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\_Mineral Resources Development Act 1995 (No. 116 of 1995)\_  
\_Requested:\_ 17 Feb 2013  
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## Mineral Resources Development Act 1995

\_An Act to provide for the development of mineral resources  
consistent  
with sound economic, environmental and land use management and  
to  
repeal the Mining Act 1929\_  
\_[Royal Assent 8 December 1995]\_

Be it enacted by His Excellency the Governor of Tasmania, by and  
with  
the advice and consent of the Legislative Council and House of  
Assembly, in Parliament assembled, as follows:

### \_PART 1 - Preliminary\_

#### \_1. Short title\_

This Act may be cited as the \_Mineral Resources Development Act  
1995\_.

#### \_2. Commencement\_

This Act commences on a day or days to be proclaimed.

#### \_3. Interpretation\_

In this Act -

\_Agency\_ means -

\_(a)\_ in relation to Tasmania, Agency as defined in the \_State  
Service Act 2000\_; or

\_(b)\_ in relation to the Commonwealth, a department, authority  
or  
agency of the Commonwealth government;

\_approved\_ means approved by the Director;

\_atomic substance\_ means -

\_(a)\_ uranium; and

\_(b)\_ thorium; and

\_(c)\_ any other substance declared to be an atomic substance  
under  
section 199;

\_Category 1 mineral\_ means any -

\_(a)\_ metallic mineral; and

\_(b)\_ atomic substance;

\_Category 2 mineral\_ means coal, peat, lignite and oil shale;

\_Category 3 mineral\_ means any rock, stone, gravel, sand and clay used in construction, bricks and ceramics;

\_Category 4 mineral\_ means any petroleum products except oil shale;

\_Category 5 mineral\_ means any -

\_(a)\_ industrial mineral; and

\_(b)\_ prescribed precious stone; and

\_(c)\_ prescribed semi-precious stone;

\_Category 6 mineral\_ means any geothermal substance;

\_Code of practice\_ means an approved Code of practice;

\_compensable loss\_ means -

\_(a)\_ damage to the surface of the land; or

\_(b)\_ damage to crops, trees, grasses, fruit, vegetables or other vegetation on the land; or

\_(c)\_ damage to buildings, structures or works on the land; or

\_(d)\_ damage to any improvement on the land; or

\_(e)\_ loss of opportunity to make any planned improvement on the land; or

\_(f)\_ deprivation of possession or use of the whole or part of the surface of the land; or

\_(g)\_ severance of the land from other land of the owner or occupier of that land; or

\_(h)\_ destruction or loss of, or injury to, disturbance of, or interference with, stock; or

\_(i)\_ loss of amenity, including recreation and conservation values; or

\_(j)\_ any decrease in the market values of the owner's or occupier's interest in the land; or

\_(k)\_ surface rights of way and easements;

8; \_compensation agreement\_ means an agreement referred to in Part 8;

4; \_consolidated mining lease\_ means a lease in force under Part 4;

\_Crown land\_ means any land vested in the Crown;

\_Crown lessee\_ means the holder of a Crown lease;

Act 1976\_ or the \_Forestry Act 1920\_;

Act 1976\_;

\_Crown licensee\_ means the holder of a Crown licence;

8; \_Director\_ means the Director of Mines appointed under section 8;

\_exploration licence\_ means a licence in force under Part 2;

of \_explore\_ means to determine the existence, quality and quantity of minerals for the purpose of commercial exploitation by -

\_(a)\_ conducting geological, geophysical, geobotanical and geochemical surveys; or

\_(b)\_ drilling; or

analysis; or

\_(c)\_ taking samples for the purpose of chemical or other analysis; or

or

\_(d)\_ using appropriate instruments, equipment and techniques; or

other

\_(e)\_ extracting and removing from land material, mineral or other substances for sampling and testing; or

for

\_(f)\_ carrying out any other activity approved by the Minister;

\_fossick\_ means to search for minerals for a purpose other than commercial gain to a depth of 2 metres by -

\_(a)\_ digging by hand; or

\_(b)\_ using hand held instruments;

\_fossil\_ means any remains, trace or imprint of a plant or animal that is preserved by normal processes in the earth's crust;

\_gas\_ means any naturally occurring hydrogen, hydrogen sulphide, nitrogen, helium or carbon dioxide;

\_geology\_ means the geosciences;

\_geoscientific\_ means relating to geology, geochemistry, geophysics, mineralogy and palaeontology;

\_Geoscientific Trust Fund\_ means the Geoscientific Investigation and Research Trust Fund established under Part 9;

\_geothermal substance\_ means a substance occurring naturally or introduced underground which is heated by the natural processes of the earth to a temperature in excess of 40° Celsius;

\_industrial mineral\_ means any mineral prescribed as an industrial mineral;

\_inspector\_ means an inspector appointed under section 8;

\_land\_ includes -

\_(a)\_ land within the beds or banks of any stream and watercourse; and

\_(b)\_ land beneath the internal waters of Tasmania; and

\_(c)\_ the sea bed; and

\_(d)\_ waters in, upon or above land; and

\_(e)\_ stratum of land;

\_lease\_ means a mining lease in force under Part 4;

\_lease area\_ means an area of land which is subject to a lease;

\_lessee\_ means the holder of a lease;

\_licence\_ means -

\_(a)\_ in Part 2, an exploration licence in force under that Part; and

\_(b)\_ in Part 3, a retention licence in force under that Part; and

\_(c)\_ in Part 5, a prospecting licence in force under that Part;  
and

\_(d)\_ in any other Part, any other licence in force under this  
Act;

\_licence area\_ means an area of land which is subject to an  
exploration licence or retention licence;

