

NORTHERN TERRITORY OF AUSTRALIA

MINING AMENDMENT REGULATIONS

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NORTHERN TERRITORY OF AUSTRALIA

Regulations 1998, No. 43*

Regulations under the *Mining Amendment Act (No. 2) 1998*

I, NEIL RAYMOND CONN, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Mining Amendment Act (No. 2) 1998*.

Dated 1 October 1998.

N R CONN
Administrator

MINING AMENDMENT REGULATIONS

1. CITATION

These Regulations may be cited as the Mining Amendment Regulations.

2. COMMENCEMENT

These Regulations come into operation on the day on which, but immediately after, the *Mining Amendment Act (No. 2) 1998* commences.

3. PRINCIPAL ACT

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

4. INTERPRETATION

Section 4 of the Principal Act is amended -

- (a) by omitting from subsection (1) the definition of "affected land" and substituting the following:

"'affected land' means -

* Notified in the *Northern Territory Government Gazette* on 1 October 1998.

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(a) land that will be or is reasonably likely to be affected by activities done under an extractive mineral interest if the interest is granted; or

(b) land that will be or is reasonably likely to be affected by activities done under a mining interest if the relevant prescribed mining act is done;"

(b) by inserting after the definition of "exploration retention licence" in subsection (1) the following:

"'extractive mineral interest' means an extractive mineral lease or an extractive mineral permit;"

(c) by inserting after the definition of "mining" in subsection (1) the following:

"'Mining Compensation (Native Title) Fund' means the Mining Compensation (Native Title) Fund established under section 140P;"

(d) by omitting from the definition of "mining interest" in subsection (1) "section 140A" and substituting "section 140A(5)"; and

(e) by inserting after the definition of "native title holder" in subsection (1) the following:

"'native title objection' means an objection to a prescribed mining act lodged by a registered native title claimant or registered native title body corporate under section 140E(3A) or 163(2);

'onshore place' has the meaning given in section 253 of the Native Title Act;"

5. NEW DIVISION

The Principal Act is amended by inserting before Division 1 in Part VIII the following:

"Division 1A - Preliminary

"95A. APPLICATION OF PART

"(1) Subject to subsection (2), this Part applies in relation to the extraction and removal of extractive minerals, other than -

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- (a) the extraction or removal of extractive minerals to which section 24GE of the Native Title Act applies; or
- (b) the extraction or removal of extractive minerals on an onshore place on the seaward side of the mean highwater mark of the sea.

"(2) Where, in relation to the grant of an extractive mineral interest -

- (a) this Part would, but for this subsection, apply because the interest is to be granted in part on an onshore place on the landward side of the mean highwater mark of the sea; and
- (b) Part XIB would, but for this subsection, apply because the interest is to be granted in part on an onshore place on the seaward side of the mean highwater mark of the sea,

the grant of the extractive mineral interest is to be taken to consist of 2 separate acts as follows:

- (c) the grant of an extractive mineral interest on the landward side of the mean highwater mark of the sea;
- (d) the grant of an extractive mineral interest on the seaward side of the mean highwater mark of the sea."

6. REPEAL AND SUBSTITUTION

Section 96 of the Principal Act is repealed and the following substituted:

"96. APPROVAL TO APPLY FOR LEASE

"(1) Subject to this Division and unless otherwise provided by the Regulations, a person may apply to the Minister for approval to submit to the Minister an application for an extractive mineral lease in respect of any land.

"(2) An application under subsection (1) is to be -

- (a) in the approved form; and
- (b) accompanied by the application for the extractive mineral lease in accordance with section 97.

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"(3) In considering an application under subsection (1), the Minister must have regard to the matters (if any) prescribed by the Regulations.

"(4) If the Minister approves an application under subsection (1), the Minister must -

- (a) notify the applicant in writing of the approval; and
- (b) consider the application for the extractive mineral lease that accompanied the first-mentioned application.

