- (b) require a person to give the officer information that is reasonably necessary:
    - (i) to assist the officer to perform a function under this Act; or
    - (ii) for the administration or enforcement of this Act;
  - (c) require the title holder or another person associated with the activities conducted under, or in association with, the mineral title to attend and answer questions in connection with an investigation into a matter relevant to the administration or enforcement of this Act;
  - (d) give written instructions to the title holder;
  - (e) direct the title holder to take action or cease work to ensure compliance with this Act or the conditions of the mineral title and any associated access authority;
  - (f) take any other action that may be reasonably necessary to ensure compliance with this Act or the conditions of the mineral title and any associated access authority.
- (2) A person commits an offence if the person fails to comply with a requirement given to the person under subsection (1).
- Maximum penalty: 100 penalty units.
- (3) An offence against subsection (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against subsection (2) if the defendant establishes a reasonable excuse.
- (5) A requirement or direction given orally under subsection (1) must be confirmed in writing as soon as practicable after it is given.

## **178 Search and seizure powers**

- (1) This section applies if an authorised officer believes on reasonable grounds that an offence against this Act has been, is being, or is likely to be, committed.
- (2) The authorised officer may, without a warrant, exercise any of the following powers for the detection or prevention of the offence:
- (a) enter and search a place, except residential premises;
  - (b) stop, enter and search a vehicle, vessel or aircraft;

- (c) stop, detain and search a person in connection with the exercise of a power under paragraph (a) or (b);
  - (d) require the person to give the officer a specified thing or specified information;
  - (e) require a person to cease doing something;
  - (f) search a thing in connection with the exercise of a power under paragraph (a), (b), (c) or (d);
  - (g) inspect, take samples of or seize any thing found in a search under this subsection;
  - (h) operate electronic equipment found as a result of the search in order to retrieve or record information;
  - (i) inspect and retrieve a thing or information for paragraph (h);
  - (j) make a record about an exercise of power under this subsection.
- (3) A person may be searched under subsection (2)(c) only by an authorised officer of the same gender as the person.
- (4) A requirement made orally under subsection (2)(d) must be confirmed in writing as soon as practicable after the requirement is given.
- (5) As soon as practicable after an authorised officer seizes a thing under subsection (2)(g), the officer must:
- (a) give the Minister a written report about the seizure; and
  - (b) deliver the thing to the Minister or a person authorised by the Minister to accept delivery of it.
- (6) A person commits an offence if the person fails to comply with a requirement given to the person under subsection (2).
- Maximum penalty: 100 penalty units.
- (7) An offence against subsection (6) is an offence of strict liability.
- (8) It is a defence to a prosecution for an offence against subsection (6) if the defendant establishes a reasonable excuse.

### **179 Reasonable force and assistance**

An authorised officer may use reasonable force and assistance in exercising a power or performing a function under this Act.



**180 Falsely representing to be authorised officer**

A person must not falsely represent, by words or conduct, that the person or another person is an authorised officer.

Fault element: The person intentionally represents the person or other person is an authorised officer with an intention to deceive.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

**Division 3 Forfeiture of seized thing and notice to claim**

**181 Definitions**

In this Division:

**relevant offence** means an offence in connection with which a thing was seized under section 178(2)(g).

**seized thing** means a thing seized under section 178(2)(g) and delivered under section 178(5)(b).

**182 Court may order forfeiture**

- (1) This section applies in relation to a seized thing if a prosecution for a relevant offence commences within 12 months after the delivery of the seized thing.
- (2) If a court finds a person guilty of the relevant offence, the court may order the seized thing be forfeited to the Territory.
- (3) The forfeiture is in addition to the penalty imposed for the offence.
- (4) If a person is found guilty of the relevant offence, the person is liable to pay to the Territory the reasonable costs of handling, maintaining and storing the seized thing from the time it was seized, regardless of whether the court makes an order under subsection (2).