\_licensee\_ means -

\_(a)\_ in Part 2, the holder of an exploration licence; and

\_(b)\_ in Part 3, the holder of a retention licence; and

\_(c)\_ in Part 5, the holder of a prospecting licence; and

\_(d)\_ in any other Part, the holder of any other licence in  
force  
under this Act;

\_Magistrates Court (Civil Division)\_ means the division of the  
Magistrates Court established under section 4 of the  
\_Magistrates  
Court (Civil Division) Act 1992\_;

\_metallic mineral\_ means any mineral prescribed as a metallic  
mineral;

\_mine\_ means any place where mining is being carried out;

\_mineral\_ means any metallic mineral, non-metallic mineral,  
industrial mineral, inorganic substance, coal, oil, gas,  
geothermal  
substance, atomic substance and matter forming part of the crust  
of  
the earth, other than -

\_(a)\_ the subsoil; or

\_(b)\_ the layer of soil sustaining vegetation; or

\_(c)\_ any rock, crushed stone, gravel, sand or clay produced  
on  
private land for the private use of the owner; or

\_(d)\_ mineral water; or

\_(e)\_ any mineral produced as a by-product of a mining operation  
and stored as a waste product on a lease area and not sold or  
otherwise disposed of to another person;

\_mineral tenement\_ means a licence or lease other than a  
prospecting licence;

\_mining\_ means any operation or work, other than fossicking  
or  
prospecting, carried out to obtain minerals;

\_mining lease\_ means a mining lease in force under Part 4;

\_mining operations\_ means any operations or work carried out on a lease area -

\_(a)\_ to obtain or treat minerals; or

\_(b)\_ to store or contain minerals or waste material generated by mining on that lease area; or

\_(c)\_ associated with mining;

\_mining product\_ means any mineral obtained by mining;

\_Mining Tribunal\_ means the Mining Tribunal established under Part 7;

\_native title\_ means an approved determination of native title under the \_Native Title Act 1993\_ of the Commonwealth the details of which are recorded in the National Native Title Register under that Act;

\_occupier\_, in relation to land, means a person in lawful possession of the land;

\_oil\_ means any natural gas, solid bitumen and mineral oil obtainable by a well other than -

\_(a)\_ mineral oil extractable by the application of heat or chemical process; and

\_(b)\_ helium or hydrogen;

\_oil shale\_ means shale containing fossilised insoluble organic matter which will yield liquid or gaseous hydrocarbons on distillation;

\_owner\_ includes -

\_(a)\_ the holder of any Crown land under a contract of sale and purchase; and

\_(b)\_ the holder of native title to any land;

\_person\_ includes an Agency;

\_petroleum\_ means any -

\_(a)\_ naturally occurring hydrocarbon or mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or

\_(b)\_ mixture of one or more such hydrocarbons and gas;

\_private land\_ means any land that is not Crown land;

\_prospect\_ means to explore for minerals to a depth of less than 2 metres below the surface of the earth or of any pre-existing excavation by means of a hand held instrument;

\_prospepecting licence\_ means a licence in force under Part 5;

\_public land\_ means -

\_(a)\_ any Crown land; and

\_(b)\_ any land vested in a body or authority established under a law of the State for a public purpose; and

\_(c)\_ any land vested in a body corporate in which the Crown has a controlling interest;

\_public purpose\_ means a purpose for the benefit of the public in general;

\_public reserve\_ means any land reserved for a public purpose;

\_quarter\_ means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December in any year;

\_record\_ includes any document, financial statement or plan stored or maintained by any means;

\_register\_ means the mining register kept under Division 1 of Part 10;

\_Registrar\_ means the Registrar of Mines appointed under section 8;

\_Rehabilitation Trust Fund\_ means the Rehabilitation of Mining Lands Trust Fund established under Division 4 of Part 10;

\_relevant period\_ means the period starting when an improvement on land was made and ending when the damage to the improvement occurred;

\_retention licence\_ means a licence in force under Part 3;

\_security deposit\_ means a cash deposit or any other form of security the Minister determines to -

\_(a)\_ cover any damage to private property; or

\_(b)\_ cover failure to meet work program commitments; or

\_(c)\_ provide funds to mitigate any damage to the environment during mining operations or exploration;

\_sell\_ includes -

\_(a)\_ offer or agree to sell; and

\_(b)\_ keep or have in possession for sale; and

\_(c)\_ dispose of; and

\_(d)\_ barter or exchange; and

\_(e)\_ transfer; and

\_(f)\_ expose for sale; and

\_(g)\_ send, deliver or receive for sale; and

\_(h)\_ cause or permit to be sold;

\_special exploration licence\_ means a licence in force under Division 4 of Part 2;

\_speleothem\_ means a formation formed within a cave which is

\_(a)\_ a mineral; or

\_(b)\_ a precipitate; or

\_(c)\_ an accumulation of non-precipitate material;

\_State forest\_ means a State forest within the meaning of the \_Forestry Act 1920\_;

\_stone\_ means -

\_(a)\_ sandstone, freestone and other building stone; and

\_(b)\_ basalt, dolerite, granite, slate, limestone and rock of

a kind ordinarily used for building or construction purposes;  
and

\_(c)\_ quartz, other than quartz crystals; and

\_(d)\_ slate and gravel; and

\_(e)\_ pipeclay and clay, other than fireclay, bentonite or kaolin;  
and

\_(f)\_ sand and soil; and



\_(fa)\_ limestone and dolomite used for agricultural purposes;  
and

\_(g)\_ other similar materials;

\_stratum of land\_ means a specific part of land of any shape  
below

or on the surface of land;

\_work program\_ means an approved program of work.