"96A. AREA OF PROPOSED LEASE

"The area of land in respect of which an application for an extractive mineral lease may be made is not to exceed 100 hectares."

7. FORM OF APPLICATION

Section 97 of the Principal Act is amended -

- (a) by omitting from paragraph (c) "mined" and substituting "extracted or removed";
- (b) by omitting from paragraph (d)(i) "mining";
- (c) by omitting from paragraph (d)(iv) "mining" and substituting "the extraction or removal"; and
- (d) by omitting paragraphs (h) and (j) and substituting the following:

"(h) is to state the names and addresses of the owners and occupiers of affected land, including -

- (i) the registered native title claimants (if any) in relation to any of the affected land;
- (ii) the registered native title bodies corporate (if any) in relation to any of the affected land; and
- (j) if native title rights and interests will be or are likely to be affected by the grant of the proposed lease - is to state the names and addresses of the representative Aboriginal/Torres Strait Islander bodies (if any) in relation to the affected land."

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8. NOTICE TO BE GIVEN TO OWNERS, OCCUPIERS, &c.

Section 99 of the Principal Act is amended -

- (a) by omitting subsection (1) and substituting the following:

"(1) Within 14 days after the date of the notice under section 96(4)(a) or the further time allowed in writing by the mining registrar, the applicant must serve notice of the making of the application for the extractive mineral lease on the persons referred to in section 97(h) and (j)."; and

- (b) by adding at the end the following:

"(4) A person on whom a notice is served under section 97(h) may, within 30 days after the date of the notice or the further time allowed in writing by the mining registrar, lodge in writing with the mining registrar an objection to the grant of the extractive mineral lease.

"(5) Where, but for this subsection, a person would be entitled to lodge an objection to the grant of an extractive mineral lease under subsection (4) and under section 163(2), the person may only lodge an objection under subsection (4)."

9. REPEAL AND SUBSTITUTION

Section 100 of the Principal Act is repealed and the following substituted:

"100. CONSIDERATION OF APPLICATION

"(1) After considering -

- (a) an application for the grant of an extractive mineral lease; and
(b) the objections (if any) to the grant of the extractive mineral lease lodged under sections 99(4) and 163(2),

the Minister must -

- (c) grant the extractive mineral lease;
(d) refuse to grant the extractive mineral lease;
or
(e) refer the matter to the Tribunal for hearing.

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"(2) On receipt of the Tribunal's recommendation about a matter referred under subsection (1)(e), the Minister must —

- (a) consider the recommendation; and
- (b) grant or refuse to grant the extractive mineral lease."

10. GRANT OF LEASE

Section 101 of the Principal Act is amended —

- (a) by omitting from subsection (1) all the words from and including "Subject" to and including "lease —" and substituting the following:

"An extractive mineral lease is granted —

- (aa) for the term (not exceeding 10 years) the Minister thinks fit calculated from 1 January immediately before the grant;";
- (b) by omitting from subsection (1)(a) "mining" and substituting "extraction or removal";
- (c) by omitting subsection (1)(b)(i) and substituting the following:
 - "(i) extraction or removal;";
- (d) by omitting from subsection (1)(b)(iv) "mining" and substituting "extraction, removal"; and
- (e) by omitting from subsection (1)(c) and (d) "mining" and substituting "extraction, removal".

11. REPEAL AND SUBSTITUTION

Section 101A of the Principal Act is repealed and the following substituted:

"101A. SECURITY FOR LEASE

"(1) Before granting or renewing an extractive mineral lease, the Minister may require the applicant to lodge with the Minister a security in the form, for the amount and from the person the Minister thinks fit.

"(2) The Minister may require security for any of the following purposes:

- (a) to secure the applicant's compliance with this Act;

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- (b) to secure the applicant's compliance with the conditions to which the lease is subject;
- (c) to secure the payment of compensation that will or may become payable under section 120."

