

NORTHERN TERRITORY OF AUSTRALIA

GEOTHERMAL ENERGY REGULATIONS

Subordinate Legislation No. 29 of 2009

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 29 of 2009*

Geothermal Energy Regulations

I, Thomas Ian Pauling, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Geothermal Energy Act*.

Dated 26 August 2009

T. I. Pauling
Administrator

By His Honour's Command

D. P. Lawrie
Treasurer
acting for the
Minister for Primary Industry, Fisheries and Resources

* Notified in the *Northern Territory Government Gazette* on 2 September 2009.

Part 1 Preliminary matters

1 Citation

These Regulations may be cited as the *Geothermal Energy Regulations*.

2 Commencement

These Regulations commence on the commencement of the *Geothermal Energy Act 2009*.

3 Definitions

In these Regulations:

annual fee means the fee prescribed by regulation 8.

annual report means a report mentioned in section 52(1) of the Act.

authority year, see regulation 7.

expiry date means the date on which a geothermal exploration permit or geothermal retention licence ceases to be in force because of the expiry of the period specified in it.

extended time, in relation to a time allowed for taking an action as specified in a notice given under Part 2 or 3 of these Regulations, means the time as extended under section 38(2) of the Act.

infringement notice means a notice mentioned in regulation 33.

infringement offence, see regulation 32(1).

prescribed lodgment day, for an annual report, see regulation 9(4).

reviewable decision, see regulation 26.

reviewable decision notice, see regulation 27.

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

Tribunal Act means the *Lands, Planning and Mining Tribunal Act*.

Part 2 Geothermal authorities

Division 1 Geothermal authority applications

4 Procedure for granting or renewing permit

- (1) This regulation applies if, after considering an application for the grant or renewal of a geothermal exploration permit, the Minister:
 - (a) decides, under section 17(2)(a) or (b) of the Act, to grant a permit over all or some of the blocks comprising the application area; or
 - (b) decides, under section 19(1)(a) or (b) of the Act, to renew the permit over all or some of the blocks comprising the application area.
- (2) The Minister must give the applicant a notice of the decision stating the following:
 - (a) the blocks for which the Minister intends to grant or renew the permit and, if applicable, the reason why the Minister does not intend to grant or renew the permit for all the blocks comprising the application area;
 - (b) the conditions the Minister intends to include in the permit;
 - (c) that the applicant may accept the decision by giving the Minister a written notice of acceptance within the time specified in the notice (***the specified time***), in which case the Minister will grant or renew the permit on receipt of the notice;
 - (d) that the applicant may, within the specified time, give the Minister a written notice requesting the Minister to vary the decision in 1 or both of the following ways:
 - (i) if the Minister intends to grant or renew the permit over some of the blocks comprising the application area – by varying the blocks that will comprise the permit area in the way specified in the request;
 - (ii) by varying the conditions in the way specified in the request;
 - (e) that if the applicant requests a variation under paragraph (d):
 - (i) the notice must give reasons for the request; and
 - (ii) the procedures under subregulation (4) will apply.

- (3) The specified time must be at least 28 days after the date on which the applicant is given the notice.
- (4) If the applicant gives the Minister a notice under subregulation (2)(d) within the specified time or an extended time, the Minister must:
 - (a) vary the decision notified under subregulation (2) (***the original decision***) in the way requested by the applicant and grant or renew the permit in accordance with the variation; or
 - (b) vary the original decision in another way, grant or renew the permit in accordance with the variation, and give the applicant a reviewable decision notice relating to the variation; or
 - (c) refuse to vary the original decision, grant or renew the permit in accordance with the original decision, and give the applicant a reviewable decision notice relating to the refusal to vary the original decision.
- (5) If the applicant does not give the Minister a notice under subregulation (2)(c) or (d) within the specified time or an extended time, the Minister must:
 - (a) grant or renew the permit as notified in the original decision; and
 - (b) if the Minister has granted or renewed the permit over some of the blocks comprising the application area or included conditions in the permit – give the applicant a reviewable decision notice relating to the blocks or conditions (or both) stated in the original decision.