#### \_4. Act binds Crown\_

This Act binds the Crown in the right of Tasmania and, so far  
as the  
legislative power of Parliament permits, in all its other  
capacities.

#### \_5. Application of Act\_

\_(1)\_ Subject to this section, this Act applies to all land  
and  
minerals in the State.

\_(2)\_ Subject to subsection (3), this Act does not apply  
to the  
surface, or within 15 metres below the surface, of any land which  
is

set apart or dedicated for any public purpose, other than as -

\_(a)\_ a public reserve within the meaning of the \_Crown Lands  
Act  
1976\_; or

\_(b)\_ a State forest which is not a forest reserve under the  
\_Forestry Act 1920\_.

\_(3)\_ The Minister, by order and with the agreement of any  
other  
appropriate Minister, may declare that this Act or any specified  
provision of this Act applies to -

\_(a)\_ . . . . .

\_(b)\_ any specified land set apart or dedicated for any public  
purpose.

\_(4)\_ The Minister, by order, may declare that any specified  
area of land or any specified mineral is exempt from this Act.

\_(5)\_ The holder of an exploration licence must not exercise  
any  
right conferred by the licence within an area of land exempted  
under  
subsection (4) without the Minister's approval.

Penalty:

Fine not exceeding 10 penalty units.

\_(6)\_ This Act does not apply to the mining of -

\_(a)\_ Category 3 minerals carried out by the Crown in a State forest in accordance with the Forest Practices Code under the \_Forest Practices Act 1985\_ for the purpose of supplying materials for the construction of any roads in the State forest; or

\_(b)\_ Category 3 minerals from a quarry in a State forest and sold at a rate of less than 100 tonnes per year.

\_(7)\_ Sections 19, 54 and 79 do not apply to the prescribed area of land in the municipal area of Dorset.

\_(8)\_ This Act does not extinguish or impair any native title rights and interests recognised under the \_Native Title Act 1993\_ of the Commonwealth.

\_(9)\_ This Act applies to reserved land within the meaning of the \_Nature Conservation Act 2002\_ and a public reserve within the meaning of the \_Crown Lands Act 1976\_.

#### \_6. Ownership of minerals and substances\_

\_(1)\_ All minerals held in private ownership at the commencement of this Act continue to be so held.

\_(2)\_ Any minerals not held in private ownership vest in the Crown.

\_(3)\_ Any minerals on any Crown land which is sold or otherwise disposed of remain vested in the Crown.

\_(4)\_ Any gold, silver, atomic substance, helium, hydrogen and oil existing in a natural state on or below the surface of land vests in the Crown.

\_(5)\_ Any Category 3 minerals are owned by the owner of the surface of the land regardless of the depth at which they occur.

#### \_7. Non-application of Act to certain minerals\_

This Act does not apply to any Category 3 mineral on private land which is mined for the use of the owner or occupier or sold at a rate of less than 100 tonnes each year.

8. Director, Registrar and inspectors

(1) For the purposes of this Act and subject to and in accordance with the State Service Act 2000, persons may be appointed

as-

- (a) Director of Mines; and
- (b) Registrar of Mines; and
- (c) inspectors.

(2) The Director may authorise a person employed in the Department to perform the functions and exercise the powers of the Registrar.

9. Powers of inspectors

(1) An inspector, at any reasonable time for the purpose of ascertaining whether or not the provisions of this Act are being contravened or are being complied with, may do any or all or the following:

- (a) enter, remain on and pass over any land;
  - (b) enter, remain on and inspect any mine;
  - (c) enter, remain on and inspect any place the inspector reasonably believes is being used for mining;
  - (d) examine any plant or any other thing in a mine;
  - (e) remove any material or substance from a plant or mine;
  - (f) seize anything which the inspector believes on reasonable grounds is the means by which the provisions of this Act or standards specified in a Code of practice have been contravened
- or
- not complied with;
  - (g) require the production of any relevant documents;
  - (h) inspect, examine and make copies of, or extracts from, relevant documents;
  - (i) remove relevant documents to make a copy or extract;
  - (j) take any photographs or audio or video recordings that the inspector considers necessary;

(k) require a person to state his or her name and address if -

- (i) the person is found committing an offence against this

Act or  
is not conducting mining operations or exploration consistent  
with  
standards specified in a relevant Code of practice; or

\_(ii)\_ the inspector believes on reasonable grounds that the  
person  
has committed an offence against this Act or is not conducting  
mining operations or exploration consistent with standards  
specified in a relevant Code of practice; or

\_(iii)\_ the person is a person whose name and address are, in  
the  
opinion of the inspector, reasonably required;

\_(1)\_ require any person to give any assistance reasonably  
required  
to exercise any power referred to in this situation.

\_(2)\_ An inspector may be accompanied by any assistant as  
is  
necessary to exercise any power under this Act.

\_(3)\_ An inspector must not exercise any powers under this  
section so as to unnecessarily impede or obstruct the working  
of a  
mine.

#### \_10. Obstructing inspectors\_

A person must not -

\_(a)\_ obstruct, threaten or intimidate or attempt to obstruct,  
threaten or intimidate an inspector in the exercise of the  
inspector's powers; or

\_(b)\_ contravene or fail to comply with any lawful requirement  
of  
an inspector; or

\_(c)\_ fail to give assistance or information to an inspector  
if  
required to do so; or

\_(d)\_ if required to state his or her full name and address  
-

\_(i)\_ fail to do so; or

\_(ii)\_ state a false name or address; or

\_(e)\_ impersonate an inspector.

Penalty:

Fine not exceeding 50 penalty units.