12. CONDITIONS OF LEASE

Section 102 of the Principal Act is amended by adding at the end the following:

", which may include the following:

- (a) a condition about ways of minimising the impact of the grant of the extractive mineral lease on registered native title rights and interests in relation to the affected land;
- (b) a condition that the applicant pay into the Mining Compensation (Native Title) Fund an amount in respect of compensation that will or may become payable under section 120."

13. RENEWAL OF LEASE

Section 103 of the Principal Act is amended by omitting from subsection (2) "mining" (second occurring) and substituting "extraction, removal".

14. REPEAL AND SUBSTITUTION

Section 107 of the Principal Act is repealed and the following substituted:

"107. APPROVAL TO APPLY FOR PERMIT

"(1) Subject to this Division and unless otherwise provided by the Regulations, a person may apply to the Minister for approval to submit to the Minister an application for an extractive mineral permit in respect of any land.

"(2) An application under subsection (1) is to be --

- (a) in the approved form; and
- (b) accompanied by the application for the extractive mineral permit in accordance with section 108.

"(3) In considering an application under subsection (1), the Minister must have regard to the matters (if any) prescribed by the Regulations.

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"(4) If the Minister approves an application under subsection (1), the Minister must -

- (a) notify the applicant in writing of the approval; and
- (b) consider the application for the extractive mineral permit that accompanied the first-mentioned application.

"107A. AREA OF PROPOSED PERMIT

"The area of land in respect of which an application for an extractive mineral permit may be made is not to exceed 100 hectares."

15. FORM OF APPLICATION

Section 108 of the Principal Act is amended -

- (a) by omitting "An application" and substituting "In addition to the requirements of section 162, an application";
- (b) by omitting from paragraph (c) "mined" and substituting "extracted or removed"; and
- (c) by omitting paragraphs (h) and (j) and substituting the following:
 - "(h) state the names and addresses of the owners and occupiers of affected land, including -
 - (i) the registered native title claimants (if any) in relation to any of the affected land;
 - (ii) the registered native title bodies corporate (if any) in relation to any of the affected land; and
 - (j) if native title rights and interests will be or are likely to be affected by the grant of the proposed permit - is to state the names and addresses of the representative Aboriginal/Torres Strait Islander bodies (if any) in relation to the affected land."

16. NOTICE TO BE GIVEN TO OWNERS, OCCUPIERS, &c.

Section 110 of the Principal Act is amended -

- (a) by omitting subsection (1) and substituting the following:

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"(1) Within 14 days after the date of the notice under section 107(4)(a) or the further time allowed in writing by the mining registrar, the applicant must serve notice of the making of the application for the extractive mineral permit on the persons referred to in section 108(h) and (j)."; and

(b) by adding at the end the following:

"(4) A person on whom a notice is served under section 108(h) may, within 30 days after the date of the notice or the further time allowed in writing by the mining registrar, lodge in writing with the mining registrar an objection to the grant of the extractive mineral permit.

"(5) Where, but for this subsection, a person would be entitled to lodge an objection to the grant of an extractive mineral permit under subsection (4) and under section 163(2), the person may only lodge an objection under subsection (4)."

17. REPEAL AND SUBSTITUTION

Sections 111, 112 and 113 of the Principal Act are repealed and the following substituted:

"111. CONSIDERATION OF APPLICATION

"(1) After considering —

- (a) an application for the grant of an extractive mineral permit; and
- (b) the objections (if any) to the extractive mineral permit lodged under sections 110(4) and 163(2),

the Minister must —

- (c) grant the extractive mineral permit;
- (d) refuse to grant the extractive mineral permit;
or
- (e) refer the matter to the Tribunal for hearing.

"(2) On receipt of the Tribunal's recommendation about a matter referred under subsection (1)(e), the Minister must —

- (a) consider the recommendation; and
- (b) grant or refuse to grant the extractive mineral permit.