**183 Minister may give notice to claim delivery**

- (1) This section applies in relation to a seized thing if a prosecution for a relevant offence:
  - (a) is not commenced within 12 months after the delivery of the seized thing; or

- (b) is commenced within 12 months after the delivery of the seized thing and the court does not make an order under section 182(2).
- (2) The Minister must give a notice to one of the following persons, requiring the person to claim delivery of the seized thing within 21 days after the day on which the person receives the notice:
  - (a) the person from whom the thing was seized;
  - (b) a person the Minister reasonably believes is the owner of the thing or has a legal interest in it.
- (3) If the person claims delivery of the seized thing as required, the Minister must refer the claim to the Court of Summary Jurisdiction for it to be dealt with as if it were a claim made by a claimant of property under section 130B of the *Justices Act*.
- (4) If the person does not claim delivery of the seized thing as required, the seized thing is forfeited to the Territory.

## **Part 11            Miscellaneous matters**

### **Division 1        General provisions**

#### **184            Aboriginal community living area – excluded land**

- (1) Within 30 days after the grant of an estate in fee simple for an Aboriginal community living area, the landowner for the area may give the Minister a notice about land within the area that is to be excluded from the grant of mineral titles (***excluded land***).
- (2) The notice must specify the central point of the excluded land, the area of which may extend to a radius of no more than 1 km from the central point (but not outside the Aboriginal community living area).
- (3) On application by the landowner for the Aboriginal community living area, the Minister may approve a new location for the excluded land.
- (4) The Minister must not grant a mineral title over the excluded land unless the landowner has given written consent to the grant.
- (5) However, a mineral title in force for any part of the excluded land immediately before notice is given under subsection (1), or approval is given under subsection (3), is not affected by the giving of the notice or approval.

**185 Prescribed substance – royalty payments**

- (1) A person specified in an authority under section 41 of the Atomic Energy Act who conducts activities for mining a prescribed substance in the Ranger Project Area is liable to pay a royalty in relation to the prescribed substance in accordance with an agreement between the person and the Commonwealth.
- (2) The holder of an ML relating to a prescribed substance is liable to pay a royalty in relation to the prescribed substance mined in the title area:
  - (a) to the Crown, in right of the Territory, on behalf of the Commonwealth; and
  - (b) in accordance with the applied law.
- (3) If, because of section 17(2) of the Uranium Royalty Act, the Territory must pay to the Commonwealth an amount equal to the whole or part of a received amount that has been refunded under the applied law:
  - (a) the amount must be paid from the public moneys of the Territory; and
  - (b) the appropriation for that purpose is established or increased to the extent necessary.
- (4) In this section:

***applied law***, see section 4 of the Uranium Royalty Act.

***received amount***, see section 17(1) of the Uranium Royalty Act.

**186 Prescribed substance – Minister's exercise of powers**

- (1) In relation to a prescribed substance, the Minister:
  - (a) must exercise the Minister's powers in accordance with, and give effect to, the advice of the Commonwealth Minister; and
  - (b) must not exercise the Minister's powers otherwise than in accordance with the advice of the Commonwealth Minister.
- (2) However, subsection (1) does not prevent the Minister from acting without the advice of the Commonwealth Minister, or require the Minister to take or give effect to the advice of the Commonwealth Minister, in relation to:
  - (a) a matter mentioned in Part 3, Division 1; or

- (b) the exercise of a power under an arrangement in force under section 7 of the Uranium Royalty Act, unless the arrangement requires compliance with subsection (1).
- (3) In this section:

**Commonwealth Minister** means:

- (a) in relation to a prescribed substance in the Ranger Project Area – the Minister for the Commonwealth administering section 41 of the Atomic Energy Act; or
- (b) in relation to a prescribed substance in any other area of land – the Minister for the Commonwealth who has the power under a law of the Commonwealth to authorise persons to carry out operations relating to exploration for or mining of the prescribed substance.

**187        Agreement to be consistent with Act**

- (1) A person must not enter into an agreement that is inconsistent with this Act, and such an agreement is of no effect to the extent of the inconsistency.
- (2) This section applies in addition to sections 109 and 149.

**188        Acquisition on just terms**

If the operation of this Act would, apart from this section, result in an acquisition of property from a person otherwise than on just terms:

- (a) the person is entitled to receive from the Territory the compensation necessary to ensure the acquisition is on just terms; and
- (b) a court of competent jurisdiction may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.