5 Procedure for deciding other geothermal authority applications

- (1) This regulation applies if the Minister:
 - (a) decides, under section 17(2)(c) or 19(1)(c) of the Act, to refuse to grant or renew a geothermal exploration permit; or
 - (b) decides, under section 23 or 26 of the Act, that he or she is not satisfied as mentioned in the section and refuses to grant or renew a geothermal retention licence; or
 - (c) decides, under section 32(2) of the Act, not to grant a geothermal production lease; or

- (d) decides, under section 54(4)(b) of the Act, to vary the conditions of a geothermal authority by taking a different action from the action requested by the applicant; or
 - (e) decides, under section 54(4)(c) of the Act, to refuse to vary the conditions of a geothermal authority; or
 - (f) decides, under section 57(2) of the Act, to refuse to accept the surrender of a geothermal authority or part of a geothermal authority area.
- (2) The Minister must give the applicant a notice of the decision stating:
- (a) the reasons for the decision; and
 - (b) that the applicant may, within the time specified in the notice (***the specified time***), give the Minister a written submission about matters the applicant wishes the Minister to reconsider.
- (3) The specified time must be at least 28 days after the date on which the applicant is given the notice.
- (4) If the applicant gives the Minister a submission within the specified time or an extended time, the Minister may:
- (a) reverse or vary the decision (as applicable); or
 - (b) make the decision as notified and give the applicant a reviewable decision notice.
- (5) If the applicant does not give the Minister a submission within the specified time or an extended time, the Minister must make the decision as notified and give the applicant a reviewable decision notice.
- (6) In this regulation:

applicant means the person who applied for the grant, renewal, variation or surrender to which the Minister's decision relates.

6 Fees for geothermal authority applications

- (1) The fee payable for a geothermal authority application specified in Schedule 1, column 1, is specified in column 2 opposite the application.
- (2) A fee paid for an application to which section 14(1) of the Act applies is refundable if the Minister decides under section 14(2) of the Act that the application does not have the greatest merit to be given consideration for the grant of a permit.

- (3) A fee paid for an application for the grant, renewal or variation of conditions of a geothermal authority is not refundable if the Minister refuses to grant, renew, or vary the conditions of, the geothermal authority.

Division 2 Conditions of geothermal authorities

7 Authority year

An **authority year**, for a geothermal authority, is:

- (a) the 12 months immediately following the date on which the authority comes into force; and
- (b) each subsequent 12 months of the term of the authority.

8 Annual fee for authority year

- (1) A geothermal authority holder must pay an annual fee in relation to the geothermal authority before the beginning of each authority year.
- (2) The annual fee payable for each block in a geothermal authority area specified in Schedule 2, column 1, for an authority year specified in column 2 opposite the area, is specified in column 3 opposite the authority year.
- (3) If, after the beginning of an authority year, a geothermal authority holder applies to the Minister to accept the surrender of all or part of the geothermal authority area, the Minister need not accept the surrender until the annual fee has been paid:
- (a) for each block in the whole geothermal authority area (including the blocks to be surrendered); and
- (b) for the entire 12 month period of the authority year.
- (4) A geothermal authority holder is not entitled to a refund of any part of an annual fee paid before the beginning of an authority year if, during the authority year:
- (a) part of the geothermal authority area is excised under section 24 or 33 of the Act; or
- (b) the surrender of the geothermal authority or part of the geothermal authority area takes effect; or
- (c) the cancellation of all or part of the geothermal authority takes effect.

9 Lodgment of annual report

- (1) An annual report for a geothermal authority must be:
 - (a) in writing and accompanied by the relevant approved form; and
 - (b) lodged with the Agency no later than the prescribed lodgment day.
- (2) The fee payable for the late lodgment of an annual report within a period specified in Schedule 3, column 1, is specified in column 2 opposite the period.
- (3) The Minister may waive a fee prescribed by subregulation (2) only if satisfied the holder of the geothermal authority for which the annual report is lodged has a reasonable excuse for the late lodgment.
- (4) In this regulation:

prescribed lodgment day, for an annual report, means 28 days after the end of the authority year for the geothermal authority to which the annual report relates.