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"112. GRANT OF PERMIT

"(1) Subject to subsection (2), an extractive mineral permit is granted -

- (a) for the term (not exceeding 2 years) the Minister thinks fit; and
- (b) for the extraction or removal of the extractive mineral or extractive minerals specified in the permit.

"(2) An extractive mineral permit is subject to the conditions the Minister determines and endorses on the permit, which may include the following:

- (a) a condition about ways of minimising the impact of the grant of the extractive mineral permit on registered native title rights and interests in relation to the affected land;
- (b) a condition that the applicant pay into the Mining Compensation (Native Title) Fund an amount in respect of compensation that will or may become payable under section 120.

"113. SECURITY FOR PERMIT

"(1) Before granting or renewing an extractive mineral permit, the Minister may require the applicant to lodge with the Minister a security in the form, for the amount and from the person the Minister thinks fit.

"(2) The Minister may require security for any of the following purposes:

- (a) to secure the applicant's compliance with this Act;
- (b) to secure the applicant's compliance with the conditions to which the permit is subject;
- (c) to secure the payment of compensation that will or may become payable under section 120."

18. POWERS OF PERMIT HOLDER

Section 114 of the Principal Act is amended by omitting from paragraph (a) "mine on" and substitute "extract or remove from the ground in".

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19. RENEWAL OF PERMIT

Section 115 of the Principal Act is amended by omitting from subsection (2) "mining activities" and substituting "extraction, removal or other activities".

20. NEW DIVISION

Part VIII of the Principal Act is amended by adding at the end the following:

"Division 3 - Compensation

"120. COMPENSATION PAYABLE BY HOLDER OF EXTRACTIVE MINERAL INTEREST

"(1) Compensation is payable by the holder of an extractive mineral interest granted or renewed under this Part to the owner and occupier of land comprised in the interest in respect of that grant or renewal.

"(2) A native title holder or registered native title claimant who intends to claim compensation under this section for the effect of the grant or renewal of an extractive mineral interest on their registered native title rights and interests must make the claim within 3 years after the grant or renewal, as the case may be.

"(3) In the absence of agreement, compensation is not payable to a registered native title claimant unless and until the native title claimed by the claimant is determined to exist.

"(4) In the event of a dispute about compensation payable under subsection (1), the holder of the extractive mineral interest or the owner or occupier may refer the dispute to the Tribunal.

"121. MONEYS PAID INTO MINING COMPENSATION (NATIVE TITLE) FUND

"(1) Moneys paid into the Mining Compensation (Native Title) Fund in pursuance of a condition imposed under section 102 or 112(2) and interest earned on those moneys are to be used for the following purposes:

- (a) to pay compensation payable under section 120(1);
- (b) to indemnify the Territory in respect of compensation for the effect of the grant or renewal of the extractive mineral interest paid to a native title holder by the Territory under the Native Title Act.

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"(2) Where the Minister is satisfied that it is no longer necessary to retain in the Fund an amount or part of an amount paid into the Fund for a purpose specified in subsection (1), the Minister must return the amount or part and the interest earned on that amount or part to the person who paid it into the Fund."

21. HEADING TO PART XIA

The heading to Part XIA of the Principal Act is omitted and the following substituted:

"PART XIA — PRESCRIBED MINING ACTS ABOVE HIGHWATER MARK OR FOR INFRASTRUCTURE FACILITIES".

22. PRESCRIBED MINING ACTS, &c.

Section 140A of the Principal Act is amended —

(a) by omitting from subsection (1) "subsections (2) and (3)" and substituting "subsection (2)";

(b) by omitting subsection (1)(c) and substituting the following:

"(c) the grant, variation or renewal of a mineral lease;

(ca) the grant, variation or renewal of a mineral claim;"

(c) by omitting subsections (2) and (3) and substituting the following:

"(2) The following acts are not prescribed mining acts:

(a) a renewal to which, by virtue of section 26D(1) of the Native Title Act, Subdivision P of Division 3 of Part 2 of that Act does not apply;

(b) an act to which, by virtue of section 26D(2) of the Native Title Act, Subdivision P of Division 3 of Part 2 of that Act does not apply."; and

(d) by omitting from subsection (5)(a) "tenement," and substituting "lease, claim,".