**189        Protection from liability**

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:
  - (a) an authorised officer;
  - (b) a person assisting an authorised officer;

- (c) a person assisting the Minister to take an action under section 171(2);
  - (d) a person authorised under section 178(5)(b) to accept delivery of a seized thing.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
- (3) In this section:
- exercise**, of a power, includes the purported exercise of the power.
- performance**, of a function, includes the purported performance of the function.

## **Division 2      Regulations**

### **190      Regulation-making power**

- (1) The Administrator may make regulations under this Act.
- (2) A regulation may provide for any of the following:
  - (a) procedures relating to mineral title applications and other applications, including procedures for the following:
    - (i) giving notice to the public, landowners, or occupiers of land;
    - (ii) making a decision about the application and notifying the applicant of the decision;
    - (iii) the applicant's entitlement to make submissions to the Minister;
  - (b) matters relating to mineral authorities and corresponding titles;
  - (c) information to be provided to the Minister relating to an application or mineral title, including:
    - (i) information to be included in a technical work program; and
    - (ii) statistics, plans or designs;
  - (d) matters relating to surveying or marking boundaries of:
    - (i) the title area or proposed title area of a mineral title; or

- (ii) an access area or proposed access area of an access authority;
- (e) the regulation of authorised activities to protect land, improvements or infrastructure (for example, by prescribing the distance at which shafts and other mine workings must be kept from public or private roads, rights of way or particular buildings);
- (f) matters relating to geological samples recovered under a mineral title, including any of the following:
  - (i) giving notice of the recovery of samples;
  - (ii) the keeping or disposal of samples;
  - (iii) giving the Minister samples;
  - (iv) examination of samples given to the Minister;
- (g) the way in which a holder of a mineral title may exercise a right or entitlement under the title, which may include limiting that exercise in relation to:
  - (i) other holders of mineral titles; or
  - (ii) landholders or occupiers of land; or
  - (iii) other persons using land in the title area;
- (h) matters relating to the surrender of all or part of the title area of a mineral title, or the cancellation or partial cancellation of a mineral title, including procedures for any of the following:
  - (i) the variation of a mineral title following the surrender of part of the title area;
  - (ii) the variation of a mineral title following the cancellation of the title in relation to part of the title area;
  - (iii) the refund of rent paid by the holder of a mineral title following the surrender or cancellation;
- (i) matters relating to the variation of conditions of a mineral title;
- (j) matters relating to the division or amalgamation of title areas, including any of the following:
  - (i) procedures for the division or amalgamation;
  - (ii) the maximum size of an amalgamated title area;

- (iii) the minimum size of part of a divided title area;
  - (iv) the term of a replacement title;
  - (v) rent payable under a replacement title;
  - (vi) reports in relation to a replacement title;
  - (k) the way in which something required or permitted to be done under this Act must, or may, be done;
  - (l) the way in which a person may perform a function or exercise a power under this Act (including, for example, the way in which a person may exercise a discretion).
- (3) A regulation may also do any of the following:
- (a) prescribe fees payable under this Act;
  - (b) apply, adopt or incorporate (with or without changes) a matter contained in another instrument as in force or existing at a particular time or from time to time;
  - (c) provide for the enforcement of a code of practice or standard, including by providing that a contravention of the code or standard is an offence against the regulations;
  - (d) prescribe a fine not exceeding 200 penalty units for an offence against the regulations;
  - (e) provide for an offence against this Act to be an offence of strict liability.

### **191 Transitional regulations**

- (1) A regulation may provide for a matter of a transitional nature:
- (a) because of the enactment of this Act; or
  - (b) to otherwise allow or facilitate the transition from the operation of the repealed Act to this Act.
- (2) The regulation may have retrospective operation to a day not earlier than the commencement day.
- (3) However, to the extent to which the regulation has retrospective operation, it does not operate to the disadvantage of a person (other than the Territory or a Territory authority) by:
- (a) decreasing the person's rights; or

- (b) imposing liabilities on the person.
- (4) The regulation must declare it is made under this section.
- (5) This section, and each regulation made under it, expires 5 years after the commencement day.