Division 1 - Applications

11. Application for exploration licence

(1) A person may apply to the Minister for an exploration licence.

(2) An application is to -

(a) be in an approved form; and

(b) specify the minerals in respect of which it is made; and

(c) be accompanied by a statement specifying -

(i) the work to be carried out; and

(ii) a description of the area of land in respect of which the licence is sought; and

(iii) the financial and technical resources available to the applicant; and

(iv) an estimate of the proposed expenditure; and

(v) the likely impact on the environment; and

(d) be accompanied by the prescribed fee; and

(e) contain any other prescribed details; and

(f) be lodged with the Registrar.

(3) The Registrar or Director or both may require an applicant to provide further information.

(4) A person may not apply for a licence in relation to an area of land comprised in a previous exploration licence or previous retention licence until a date specified by the Director that is at least 2 months after that area is no longer subject to that previous licence.

(5) The holder of a special exploration licence may apply for an exploration licence in respect of any area comprised in the special exploration licence which does not exceed the area specified in section 21(1) in respect of the relevant minerals.

12. Priority of applications

(1) If more than one application is received for a licence

in  
respect of all or part of the same land, the order of priority  
is as  
follows:

\_(a)\_ for applications received on different days, an  
application  
received on an earlier day has priority over an application  
received on a later day;

\_(b)\_ for applications received on the same day, the order of  
priority is as determined by the Director according to the  
relative  
merits of the applications;

\_(c)\_ for applications received on the same day which are  
determined by the Director to be of equal merit, the order of  
priority is as determined by a ballot conducted in an approved  
manner.

\_(1A)\_ Applications received up to and including 4 working  
days  
after the date specified in section 11(4) have equal priority  
and are  
to be determined without reference to any other application.

\_(2)\_ An application that has priority over any other  
application is to be determined without reference to any other  
application.

\_(3)\_ The Director is to notify an applicant -

\_(a)\_ that the application of the applicant has priority over  
any  
other application; or

\_(b)\_ that the application of another applicant has priority;  
or

\_(c)\_ if the priority of an application of the applicant has  
altered because another application is withdrawn or refused  
or has  
lapsed under section 13.

\_(4)\_ The Registrar is to reject any application received  
later  
than 3 months after receipt of another application determined  
to have  
priority.

### \_13. Pending application\_

\_(1)\_ An application for a licence is pending from the day  
on  
which it is lodged until whichever of the following happens first:

\_(a)\_ the application is granted;

- \_(b)\_ the application is refused;
- \_(c)\_ the application lapses;
- \_(d)\_ the application is withdrawn.

\_(2)\_ An application for a licence lapses -

\_(a)\_ 12 months after it is lodged, if it is not determined by that time; or

\_(b)\_ at a later date fixed by the Director if -

\_(i)\_ the failure to determine the application was not caused by a default of the applicant; or

\_(ii)\_ there is a sufficient reason for fixing a later date.

#### \_14. Recommendation of application for exploration licence\_

\_(1)\_ The Director is to consider an application for a licence.

\_(2)\_ If the Director intends to recommend to the Minister that the application be granted, the Director is to -

\_(a)\_ notify that intention by notice in writing -

\_(i)\_ to the applicant; and

\_(ii)\_ as required under section 29 of the Native Title Act 1993 of the Commonwealth; and

\_(b)\_ publish a notice of that intention in a newspaper circulating in the relevant area.

\_(3)\_ A notice under subsection (2)(b) is to specify -

\_(a)\_ the name of the applicant; and

\_(b)\_ the area of land in respect of which the application is made; and

\_(c)\_ any other prescribed matter.

\_(4)\_ The Minister may only grant an application for an exploration licence if satisfied that the applicant -

\_(a)\_ intends to do work; and

\_(b)\_ intends to comply with this Act; and

\_(c)\_ has an appropriate program of work; and

\_(d)\_ is likely to have sufficient financial and technical resources to carry out the proposed work; and

\_(e)\_ has provided sufficient information relating to the likely impact on the environment; and

\_(f)\_ has provided a security deposit.

\_15. Objection to exploration licence\_

\_(1)\_ Any person with an interest or estate in land within the area specified in a notice published under section 14(2)(b) may object to the granting of the application for a licence in respect of that land.

\_(2)\_ An objection is to -

\_(a)\_ be in writing; and

\_(b)\_ specify the grounds; and

\_(c)\_ be accompanied by the prescribed fee; and

\_(d)\_ be lodged with the Registrar within 28 days after the date of the publication of the notice under section 14(2)(b).

\_(3)\_ An objection is to be heard and determined by the Mining Tribunal.

\_16. Amendment of application after objection\_

\_(1)\_ If the Mining Tribunal upholds an objection relating to any part of the land in respect of which an application is sought, it may allow the applicant to amend the application by excluding that part.

\_(2)\_ An application amended under subsection (1) is taken to be lodged on the date on which the original application was lodged.

\_17. Granting application for exploration licence\_

\_(1)\_ After considering an application for a licence and any recommendation of the Director and subject to any decision of the Mining Tribunal, the Minister may -

\_(a)\_ grant the application; or



\_(b)\_ refuse to grant the application.

\_(2)\_ If the Minister intends to grant an application for  
a licence contrary to the recommendation of the Director -

\_(a)\_ the Director is to notify that intention in accordance  
with section 14(2) and (3); and

\_(b)\_ a person with an interest or estate in the land is entitled  
to object in accordance with section 15.

\_(3)\_ The Minister, by notice in writing, must notify the  
applicant of -

\_(a)\_ the grant of the application; or

\_(b)\_ the refusal to grant the application and the reasons for  
the refusal.