23. APPLICATION

Section 140B of the Principal Act is amended —

(a) by omitting subsection (1) and substituting the following:

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"(1) Subject to subsections (1A) and (2), this Part applies in relation to a prescribed mining act that affects native title rights and interests -

- (a) where it is an act to which the consequences of section 24MD(6B) of the Native Title Act apply; or
- (b) where -
 - (i) the act -
 - (A) is an act to which Subdivision P of Division 3 of Part 2 of the Native Title Act would have otherwise applied; and
 - (B) relates, to any extent, to an area of land that is an alternative provision area; and
 - (ii) there is a determination in force under section 43A(1)(b) of the Native Title Act in respect of the relevant provisions of this Act.

"(1A) Where, in relation to a prescribed mining act -

- (a) this Part would, but for this subsection, apply because the act is to be done in part on an onshore place on the landward side of the mean highwater mark of the sea; and
- (b) Part XIB would, but for this subsection, apply because the act is to be done in part on an onshore place on the seaward side of the mean highwater mark of the sea,

the prescribed mining act is to be taken to consist of 2 separate acts as follows:

- (c) a prescribed mining act on the landward side of the mean highwater mark of the sea;
- (d) a prescribed mining act on the seaward side of the mean highwater mark of the sea."; and
- (b) by omitting subsection (6).

24. ACT VALID IF PROCEDURES COMPLIED WITH

Section 140C of the Principal Act is amended -

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- (a) by omitting from subsection (1) "(1) A prescribed mining act" and substituting "A prescribed mining act"; and
- (b) by omitting subsection (2).

25. NEW SECTION

The Principal Act is amended by inserting after section 140C the following:

"140CA. PRESCRIBED MINING ACTS COVERING BOTH ALTERNATIVE PROVISION AREA AND OTHER AREA

"(1) Where, in relation to a prescribed mining act -

- (a) this Part applies because the act is to be done in part in an alternative provision area; and
- (b) Subdivision P of Division 3 of Part 2 of the Native Title Act applies because the act is to be done in part in an area that is not an alternative provision area (in this subsection called 'the other area'),

then -

- (c) the prescribed mining act is to be taken to consist of 2 separate acts as follows:
 - (i) a prescribed mining act in the alternative provision area;
 - (ii) a prescribed mining act in the other area; and
- (d) the prescribed mining act referred to in paragraph (c)(ii) is to be taken to be done only when the first activity under the mining interest that resulted from the prescribed mining act is done.

"(2) If -

- (a) a prescribed mining act is done in an area that, at the time the act is done, appears to be an alternative provision area (in this subsection called 'the inadvertent act'); and
- (b) after the inadvertent act is done, it becomes apparent -
 - (i) that the act was done in part in an area that is not an alternative provision area

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(in this subsection called 'the other area');

- (ii) that the act should have consisted of 2 separate acts as described in subsection (1)(c)(i) and (ii) to which this Part and Subdivision P of Division 3 of Part 2 of the Native Title Act, respectively, should have been applied; and
- (iii) that, therefore, the act is invalid in so far as the other area is concerned,

then -

- (c) the invalidity does not affect the inadvertent act in so far as the alternative provision area is concerned; and
- (d) the inadvertent act has effect as if it had been done only in relation to the alternative provision area."

26. FORM OF APPLICATION

Section 140D of the Principal Act is amended by inserting in paragraph (c) "the name or names of" before "the representative".