## **Part 12 Repeals and transitional provisions for Mineral Titles Act**

### **Division 1 Preliminary matters**

#### **192 Interpretation**

- (1) In this Part:

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

**corresponding application** means one of the following:

- (a) in relation to an existing application for the grant or renewal of an exploration retention licence – an application for the designation or renewal of the designation of an ELR;
- (b) in relation to an existing application for the grant or renewal of any other existing interest mentioned in section 201(1) – the grant or renewal of the corresponding mineral title for the existing interest;
- (c) in relation to an existing application mentioned in section 200(2) – the application under this Act that is of the same or a similar nature as the existing application.

**corresponding mineral title**, for an existing interest mentioned in section 201(1), means the corresponding mineral title for the interest as specified in that section.

**existing application** means an application lodged with the Agency under the repealed Act and not decided before the commencement day.

**existing interest** means one of the following in force immediately before the commencement day:

- (a) a mining interest;
- (b) a mining tenement;



- (c) a mining lease or special mineral lease continued in force by section 191(9) or (12) of the repealed Act;
- (d) a right or entitlement continued in force by section 191(19) or (20) of the repealed Act;
- (e) a title continued in force by section 191(28) of the repealed Act.

***non-compliant existing interest***, see section 203(1).

***non-compliant title*** means a non-compliant mineral title mentioned in section 202(3)(c).

***repealed Act*** means the *Mining Act* as in force immediately before the commencement day.

- (2) A term mentioned in this Part that is defined in section 4(1) of the repealed Act has the same meaning as in the repealed Act.

### **193 Principles for transition**

- (1) A regulation or decision made for this Part must be consistent with the principles for transition to the provisions of this Act.
- (2) The principles for transition are as follows:
  - (a) to achieve consistency of mineral titles held under this Act;
  - (b) to maximise the potential of exploration for, and extraction and processing of, minerals or extractive minerals by ensuring those activities are conducted under appropriate mineral titles;
  - (c) to assess corresponding mineral titles and ensure they authorise appropriate activities to be conducted under this Act;
  - (d) to facilitate the conversion of:
    - (i) non-compliant titles to the appropriate mineral titles; and
    - (ii) non-compliant existing interests to the appropriate mineral titles or other appropriate interests;
  - (e) to consult with holders of non-compliant titles or non-compliant existing interests to achieve appropriate conversions of the titles or interests;
  - (f) to allow sufficient time to enable the holders of non-compliant titles or non-compliant existing interests to meet requirements under this Act.

## **Division 2      Repeals and savings**

### **194      Repeals**

The Acts specified in the Schedule are repealed.

### **195      Continuation of authorizations for construction**

An authorization in force under section 182(2) of the repealed Act continues in force and is taken to be an access authority.

### **196      Continuation of fossicking areas**

A declaration of a fossicking area in force under section 131(1) of the repealed Act continues in force and is taken to be a fossicking area declaration mentioned in section 135(1).

## **Division 3      Existing applications**

### **197      Existing applications generally**

- (1) An existing application is taken to have been made under this Act and must be decided in accordance with this Division.
- (2) If a prescribed fee was paid under the repealed Act for the existing application, no further fee is payable for the application after the commencement day.
- (3) If a prescribed fee payable for the existing application under the repealed Act is not paid within 30 days after the commencement day, the fee prescribed under this Act for the corresponding application is payable.
- (4) A regulation may provide for procedures, and discretions the Minister may exercise, in relation to any of the following:
  - (a) the acceptance or refusal to accept an existing application;
  - (b) the consideration of an existing application;
  - (c) the refund of fees payable in relation to an existing application.

### **198      Grant or renewal – corresponding application**

- (1) This section applies to an existing application for:
  - (a) the grant of an existing interest that, had it been in force under the repealed Act, would have been converted under section 201(1) to its corresponding mineral title; or

- (b) the renewal of an existing interest that has been converted under section 201(1) to its corresponding mineral title.