#### \_18. Conditions of exploration licence\_

\_(1)\_ The Minister may grant an application for a licence  
subject to any conditions the Minister considers appropriate.

\_(2)\_ If a licence is held by 2 or more persons, those persons  
are jointly and severally liable for complying with the conditions  
of the licence.

\_(3)\_ The Minister may vary any condition of the licence  
by rescinding, adding, substituting or amending a condition.

\_(4)\_ Before varying any condition of a licence, the  
Minister,  
by notice in writing served on the licensee, is to notify the  
licensee  
of -

\_(a)\_ the intention to vary the condition; and

\_(b)\_ the nature of the variation; and

\_(c)\_ the right of the licensee to make submissions in relation  
to the matter within a period specified in the notice.

\_(5)\_ A licensee may appeal to the Mining Tribunal against  
the Minister's decision to vary the condition within 28 days after  
the date of the decision.

\_(6)\_ The variation of a condition of the licence takes effect

-

\_(a)\_ if an appeal is not made under subsection (5), 28 days after service of a notice under subsection (4); or

\_(b)\_ if an appeal is made under subsection (5) and the Mining Tribunal makes an order affirming the decision, 10 days after the date of the order.

\_19. Exploration licence over private land\_

The holder of an exploration licence must not explore on private land without the consent of the owner and occupier of the land within 100 metres of the surface of -

\_(a)\_ any natural lake, artificial lake, dam, reservoir, water-producing well or artificial pond; or

\_(b)\_ any dwelling or substantial building.

Penalty:

Fine not exceeding 100 penalty units.

\_Division 2 - Exploration licences\_

\_20. Exploration licence\_

\_(1)\_ On granting an application for a licence and on payment of the prescribed fee, the Minister is to issue an exploration licence.

\_(2)\_ A licence is to -

\_(a)\_ be in an approved form; and

\_(b)\_ include the following particulars:

\_(i)\_ a description of the area of land over which it is granted;

\_(ii)\_ the total area of that land;

\_(iii)\_ the minerals in respect of which it is granted;

\_(iv)\_ the terms and conditions to which it is subject;

\_(v)\_ the period for which it is in force.

\_(3)\_ A licensee is to pay rent to the Crown in respect of the land over which the licence is granted at a prescribed rate and in a prescribed manner.

21. Area of land comprised in exploration licence

(1) The area of land comprised in a licence must not exceed

(a) for a licence in respect of Category 1, 2, 5 and 6 minerals, 250 square kilometres; or

(b) for a licence in respect of Category 3 minerals, 500 square kilometres; or

(c) for a licence in respect of Category 4 minerals, an area determined by the Minister.

(2) Land comprised in a licence may differ in size and shape from the land over which the licence was sought in the application for the licence.

(3) An area of land comprised in a licence must not include an area which -

(a) is already a mineral tenement in respect of the same minerals; or

(b) is the subject of an application for a retention licence or lease.

22. Exploration licence for small areas

(1) The Minister may grant an application for a licence to a person in respect of an area no greater than one square kilometre.

(2) A licence may be in respect of any mineral specified in the licence.

(3) The holder of a licence under this section -

(a) is to carry out exploration under any terms and conditions the Minister approves; and

(b) is required to make a minimum expenditure each year as the Minister determines.

(4) A person is entitled to hold only one licence under this section.

23. Authority of exploration licence

(1) A licence authorises the licensee -

for     \_(a)\_ to explore in the area of land specified in the licence  
minerals specified in the licence; and

and     \_(b)\_ to enter on, and pass over, Crown land for that purpose;

       \_(c)\_ subject to subsection (2), to enter on, and pass over,  
private land for that purpose.

by     \_(2)\_ A person may only enter on, or pass over, private land  
of     giving written notice in an approved form to the owner or occupier  
of     the land 14 days or any shorter period the owner or occupier allows  
before doing so.

       \_(3)\_ A person must not hinder or obstruct a licensee from  
carrying out any activity under the licence.

Penalty:

       Fine not exceeding 100 penalty units.

       \_(4)\_ A person must not sell any mineral recovered during  
exploration without the approval of the Director.

Penalty:

       Fine not exceeding 500 penalty units or revocation of the  
licence,  
       or both.

#### \_24. Term of exploration licence\_

A licence, unless revoked earlier, is in force -

       \_(a)\_ for a period of 5 years from the date on which the  
application is granted, in respect of Category 1, 2 and 3  
minerals;  
       or

       \_(b)\_ for a period the Minister determines from the date on  
which  
       the application is granted, in respect of Category 4 minerals.

#### \_25. Extension of term of licence\_

of the     \_(1)\_ A person may apply to the Minister for an extension  
term of an exploration licence.

       \_(2)\_ An application is to be -

       \_(a)\_ in an approved form; and

       \_(b)\_ accompanied by the prescribed fee; and

\_(c)\_ lodged with the Registrar before the licence ceases to be in force.

\_(3)\_ The Minister may -

\_(a)\_ grant the application for any further period the Minister determines and with or without any conditions; or

\_(b)\_ refuse to grant the application.

\_(4)\_ The Minister must grant the application if satisfied that

\_(a)\_ the exploration to be carried out during the term of the licence has been completed; and

\_(b)\_ the licensee has submitted any report or return as required; and

\_(c)\_ the licensee has submitted a suitable work program for the period of extension; and

\_(d)\_ further detailed exploration is justified because substantiated results indicate the probability of a discovery leading to profitable mining operations.

\_(5)\_ The Minister, by notice in writing, must notify the applicant of -

\_(a)\_ the grant of the application; or

\_(b)\_ the refusal to grant the application and the reasons for the refusal.