27. NOTIFICATION OF NATIVE TITLE HOLDERS, &c.

Section 140E of the Principal Act is amended by omitting subsection (4) and substituting the following:

"(3A) An objection may be lodged in accordance with the statement referred to in subsection (3).

"(3B) Whether a person lodges a native title objection to a prescribed mining act to which section 24MD(6B) of the Native Title Act applies under subsection (3A) or under section 163(2), this Part applies in relation to the objection.

"(3C) Where, but for this subsection, a person would be entitled to lodge a native title objection to a prescribed mining act to which section 43A of the Native Title Act applies under subsection (3A) and under section 163(2), the person may only lodge a native title objection under subsection (3A).

"(4) A notice under subsection (1) may relate to more than one prescribed mining act."

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28. RESPONSE TO OBJECTIONS

Section 140F of the Principal Act is amended by omitting from subsection (1) "an objection to a prescribed mining act is lodged in accordance with a statement referred to in section 140E(3)" and substituting "a native title objection is lodged".

29. CONSULTATION AND MEDIATION

Section 140G of the Principal Act is amended by omitting from subsection (1) "object to the prescribed mining act" and substituting "lodges a native title objection".

30. INQUIRY BY RELEVANT MINISTER

Section 140J of the Principal Act is amended by omitting from subsections (1) and (2) "an objection under section 140E(3)" and substituting "a native title objection".

31. COMPLIANCE WITH RECOMMENDATIONS OF TRIBUNAL

Section 140K of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following:

"(1) Where, in relation to a prescribed mining act -

- (a) the Tribunal recommends that the prescribed mining act must not be done; or
- (b) the Tribunal recommends that the prescribed mining act may be done, whether or not subject to specified conditions being complied with, and the Minister wishes to do the act,

the Minister must comply with the recommendation unless -

- (c) the Minister has consulted with the Minister responsible for indigenous affairs (being the Minister to whom responsibility for Aboriginal development is allotted under an Administrative Arrangements Order);
- (d) the Minister has taken that consultation into account; and
- (e) it is in the interests of the Territory not to comply with the recommendation.

"(2) Where -

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(a) the Minister has complied with subsection (1)(c) and (d); and

(b) subsection (1)(e) applies,

the Minister may -

(c) reject the recommendation; or

(d) accept the recommendation and -

(i) reject any of the conditions in the recommendation, with or without imposing his or her own conditions;

(ii) vary any of the conditions in the recommendation;

(iii) substitute his or her own conditions for any of the conditions in the recommendation; or

(iv) add his or her own conditions to the recommendation,

and do the prescribed mining act accordingly."

32. JUDICIAL REVIEW

Section 140L of the Principal Act is amended -

(a) by inserting after subsection (2) the following:

"(2A) For the purposes of subsection (2), where the decision being reviewed complies with a recommendation of the Tribunal, the decision is to be taken to include the decision of the Tribunal to make the recommendation."; and

(b) by omitting subsection (3)(b) and substituting the following:

"(b) who lodged a native title objection."

33. WITHDRAWAL OF OBJECTIONS

Section 140M of the Principal Act is amended -

(a) by omitting from subsection (1) "An objection lodged under section 140E(3)" and substituting "A native title objection"; and

(b) by omitting from subsection (2) "objections to a prescribed mining act lodged under section

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140E(3)" and substituting "native title objections".

34. COMPENSATION

Section 140N of the Principal Act is amended -

- (a) by omitting from subsection (3) "Compensation" and substituting "In the absence of agreement, compensation"; and
- (b) by omitting from subsection (5) "an objection to the prescribed mining act under section 140E(3)" and substituting "a native title objection".

35. MINING COMPENSATION (NATIVE TITLE) FUND

Section 140P of the Principal Act is amended by omitting subsection (4) and substituting the following:

"(4) Where the Minister is satisfied that it is no longer necessary to retain in the Fund an amount or part of an amount paid into the Fund for a purpose specified in subsection (3), the Minister must return the amount or part and the interest earned on that amount or part to the person who paid it into the Fund."