*Example for subsection (1)(a)*

*An existing application for the grant of an exploration licence that, had it been in force under the repealed Act, would have been converted to an EL.*

- (2) If the person who made the existing application has met the necessary criteria for the corresponding application, the Minister must decide the existing application in accordance with the procedures relevant to the corresponding application.
- (3) If the person who made the existing application has not met the necessary criteria for the corresponding application, the Minister may:
- (a) if the existing application meets requirements under the repealed Act for the existing application – decide the application as if the applicant had met the necessary criteria for the corresponding application; or
  - (b) under section 69 recommend a variation or replacement of the existing application and, if it is varied or replaced, decide the application in accordance with Part 5, Division 2; or
  - (c) if paragraph (a) does not apply and it is impracticable to apply paragraph (b) – deal with or decide the existing application:
    - (i) as prescribed by regulation; or
    - (ii) if there is no regulation relating to the particular application – as the Minister considers appropriate, having regard to the principles for transition mentioned in section 193(2).

**199 Grant or renewal – no corresponding application**

- (1) This section applies to an existing application for:
- (a) the grant of an existing interest that, had it been in force under the repealed Act, would be a non-compliant existing interest; or
  - (b) the renewal of a non-compliant existing interest; or
  - (c) any other application relating to a non-compliant existing interest.

- (2) The Minister must deal with or decide the application:
- (a) as prescribed by regulation; or
  - (b) if there is no regulation relating to the particular application – as the Minister considers appropriate, having regard to the principles for transition mentioned in section 193(2).

## **200 Other existing applications**

- (1) This section applies to an existing application other than the following:
- (a) an application to which section 198 or 199 applies;
  - (b) an application relating to a proceeding before a warden, including a plaintiff commencing a proceeding in the warden's court.
- (2) If the existing application relates to an existing interest that has been converted under section 201(1) to its corresponding mineral title, and this Act includes a provision for the corresponding application, the Minister must follow the procedures under this Act for deciding the existing application.

### *Examples for subsection (2)*

- 1 *If the existing application is for the variation of an exploration licence under section 172 of the repealed Act, the Minister must follow the procedures under section 100 applicable to the variation of the conditions of an EL.*
  - 2 *If the existing application is for the registration of a transfer of an interest in a mineral lease under section 173 of the repealed Act, the Minister must follow the procedures under section 123 for a transfer of the same interest in an ML.*
- (3) If the existing application relates to any other matter, the Minister must deal with or decide the application:
- (a) as prescribed by regulation; or
  - (b) if there is no regulation relating to the particular application – as the Minister considers appropriate, having regard to the principles for transition mentioned in section 193(2).

## Division 4 Existing interests and corresponding mineral titles

### 201 Conversion of existing interest to corresponding mineral title

- (1) On the commencement day, each existing interest specified in the table, column 1, is converted to the corresponding mineral title specified opposite in the table, column 2:

Column 1	Column 2
exploration licence	EL
exploration retention licence	ELR
mineral lease	ML
mining tenement comprising an area of land the right to occupation of which is conferred by section 61(2) of the repealed Act	ML
mining lease or special mineral lease continued in force by section 191(9) or (12) of the repealed Act	ML
extractive mineral permit	EMP
extractive mineral lease	EML
authority under section 178 of the repealed Act	MA

- (2) To avoid doubt, subsection (1):
- (a) applies to an existing interest to which one of the following Acts applies:
    - (i) the *Merlin Project Agreement Ratification Act*,
    - (ii) the *Tanami Exploration Agreement Ratification Act 2004*; and
  - (b) does not apply to an interest, right or title to which one of the following Acts applies:
    - (i) the *McArthur River Project Agreement Ratification Act*,

- (ii) the *Mining (Gove Peninsula Nabalco Agreement) Act*.

**202 Inconsistency of corresponding mineral title with Act**

- (1) If a condition of a corresponding mineral title is inconsistent with a provision of this Act, the condition of the corresponding mineral title prevails to the extent of the inconsistency.
- (2) However, the Minister may decide under section 100 to vary the condition.
- (3) In relation to a corresponding mineral title that does not comply fully with a requirement of this Act, the Minister may, as soon as practicable after the commencement day:
- (a) give the title holder a notice recommending a way to achieve compliance; or
  - (b) require the title holder to take a specified action to achieve compliance; or
  - (c) if the non-compliance is such that it may be appropriate to convert the corresponding mineral title to another type of mineral title, give the holder of the non-compliant title a notice stating the following:
    - (i) the Minister has decided to convert the non-compliant title to another specified mineral title;
    - (ii) details of the non-compliance;
    - (iii) the information the title holder must give the Minister about the non-compliant title and the time within which it must be given;
    - (iv) the title holder may accept the Minister's decision, or make a submission to the Minister, within the time specified in the notice;
    - (v) the title holder is entitled to a review of the Minister's decision as prescribed by regulation;
    - (vi) any other information required by regulation.