\_(6)\_ A licensee may appeal to the Mining Tribunal against the Minister's refusal to grant the application within 28 days after receipt of a notice under subsection (5)(b).

\_(7)\_ A licence remains in force until -

\_(a)\_ the Minister makes a decision under subsection (3); or

\_(b)\_ if an appeal is made under subsection (6), the Mining Tribunal makes an order in relation to the appeal.

#### 26. Minimum expenditure

The holder of a licence must make a minimum expenditure in each year as the Minister determines.

27. Exemption from conditions of exploration licence

(1) A licensee may apply to the Minister for an exemption from any condition of a licence.

(2) An application is to be -

(a) in an approved form; and

(b) accompanied by the prescribed fee; and

(c) lodged with the Registrar.

(3) The Minister may -

(a) grant the application; or

(b) refuse to grant the application.

(4) If the Minister grants the application, the Minister is to issue the licensee with a certificate of exemption.

(5) A certificate of exemption -

(a) remains in force for the period specified in the certificate;  
and

(b) is subject to any conditions specified in the certificate.

28. Annual report and return

(1) A licensee is to submit to the Director an annual report

(a) at least one month before the anniversary of the date on which the licence was granted; or

(b) on any other date the Minister determines.

(2) The annual report is to -

(a) be in an approved form and accompanied by a statutory declaration as to its accuracy; and

(b) specify the amounts expended in respect of any exploration carried out during the financial year; and

(c) contain a summary of the matters specified in section 187(2);  
and

(d) give details of any proposed work; and

(e) contain any other matter relating to the licence the

Director  
requires.

\_(3)\_ A licensee is to submit to the Director any return  
the  
Director requires at any time the Director directs.

\_29. Duties under exploration licence\_

A licensee must -

\_(a)\_ carry out any exploration efficiently and effectively;  
and

\_(b)\_ carry out any exploration and rehabilitation of land  
consistent with the standards specified in any relevant Code  
of  
practice.

\_30. Exploration without licence\_

A person who is not a licensee must not explore for the minerals  
to  
which any exploration licence relates on the licence area without  
the  
written consent of the licensee.

Penalty:

Fine not exceeding 100 penalty units.

\_Division 3 - Dealings with licences\_

\_31. Variation of exploration licence\_

\_(1)\_ The Minister, with the approval of the licensee, by  
notice  
in writing, may vary the licence by -

\_(a)\_ adding to, or reducing, the area of land comprised in  
the  
licence; or

\_(b)\_ adding a mineral or category of minerals to, or removing  
a  
mineral or category of minerals from, any mineral or category  
of  
minerals to which the licence relates.

\_(2)\_ On the application of a licensee, the Minister, by  
notice  
in writing, may vary the licence by -

\_(a)\_ adding to, or reducing, the area of land comprised in  
the  
licence; or

\_(b)\_ adding a mineral or category of minerals to, or removing

a mineral or category of minerals from, the minerals or category  
of minerals to which the licence relates.

\_(3)\_ If a licensee fails to comply with, or contravenes,  
a provision of this Act or a condition of the licence, the Minister  
may vary the licence by -

\_(a)\_ changing or adding any condition; or  
\_(b)\_ reducing the area of land comprised in the licence; or  
\_(c)\_ removing a mineral or category of minerals from the  
minerals or category of minerals to which the licence relates.

\_(4)\_ Before varying a licence, the Minister, by notice in  
writing served on the licensee, is to notify the licensee of -

\_(a)\_ the intent to vary the licence; and  
\_(b)\_ the nature of the variation; and  
\_(c)\_ the right of the licensee to make submissions in relation  
to the matter within a period specified in the notice.

\_(5)\_ A licensee may appeal to the Mining Tribunal against  
the Minister's decision to vary the licence within 28 days after the  
date of the decision.

\_(6)\_ The variation of the licence takes effect -  
\_(a)\_ if an appeal is not made under subsection (5), 28 days  
after service of a notice under subsection (4); or  
\_(b)\_ if an appeal is made under subsection (5) and the Mining  
Tribunal makes an order affirming the decision, 10 days after  
the date of the order.

\_(7)\_ Subject to subsection (8), an area of land which was  
not comprised in a licence because of the operation of section 21(3)  
is to be comprised in the licence when -

\_(a)\_ the area ceases to be comprised in a lease; or  
\_(b)\_ the application for a mining lease is refused or withdrawn.

\_(8)\_ An area of land must not be comprised in a licence



under

subsection (7) so as the total area of land exceeds the area specified in section 21 in respect of the relevant category of minerals.

32. Application for transfer of exploration licence

(1) A licensee may apply to the Minister for approval to transfer a licence.

(2) An application is to be -

(a) in an approved form; and

(b) accompanied by the executed instrument of transfer; and

(c) accompanied by the prescribed fee; and

(d) lodged with the Registrar within 28 days after the transfer is executed.

(3) The Registrar may extend the period referred to in subsection (2)(d) if satisfied that it is reasonable to do so.

(4) The Registrar, by notice in writing, is to notify any person who has lodged a caveat under Part 10 of an application lodged under this section.

(5) A notice under subsection (4) is to be sent by certified mail so as to be received at least 14 days before the approval takes effect.

(6) A person who has lodged a caveat under Part 10 may object to the Mining Tribunal against an application for approval to transfer a licence within 14 days after receipt of a notice under subsection (5).

33. Approval of transfer of exploration licence

(1) The Minister may -

(a) approve the application for the transfer of a licence, with or without conditions; or

(b) refuse to approve the application.

(2) The Minister, by notice in writing, must notify the applicant of -

(a) the approval of the application; or

(b) the refusal to approve the application and the reasons for

the refusal.