36. NEW PART

The Principal Act is amended by inserting after Part XIA the following:

"PART XIB - INTERTIDAL MINING ACTS

"140Q. DEFINITION

"In this Part, 'intertidal mining act' means an act to which this Part applies by virtue of section 140R.

"140R. APPLICATION

"(1) Subject to section 95A(2), this Part applies in relation to the grant of an extractive mineral interest in respect of an onshore place on the seaward side of the mean highwater mark

"(2) Subject to section 140B(1A), this Part applies in relation to a prescribed mining act that -

- (a) affects native title rights and interests; and
- (b) is to be done on an onshore place on the seaward side of the mean highwater mark,

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other than a prescribed mining act to which the consequences of section 24MD(6B) of the Native Title Act apply.

"140S. NOTIFICATION OF NATIVE TITLE HOLDERS, &c.

"(1) An applicant for an intertidal mining act must, within 14 days after lodging the application or the further time that the Secretary in writing allows, serve written notice of the making of the application on -

- (a) the registered native title claimants (if any) in relation to any of the affected land;
- (b) the registered native title bodies corporate (if any) in relation to any of the affected land; and
- (c) the representative Aboriginal/Torres Strait Islander body or bodies (if any) in relation to the affected land.

"(2) Within 14 days after the applicant serves notice under subsection (1) or within the further time allowed in writing by the Secretary, the applicant must provide the Secretary with the evidence of service of the notice and the method of service that the Secretary requires.

"(3) A notice under subsection (1) is to contain the prescribed information and a statement to the effect that -

- (a) registered native title claimants and registered native title bodies corporate in relation to any of the affected land; or
- (b) if there are no such registered native title claimants or registered native title bodies corporate in relation to any of the affected land - the representative Aboriginal/Torres Strait Islander body or bodies in relation to that land,

may, within 30 days after the date of the notice or the further time allowed in writing by the Secretary, lodge in writing at the office of the Secretary comments on the intertidal mining act.

"(4) Comments may be lodged in accordance with the statement referred to in subsection (3).

"(5) A notice under subsection (1) may relate to more than one intertidal mining act.

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"(6) In subsection (3), 'prescribed information' means -

- (a) the name of the applicant for the intertidal mining act;
- (b) the intertidal mining act applied for;
- (c) if relevant - the period in respect of which the relevant extractive mineral or mining interest is sought;
- (d) either -
 - (i) a description of the land in respect of which the application is made sufficient to enable an interested person to identify its location; or
 - (ii) a map that indicates that land by reference to the boundaries of existing landholdings or geographical features; and
- (e) the information (if any) prescribed by the Regulations.

"140T. RELEVANT MINISTER TO HAVE REGARD TO COMMENTS

"The relevant Minister must not do an intertidal mining act unless the relevant Minister has taken into account the comments (if any) lodged under section 140S(4).

"140U. COMPENSATION

"(1) Compensation for the effect of an intertidal mining act on native title is payable to the native title holder by -

- (a) in the case of the grant or renewal of an extractive mineral interest - the holder of the extractive mineral interest; or
- (b) in the case of a prescribed mining act - the holder of the mining interest to which the act relates.

"(2) A native title holder or registered native title claimant who intends to claim compensation under this section for the effect of an intertidal mining act on their registered native title rights and interests must make the claim within 3 years after the act is done.

"(3) In the absence of agreement, compensation is not payable to a registered native title claimant unless

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and until the native title claimed by the claimant is determined to exist.

"(4) In the event of a dispute about compensation payable under subsection (1), the holder of the relevant extractive mineral or mining interest or the native title holder may refer the dispute to the Tribunal."