10 Drill cores, cuttings and other samples

- (1) A notice of recovery of a sample under section 53 of the Act must be in the approved form.
- (2) The sample must be kept by the geothermal authority holder in a way that will protect the sample from damage and deterioration until:
 - (a) it is given to the Minister under section 53(3) of the Act; or
 - (b) the Minister authorises its earlier disposal under section 53(4) of the Act.
- (3) The sample must be clearly labelled to identify:
 - (a) the nature of the sample; and
 - (b) the date and place of recovery.
- (4) A geothermal authority holder who wishes to dispose of a sample before ceasing geothermal activities under the geothermal authority must apply in writing for the Minister's authority under section 53(4) of the Act, giving reasons for the application.

- (5) A geothermal authority holder who ceases to conduct geothermal activities under the geothermal authority, and is required by section 53(3) of the Act to give the Minister each sample recovered, must deliver the samples to premises kept by the Agency for the storage of samples.
- (6) A person may examine samples at the Agency's storage premises during the normal business hours of the Agency.
- (7) For this regulation, geothermal activities cease to be conducted under a geothermal authority:
 - (a) on the expiry date of the geothermal authority; or
 - (b) on the date the surrender of the geothermal authority, or part of the geothermal authority area, takes effect; or
 - (c) on the date the cancellation of the geothermal authority takes effect; or
 - (d) if the geothermal operations plan for the geothermal authority is revised or varied to indicate that particular geothermal activities are no longer being conducted in the geothermal authority area – on the date the Minister approves the revised plan or variation.

Division 3 Cancellations of geothermal authorities or part of geothermal authorities areas

11 Procedure for cancellation

- (1) This regulation applies if the Minister is satisfied about a matter mentioned in section 58(2) of the Act in relation to a geothermal authority holder and decides to:
 - (a) cancel the geothermal authority; or
 - (b) cancel the geothermal authority for part of the geothermal authority area.
- (2) The Minister must give the geothermal authority holder a notice of the decision stating:
 - (a) the reasons for the decision; and
 - (b) that the holder may, within the time specified in the notice (***the specified time***), give the Minister a written submission about matters the holder wishes the Minister to reconsider.

- (3) The specified time must be at least 28 days after the date on which the holder is given the notice.
- (4) If the holder gives the Minister a submission within the specified time or an extended time, the Minister may:
 - (a) reverse or vary the decision; or
 - (b) make the decision as notified and give the applicant a reviewable decision notice.
- (5) If the holder does not give the Minister a submission within the specified time or an extended time, the Minister may make the decision as notified and give the applicant a reviewable decision notice.

Division 4 Miscellaneous matters

12 Notice of change relating to geothermal authority holder

The holder of a geothermal authority must give the Minister written notice about any of the following changes within 14 days after the change occurs:

- (a) a change in the holder's name;
- (b) a change in the holder's address or other contact details.

Fault element: Strict liability offence.

Maximum penalty: 20 penalty units.

Part 3 Technical work programs and geothermal operations plans

Division 1 Technical work programs

13 Notice of change relating to operator

- (1) This regulation applies if an operator has been appointed for a geothermal authority area and any of the following (a **notifiable change**) has occurred:
 - (a) the name, contact details or terms of appointment in the technical work program or document of appointment have changed;
 - (b) the appointment no longer has effect because of the resignation of the operator or another reason;

- (c) a new operator or additional operator has been appointed.
- (2) The holder of, or applicant for, the geothermal authority must give the Minister written notice of a notifiable change within 14 days after the change occurs.

Fault element: Strict liability offence.

Maximum penalty: 20 penalty units.

- (3) A notice of the appointment of a new operator must include the information required by section 65(1)(b)(i) and (ii) and (c) of the Act.