\_(3)\_ A transfer -

\_(a)\_ is of no effect unless approved by the Minister; and

\_(b)\_ takes effect, if approved, on the date of the approval.

\_34. Revocation of exploration licence\_

if  
-  
\_(1)\_ The Minister may revoke a licence or part of a licence

\_(a)\_ the licensee fails to comply with, or contravenes -

\_(i)\_ any provision of this Act; or

\_(ii)\_ any condition of the licence; or

is  
\_(b)\_ satisfied that any area of land comprised in the licence  
required for any public purpose.

\_(2)\_ Before revoking a licence or part of a licence under  
subsection (1)(a), the Minister -

the  
\_(a)\_ by notice in writing served on the licensee, is to notify  
the licensee of the intention to revoke the licence or part of the  
licence; and

in  
\_(b)\_ is to give the licensee an opportunity to make submissions  
in relation to the matter.

\_(3)\_ If the Minister revokes a licence or part of a licence,  
the Minister, by notice in writing, is to notify the licensee.

\_(4)\_ If the Minister revokes a licence or part of a licence  
under subsection (1)(b), the licensee is entitled to compensation  
under Part 8.

may  
\_(5)\_ The Minister, by notice published in the \_Gazette\_,  
notify the revocation of a licence or part of a licence.

the  
\_(6)\_ A licensee may appeal to the Mining Tribunal against  
the Minister's decision to revoke the licence within 28 days after  
the date of the decision.

\_(7)\_ The revocation of a licence or part of a licence takes  
effect -

after  
\_(a)\_ if an appeal is not made under subsection (6), 28 days

publication of a notice under subsection (5); or

the  
\_(b)\_ if an appeal is made under subsection (6) and the Mining Tribunal makes an order affirming the decision, 10 days after the date of the order.

\_35. Surrender of exploration licence\_

\_(1)\_ A licensee may apply to the Director for approval to surrender a licence or part of a licence.

\_(2)\_ An application for approval to surrender a licence or part of a licence is to be -

\_(a)\_ in an approved form; and

\_(b)\_ accompanied by the licence; and

\_(c)\_ accompanied by the prescribed fee; and

\_(d)\_ lodged with the Registrar.

\_(3)\_ The Director may -

\_(a)\_ approve the application, with or without any conditions; or

\_(b)\_ refuse to approve the application.

\_(4)\_ The Director, by notice in writing, is to notify the applicant of -

\_(a)\_ the approval of the application; or

\_(b)\_ the refusal to approve the application and the reasons for that refusal.

\_36. Application to consolidate exploration licences\_

2 or  
\_(1)\_ A licensee may apply to the Director to consolidate more licences held by the licensee in respect of adjoining lands.

to be  
\_(2)\_ An application for the consolidation of licences is to be -

\_(a)\_ in an approved form; and

\_(b)\_ accompanied by the licences to be consolidated; and

\_(c)\_ accompanied by the prescribed fee; and

\_(d)\_ lodged with the Registrar.

\_(3)\_ The Director may -

\_(a)\_ approve the application, with or without any conditions;  
or

\_(b)\_ refuse to approve the application.

\_(4)\_ The Director, by notice in writing, is to notify the applicant of -

\_(a)\_ the approval of the application; or

\_(b)\_ the refusal to approve the application and the reasons  
for that refusal.

\_(5)\_ The area of land comprised in a consolidated licence  
must not exceed the area specified in section 21(1) in respect of the relevant category of mineral.

\_37. Term of consolidated exploration licence\_

\_(1)\_ Subject to subsection (2), a consolidated licence is  
in force for a period of 5 years from the date on which the earliest licence was granted.

\_(2)\_ The Director may determine -

\_(a)\_ the term of a consolidated licence; and

\_(b)\_ the commencement day of the licence.

\_Division 4 - Special exploration licences\_

\_38. Application for special exploration licence\_

\_(1)\_ A person may apply to the Minister for a special exploration licence to explore for minerals in a specified region.

\_(2)\_ An application is to -

\_(a)\_ be in an approved form; and

\_(b)\_ specify the minerals in respect of which it is made; and

\_(c)\_ be accompanied by a statement specifying a description  
of the area of land in respect of which the licence is sought; and

\_(d)\_ be accompanied by a fee determined by the Minister; and

\_(e)\_ be accompanied by a statement specifying the likely impact  
on the environment; and

\_(f)\_ contain any other details the Director requires; and

\_(g)\_ be lodged with the Registrar.

\_(3)\_ The Registrar or the Director or both may require an applicant to provide further information.

\_39. Recommendation of application for special exploration licence\_

\_(1)\_ The Director is to consider an application for a special exploration licence.

\_(2)\_ If the Director intends to recommend to the Minister that

the application be granted, the Director is to -

\_(a)\_ notify that intention by notice in writing -

\_(i)\_ to the applicant; and

\_(ii)\_ as required by section 29 of the Native Title Act 1993 of the Commonwealth; and

\_(b)\_ publish a notice of that intention in a newspaper circulating in the relevant area.

\_(3)\_ A notice under subsection (2)(b) is to specify -

\_(a)\_ the name of the applicant; and

\_(b)\_ the area of land in respect of which the application is made; and

\_(c)\_ any other prescribed matter.

\_(4)\_ The Director may only recommend that the Minister grant an application for a special exploration licence if satisfied that the applicant -

\_(a)\_ intends to do work in the specified region; and

\_(b)\_ intends to comply with this Act; and

\_(c)\_ has an appropriate program of work; and

\_(d)\_ is likely to have sufficient financial and technical resources to carry out the proposed work; and

\_(e)\_ has provided sufficient information relating to the likely impact on the environment; and

\_(f)\_ has provided a security deposit.