37. JURISDICTION

Section 145 of the Principal Act is amended -

(a) by omitting "A warden's court" and substituting "(1) Subject to subsection (2), a warden's court"; and

(b) by adding at the end the following:

"(2) A warden's court does not have jurisdiction to hear and determine -

(a) disputes about compensation payable to -

(i) an owner or occupier of land for the grant or renewal of an extractive mineral interest; or

(ii) a native title holder for the effect of a prescribed mining act on native title; or

(b) any other matter in respect of which this Act expressly confers jurisdiction on the Tribunal."

38. NOTICE OF APPLICATION

Section 163 of the Principal Act is amended -

(a) by omitting from subsection (1) "an exploration licence" and substituting "an exploration licence, an exploration retention licence";

(b) by omitting from subsection (1)(f) "the date, not being earlier than 21 days after the publication of the notice, on or before" and substituting "the prescribed period within";

(c) by omitting from subsection (2) all the words from and including "Where" to and including "subsection (1)(f)," and substituting "Subject to any other provision in this Act relating to the lodgement of objections, within the prescribed period, a person may"; and

(d) by adding at the end the following:

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"(5) The Minister must not grant an exploration licence, exploration retention licence or mining tenement unless the Minister has taken into account -

- (a) the objections (if any) lodged under subsection (2); and
- (b) the answers to those objections submitted under subsection (4).

"(6) In this section, 'prescribed period' means -

- (a) if the notice relates to a prescribed mining act to which section 24MD(6B) of the Native Title Act applies - 2 months after the date on which the notice is published; or
- (b) in any other case - 30 days after the date on which the notice is published."

39. COMPENSATION PAYABLE AFTER GRANT

Section 174B of the Principal Act is amended -

- (a) by omitting from subsection (1)(d) "them; and" and substituting "them;";
- (b) by omitting from subsection (1)(e) "tenement." and substituting "tenement; and";
- (c) by adding at the end of subsection (1) the following:

"(f) in the case of a native title holder - the effect on the holder's native title rights and interests."; and
- (d) by adding at the end the following:

"(3) In the event that an agreement about compensation payable under subsection (1) is unable to be reached, the holder of the mining tenement or the owner or occupier may refer the dispute for determination to -

- (a) if it is a dispute about compensation for the effect of the grant of a mining tenement on native title - the Tribunal; and
- (b) in any other case - the warden."

40. REPEAL

Sections 174C and 174D of the Principal Act are repealed.

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41. COMPENSATION OTHER THAN MONEY IN RESPECT OF NATIVE TITLE

Section 174DA of the Principal Act is amended by omitting "section 174B, 174C or 174D" and substituting "section 174B".

42. RIGHT OF ACCESS

Section 179 of the Principal Act is amended -

(a) by omitting from subsection (2) "Where" and substituting "Subject to subsection (2A), where";

(b) by inserting after subsection (2) the following:

"(2A) Compensation for the effect of the construction of a right of way under subsection (1) on native title is payable to the native title holder by the person claiming the right of way."; and

(c) by omitting subsection (3) and substituting the following:

"(3) In the event that an agreement about compensation payable under subsection (2) or (2A) is unable to be reached, the person claiming the right of way or the owner or occupier may refer the dispute for determination to -

(a) the Tribunal if it is a dispute about compensation for -

(i) the construction of a right of way for the purposes of an extractive mineral interest; or

(ii) the effect of the right of way on native title; or

(b) the warden in any other case.".

43. PROCEDURAL RIGHTS IN RESPECT OF PRESCRIBED MINING ACTS WHERE SECTION 26MD(6A) OF NATIVE TITLE ACT APPLIES

Section 191F of the Principal Act is amended by omitting subsection (1) and substituting the following:

"(1) This section applies in relation to a prescribed mining act to which section 24MD(6A) of the Native Title Act applies but to which section 24MD(6B) of

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that Act does not apply, other than a prescribed mining act -

- (a) that is done on an onshore place on the seaward side of the mean highwater mark of the sea; and
 - (b) in respect of which the Native Title Act does not otherwise provide."
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