Division 2 Geothermal operations plans

14 Information to be included in geothermal operations plan

For section 67(2)(c) of the Act, a geothermal operations plan for a geothermal authority area must include the following information:

- (a) details of the operations to be conducted for the technical work summarised in the technical work program for the area;
- (b) a description of how the operations will be conducted and the persons who will conduct the operations;
- (c) plans of the proposed and (if applicable) current work sites for the operations, including buildings and infrastructure on the work sites;
- (d) descriptions and plans of proposed and (if applicable) current infrastructure associated with the operations in the geothermal authority area, including any road construction under section 42 of the Act;
- (e) details of the proposed restoration and rehabilitation of land if operations or geothermal activities conducted in the area are to cease permanently, and the anticipated cost of the restoration and rehabilitation.

15 Information required before expiry of permit or licence

- (1) This regulation applies if the holder of a geothermal exploration permit or geothermal retention licence intends to allow the term of the geothermal authority to end on the expiry date.
- (2) No later than 3 months before the expiry date:
 - (a) the holder must review the approved operations plan for the geothermal authority area; and

- (b) if the approved operations plan does not include comprehensive details about the restoration and rehabilitation of the geothermal authority area to be carried out before the expiry date, and the anticipated cost of the restoration and rehabilitation, the holder must:
 - (i) vary the plan to include that information; and
 - (ii) apply to the Minister under section 69(1) of the Act for approval of the variation.

16 Refusal to approve geothermal operations plan or variation

- (1) This regulation applies if the Minister:
 - (a) refuses under section 68 of the Act to approve a geothermal operations plan; or
 - (b) refuses under section 69 of the Act to approve a variation of a geothermal operations plan.
- (2) The Minister must give the applicant a reviewable decision notice relating to the refusal.

Part 4 Geothermal Authorities Register

17 Information relating to application for grant of permit or lease

- (1) This regulation applies in relation to an application for the grant of the following geothermal authorities:
 - (a) a geothermal exploration permit;
 - (b) a geothermal production lease if the application is made by a person mentioned in section 31(2) of the Act.
- (2) The following information must be entered in the register in relation to the geothermal authority application:
 - (a) the date on which the Agency received the application;
 - (b) a description of the application area;
 - (c) the name and contact details of each applicant;
 - (d) if there is more than 1 applicant – the details of the geothermal authority interest proposed to be held by each applicant;

- (e) details (including the date of receipt by the Agency) of any of the following:
 - (i) an application for the transfer of a geothermal authority interest;
 - (ii) an application for registration of the devolution of a geothermal authority interest;
 - (iii) the lodgment of a caveat;
- (f) a decision made about an application or lodgment mentioned in paragraph (e) and any resulting changes.

18 Information relating to geothermal authority

The following information must be entered in the register in relation to a geothermal authority:

- (a) the type of geothermal authority and the date on which it was granted and (if applicable) renewed;
- (b) the term of the geothermal authority if it is a permit or licence;
- (c) a description of the geothermal authority area;
- (d) the name and contact details of each holder of the geothermal authority;
- (e) the geothermal authority interest held by each holder of the geothermal authority;
- (f) details (including the date of receipt by the Agency) of a geothermal authority application for:
 - (i) renewal; or
 - (ii) the surrender of the geothermal authority or part of the geothermal authority area; or
 - (iii) a geothermal retention licence, made by the holder of a permit; or
 - (iv) a geothermal production lease, made by the holder of a permit or licence;
- (g) details (including the date of receipt by the Agency) of any of the following:
 - (i) an application for the transfer of a geothermal authority interest;

- (ii) an application for registration of the devolution of a geothermal authority interest;
- (iii) the lodgment of a caveat;
- (h) a decision made about an application or lodgment mentioned in paragraph (f) or (g) and any resulting changes.

19 Information relating to transfer of geothermal authority interest

- (1) For regulation 17(2)(e)(i) or 18(g)(i), the following details must be included in the register:
 - (a) the names and contact details of each person transferring a geothermal authority interest and each person to whom a geothermal authority interest is to be transferred;
 - (b) the geothermal authority interest being transferred.
- (2) The Minister need not enter in the register the details of an agreement relating to the transfer of a geothermal authority interest.

20 Entry of additional information

The Minister may enter in the register any information not mentioned in this Part that the Minister considers should be entered.