*Example for subsection (3)(c)*

*An ML that was a mineral lease under the repealed Act may have a title area that does not contain an ore body or anomalous zone as required by the operation of Part 3, Divisions 1, 2 and 3, in which case it may be appropriate to convert the ML to an EL.*

- (4) The times specified under subsection (3)(c)(iii) and (iv) must be sufficient to enable the holder of the non-compliant title to obtain the information and fully consider the Minister's decision, taking into account the nature of the information and non-compliance.

### **203 Non-compliant existing interests**

- (1) This section applies to each of the following existing interests (a ***non-compliant existing interest***):
- (a) a mineral claim;
  - (b) a right or entitlement continued in force by section 191(19) or (20) of the repealed Act;
  - (c) a title continued in force by section 191(28) of the repealed Act.
- (2) The non-compliant existing interest continues in force and has effect after the commencement day as if this Act had not commenced.
- (3) However, as soon as practicable after the commencement day, the Minister must decide to take one of the following actions in relation to the non-compliant existing interest:
- (a) convert it to the mineral title the Minister considers appropriate;
  - (b) facilitate its conversion to another interest in relation to the land to which it relates (for example, a licence under the *Crown Lands Act*);
  - (c) accept its surrender;
  - (d) cancel it.
- (4) For subsection (3), the Minister must give the holder of the non-compliant existing interest a notice stating the following:
- (a) the action the Minister has decided to take;
  - (b) the information the holder must give the Minister about the non-compliant existing interest and the time within which it must be given;
  - (c) the holder may accept the Minister's decision, or make a submission to the Minister, within the time specified in the notice;

- (d) the holder is entitled to a review of the Minister's decision as prescribed by regulation;
  - (e) any other information required by regulation.
- (5) The times specified under subsection (4)(b) and (c) must be sufficient to enable the holder of the non-compliant existing interest to obtain the information and fully consider the Minister's decision, taking into account the nature of the information and non-compliant interest.

#### **204 Other matters to be dealt with by regulation**

Regulations may deal with matters relevant to the following:

- (a) the conversion of a non-compliant title to another mineral title;
- (b) the conversion of a non-compliant existing interest to another interest in relation to the land to which the non-compliant existing interest relates;
- (c) the payment or refund of rent, or giving reports, in relation to:
  - (i) an existing interest; or
  - (ii) a corresponding mineral title for an existing interest;
- (d) procedures and other matters relevant to submissions and reviews mentioned in section 202(3)(c)(iv) and (v) or 203(4)(c) and (d).

### **Division 5 Registers**

#### **205 Continuation of registers under repealed Act**

Each register in existence under the repealed Act immediately before the commencement day continues to form part of the Mineral Titles Register kept under section 121(1).

#### **206 Information has same effect**

- (1) Information entered in a register about an existing interest that has converted to its corresponding mineral title continues to apply in relation to the corresponding mineral title, with the necessary changes, until the information is amended by the Minister.
- (2) Information entered in a register about a non-compliant existing interest continues to apply in relation to the existing interest until the Minister amends the information after taking an action mentioned in section 203(3), or for another reason.



- (3) A dealing or caveat in force immediately before the commencement day that relates to an existing interest continues to have the same effect after the commencement day in relation to the existing interest or the corresponding mineral title for the existing interest (as appropriate).

## **207 Consideration and registration of instruments**

If the consideration or registration of an instrument (including a caveat) or information relating to an existing interest has not been completed before the commencement day, the consideration or registration must be completed under Part 7.

## **Division 6 Wardens court**

### **208 Proceeding before warden's court**

- (1) If, immediately before the commencement day, a proceeding has been commenced in a warden's court, the proceeding continues under Part XII of the repealed Act as if that Act were still in force.
- (2) However, a warden must:
- (a) take into account any necessary changes because of the operation of this Part; and
  - (b) must decide the proceeding having regard to the principles for transition mentioned in section 193(2).