21 Form of application for registration of transfer or devolution

The following applications must be in an approved form:

- (a) an application under section 72(1) of the Act for registration of the transfer of a geothermal authority interest;
- (b) an application under section 73(1) of the Act for registration of the devolution of a geothermal authority interest.

22 Refusal of applications relating to register

- (1) This regulation applies if the Minister:
 - (a) refuses under section 72 or 73 of the Act to register the transfer or devolution of a geothermal authority interest; or
 - (b) refuses under section 75 of the Act to correct an error in the register.
- (2) The Minister must give the applicant for the registration or correction a reviewable decision notice relating to the refusal.

23 Fees payable in relation to register

The fee payable for an application or document specified in Schedule 4, column 1, is specified in column 2 opposite the application or document.

Part 5 Reviews and hearings

Division 1 Tribunal

24 Functions of Tribunal

The Tribunal may conduct:

- (a) a review of a reviewable decision; and
- (b) a hearing in relation to an application to a prescribed tribunal that is permitted under the Act.

Note for regulation 24

Section 5(1)(j) of the Tribunal Act gives the Tribunal the power to perform these functions.

25 Application of Tribunal Act

- (1) In the performance of a function under the Act, the Tribunal is subject to the Tribunal Act with the changes specified by this Part.
- (2) The following provisions of the Tribunal Act do not apply in relation to the Tribunal's performance of a function under the Act:
 - (a) sections 12(1) and 17;
 - (b) Part 3, Divisions 2 and 3;
 - (c) sections 36 and 37.

Division 2 Reviews of reviewable decisions

26 Reviewable decision

- (1) A decision that is required by these Regulations to be notified by a reviewable decision notice is a ***reviewable decision***.
- (2) A decision mentioned in subregulation (1) includes:
 - (a) an action taken to implement the decision; and

- (b) a refusal to approve something that is the subject of an application; and
- (c) a refusal to take an action that is the subject of an application.

27 Reviewable decision notice

A **reviewable decision notice** is a notice that includes the following information:

- (a) the reviewable decision and the reasons for the decision;
- (b) a statement that the person given the notice may apply to the Tribunal for a review of the decision:
 - (i) in accordance with this Part and the rules of the Tribunal; and
 - (ii) within the period specified by regulation 28;
- (c) any other information relevant to the decision or review.

28 Time allowed for application to Tribunal

A person given a reviewable decision notice may apply to the Tribunal for a review of the decision no later than 28 days after being given the notice.

29 Parties to proceedings

The parties to a proceeding of the Tribunal relating to a reviewable decision are the applicant for the review of the decision and the Minister.

30 Recommendation of Tribunal and subsequent decision

- (1) Within 2 months after conducting a proceeding relating to a review of a reviewable decision, the presiding member of the Tribunal must:
 - (a) make a recommendation about the decision; and
 - (b) give the parties to the proceeding a written notice of the Tribunal's recommendation and the reasons for making it.
- (2) After considering the recommendation and reasons for making it, the Minister must decide to:
 - (a) reverse or vary the reviewable decision (as applicable); or
 - (b) confirm the reviewable decision.

- (3) In making the decision under subregulation (2), the Minister is not required to follow the recommendation.
- (4) Within 28 days after receiving the recommendation, the Minister must give the applicant for the review a notice of the decision under subregulation (2) and the reasons for the decision.

Division 3 Hearings

31 Conducting hearing

Subject to regulation 25, the Tribunal may conduct a hearing mentioned in regulation 24(b) in the manner it considers appropriate.

Part 6 Infringement offences and infringement notices

32 Infringement offence and prescribed amount payable

- (1) An ***infringement offence*** is an offence against a provision specified in Schedule 5, column 1.
- (2) The prescribed amount payable for an infringement offence is the amount specified opposite the offence in Schedule 5, column 2.

33 When infringement notice may be served

If the Minister reasonably believes a person has committed an infringement offence, the Minister may serve a notice on the person.

34 Contents of infringement notice

- (1) The infringement notice must specify the following particulars:
 - (a) the name and address of the alleged offender, if known;
 - (b) the date of the infringement notice;
 - (c) the date, time and place of the infringement offence;
 - (d) a description of the infringement offence and the prescribed amount payable for the offence;
 - (e) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act*, to whom the prescribed amount is payable.

- (2) The infringement notice must include a statement to the effect of the following:
- (a) the alleged offender may expiate the infringement offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after service of the notice;
 - (b) the alleged offender may elect under section 21 of the *Fines and Penalties (Recovery) Act* to have the matter dealt with by a court instead of under that Act by completing a statement of election and serving it on the specified enforcement agency;
 - (c) if the alleged offender does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act* including (but not limited to) action for the following:
 - (i) suspension of the alleged offender's licence to drive;
 - (ii) seizure of personal property of the alleged offender;
 - (iii) deduction of an amount from the alleged offender's wages or salary;
 - (iv) registration of a statutory charge on land owned by the alleged offender;
 - (v) making of a community work order for the alleged offender and imprisonment if the alleged offender breaches the order.
- (3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b).

35 Payment by cheque

If the alleged offender tenders a cheque in payment of the prescribed amount, the amount is not taken to have been paid unless the cheque is cleared on first presentation.

36 Withdrawal of infringement notice

- (1) The Minister may withdraw the infringement notice by written notice served on the alleged offender.
- (2) The notice must be served within 28 days after service of the infringement notice but before payment of the prescribed amount.

37 Application of Part

- (1) This Part does not prejudice or affect the starting or continuation of proceedings for an infringement offence for which an infringement notice has been served unless the offence is expiated.
- (2) Also, this Part does not prevent more than 1 infringement notice for the same infringement offence being served on an alleged offender and, to expiate the offence, it is sufficient for the alleged offender to pay the prescribed amount in accordance with any of the notices.
- (3) In addition, this Part does not:
 - (a) require an infringement notice to be served; or
 - (b) affect the liability of a person to be prosecuted in a court for an infringement offence for which an infringement notice has not been served.

Schedule 1 Fees for geothermal authority applications

regulation 6

Column 1 Geothermal authority application and relevant section of Act	Column 2 Fee payable \$
Grant of geothermal exploration permit – section 12 or 13	5 000
Renewal of geothermal exploration permit – section 18	5 000
Grant of geothermal retention licence – section 22	10 000
Renewal of geothermal retention licence – section 25	10 000
Grant of geothermal production lease – section 32	50 000
Variation of condition of geothermal authority – section 54	200

Schedule 2 Annual fees

regulation 8

Column 1 Geothermal authority area	Column 2 Authority year	Column 3 Fee payable for each block – \$
Permit area	Year 1, 2, 3, 4 and 5	20
	Year 6, 7, 8, 9 and 10	40
	Each remaining year	80
Licence area	Each year	200
Lease area	Each year	2 000 x CPI

Schedule 3 Fees for late lodgment of annual report

regulation 9(2)

Column 1 Period of late lodgment	Column 2 Fee payable – \$
Later than 28 days, but within 56 days, after the prescribed lodgment day	100
Later than 56 days, but within 84 days, after the prescribed lodgment day	600
Later than 84 days, but within 112 days, after the prescribed lodgment day	1 100
Any period after 112 days after the prescribed lodgment day	1 100 plus 500 for each additional period, or part period, of 28 days

Schedule 4 Fees in relation to register

regulation 23

Column 1 Application or document and relevant section of Act	Column 2 Fee payable – \$
Inspect register – section 70(5)	15
Copy or summary of entry in register – section 70(5)	5 for each page
Registration of transfer of geothermal authority interest – section 72(1)	750
Registration of devolution of geothermal authority interest – section 73(1)	250
Certificate relating to information – section 76	25
Caveat – section 78(1)	100
Continuation of caveat – section 81(3)	100

Schedule 5 Infringement offences and prescribed amounts

regulation 32

Column 1 Infringement offence	Column 2 Prescribed amounts in penalty units
<i>Geothermal Energy Act</i>	
section 122(4)	5
<i>Geothermal Energy Regulations</i>	
regulation 12	2
regulation 13(2)	2