*Example for subsection (2)(a)*

*The conversion under section 201(1) of an existing interest to its corresponding mineral title.*

### **209 Question reserved**

The warden's court may, at any stage of a proceeding mentioned in section 208(1), reserve a question of law for the opinion of the Supreme Court, and section 151(a) to (e) of the repealed Act continues to apply as if the repealed Act were still in force.

### **210 Appeal**

A person may appeal to the Supreme Court against a decision made in a proceeding mentioned in section 208(1) as if the repealed Act were still in force.

## **211 Application for directions**

If, before the commencement day, a mining registrar had applied to a warden's court for directions under section 147 of the repealed Act and the directions have not been given, the Minister:

- (a) may make a decision about the matter; or
- (b) if it is a matter that a regulation specifies must be referred to the Tribunal for a recommendation or decision – must refer the matter to the Tribunal.

## **Division 7 Other matters**

### **212 Mining Trust Fund**

- (1) Part XIII A of the repealed Act continues to operate in relation to moneys paid into the Mining Trust Fund before the commencement day as if that Part were still in force.
- (2) However, the Minister may direct the trustee of the Mining Trust Fund to repay moneys paid by a person under section 174J(1) of the repealed Act (and any interest earned on those moneys) to the person, or the person's assignee, if the Minister is satisfied:
  - (a) the moneys are no longer required to be used to pay compensation for the effect of an act on native title; and
  - (b) none of the circumstances mentioned in section 174K(1) of the repealed Act applies in relation to the act mentioned in paragraph (a).
- (3) The Minister may direct the trustee of the Mining Trust Fund to close the Trust Fund when it no longer holds any moneys paid into the Trust Fund under the repealed Act.

### **213 Reserved land**

- (1) Land reserved under section 178(1) of the repealed Act is taken to be general reserved land that is reserved from exploration for, and extraction of, minerals and extractive minerals generally.
- (2) Land comprised of blocks reserved under section 15 of the repealed Act is taken to be general reserved land that is reserved from exploration for minerals.

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**Schedule Repealed Acts**

section 194

<i>Mining Act 1980</i>	Act No. 15 of 1982
<i>Mining Act 1980 Amendment Act (No. 2) 1981</i>	Act No. 17 of 1982
<i>Mining Act 1980 Amendment Act 1982</i>	Act No. 18 of 1982
<i>Mining Amendment Act 1983</i>	Act No. 28 of 1983
<i>Mining Amendment Act 1984</i>	Act No. 45 of 1984
<i>Mining Amendment Act 1985</i>	Act No. 63 of 1985
<i>Mining Amendment Act 1988</i>	Act No. 15 of 1988
<i>Mining Amendment Act 1989</i>	Act No. 10 of 1989
<i>Mining Amendment Act 1991</i>	Act No. 27 of 1991
<i>Mining Amendment Act (No. 2) 1991</i>	Act No. 47 of 1991
<i>Mining Amendment Act 1992</i>	Act No. 15 of 1992
<i>Mining Amendment Act (No. 2) 1992</i>	Act No. 49 of 1992
<i>Mining Amendment Act 1993</i>	Act No. 25 of 1993
<i>Mining Amendment Act 1994</i>	Act No. 1 of 1994
<i>Mining Amendment Act (No. 2) 1994</i>	Act No. 26 of 1994
<i>Mining Amendment Act 1996</i>	Act No. 10 of 1996
<i>Mining Amendment Act (No. 2) 1997</i>	Act No. 15 of 1997
<i>Mining Amendment Act 1998</i>	Act No. 21 of 1998
<i>Mining Amendment Act (No. 2) 1998</i>	Act No. 52 of 1998
<i>Mining Amendment Act (No. 3) 1998</i>	Act No. 97 of 1998
<i>Mining Amendment Act 1999</i>	Act No. 54 of 1999
<i>Mining Amendment Act 2000</i>	Act No. 30 of 2000
<i>Mining Amendment Act 2001</i>	Act No. 44 of 2001

*Mining Amendment Act 2002*

Act No. 30 of 2002

*Mining Amendment Act 2004*

Act No. 16 of 2004