40. Objection to special exploration licence

(1) Any person with an interest or estate in land within the area specified in a notice published under section 39 may object to the granting of the application for a special exploration licence in respect of that land.

(2) An objection is to -

(a) be in writing; and

(b) specify the grounds; and

(c) be accompanied by the prescribed fee; and

(d) be lodged with the Registrar within 28 days after the date of the publication of the notice under section 39.

(3) An objection is to be heard and determined by the Mining Tribunal.

41. Granting application for special exploration licence

(1) After considering an application for a special exploration licence and any recommendation of the Director and subject to any decision of the Mining Tribunal, the Minister may -

(a) grant the application; or

(b) refuse to grant the application.

(2) If the Minister intends to grant an application for a licence contrary to the recommendation of the Director -

(a) the Director is to notify that intention in accordance with section 39(2) and (3); and

(b) a person with an interest or estate in the land is entitled to object in accordance with section 40.

(3) The Minister, by notice in writing, must notify the applicant of -

(a) the grant of the application; or

(b) the refusal to grant the application and the reasons for the refusal.

42. Conditions of special exploration licence

\_(1)\_ The Minister may grant an application for a special exploration licence subject to any conditions the Minister considers appropriate.

\_(2)\_ If a licence is held by 2 or more persons, those persons are jointly and severally liable for complying with the conditions of the licence.

\_(3)\_ The Minister may vary or rescind any condition of the licence.

#### \_43. Authority of special exploration licence\_

A special exploration licence authorises the holder to explore for specified minerals in a specified area of land.

#### \_44. Term of special exploration licence\_

\_(1)\_ A special exploration licence is in force for a period of 5 years from the date on which it is granted.

\_(2)\_ The Minister may extend the term of the licence for any period so long as the total term of the licence does not exceed 10 years.

#### \_45. Area of land comprised in special exploration licence\_

\_(1)\_ The area of land comprised in a special exploration licence may -

\_(a)\_ exceed the area specified in section 21(1) in respect of the relevant minerals; and

\_(b)\_ include all or part of an area of land comprised in any exploration licence, retention licence or lease so long as any mineral specified in the special exploration licence is not the same as any mineral specified in those licences or that lease.

\_(2)\_ Any area of land previously comprised in a special exploration licence and included in an exploration licence ceases to be comprised in the special exploration licence.

#### \_46. Revocation of special exploration licence\_

\_(1)\_ The Minister may revoke a special exploration licence or part of a special exploration licence if -

\_(a)\_ the licensee fails to comply with, or contravenes -  
\_(i)\_ any provision of this Act; or  
\_(ii)\_ any condition of the licence; or  
\_(b)\_ satisfied that any area of land comprised in the licence  
is required for any public purpose.

\_(2)\_ Before revoking a special exploration licence or part  
of a special exploration licence under subsection (1)(a), the Minister  
-

\_(a)\_ by notice in writing served on the licensee, is to notify  
the licensee of the intention to revoke the licence or part of the  
licence; and

\_(b)\_ is to give the licensee an opportunity to make submissions  
in relation to the matter.

\_(3)\_ If the Minister revokes a licence or part of a licence,  
the Minister, by notice in writing, is to notify the licensee.

\_(4)\_ If the Minister revokes a licence or part of a licence  
under subsection (1)(b), the licensee is entitled to compensation  
under Part 8.

\_(5)\_ The Minister, by notice published in the Gazette,  
may notify the revocation of a licence or part of a licence.

\_(6)\_ A licensee may appeal to the Mining Tribunal against  
the Minister's decision to revoke the licence within 28 days after  
the date of the decision.

\_(7)\_ The revocation of a licence or part of a licence takes  
effect -

\_(a)\_ if an appeal is not made under subsection (6), 28 days  
after publication of a notice under subsection (5); or

\_(b)\_ if an appeal is made under subsection (6) and the Mining  
Tribunal makes an order affirming the decision, 10 days after  
the date of the order.

### PART 3 - Retention Licences

#### Division 1 - Applications

##### 47. Application for retention licence



the  
in  
respect of -

\_(1)\_ The holder of an exploration licence or a lease has the exclusive right to apply to the Minister for a retention licence in respect of -

- \_(a)\_ the minerals specified in that licence or lease; and
- \_(b)\_ any area of land comprised in that licence or lease.

\_(2)\_ An application is to -

- \_(a)\_ be in an approved form; and
- \_(b)\_ be accompanied by the prescribed fee; and
- \_(c)\_ contain any other prescribed details; and
- \_(d)\_ be lodged with the Registrar.

applicant  
to provide further information.

\_(3)\_ The Registrar or Director or both may require an applicant to provide further information.

#### \_48. Exclusive right foregone\_

forego  
to

\_(1)\_ The holder of an exploration licence or a lease may forego the exclusive right referred to in section 47 by notice in writing to a person consenting to that person, either alone or in conjunction with the holder, marking out and applying for the licence.

is to  
of the  
date of the notice.

\_(2)\_ A person who receives a notice under subsection (1) is to provide the Registrar with a copy of that notice within 14 days of the date of the notice.

an  
subject  
to that licence or lease.

\_(3)\_ An exploration licence or a lease is not affected by an application under section 47 but on the granting of the application the area of land to which the application relates ceases to be subject to that licence or lease.

#### \_49. Transfer of application\_

prescribed  
conditions and on payment of the prescribed fee.

\_(1)\_ A person who lodges an application for a licence may transfer the application to another person subject to any prescribed conditions and on payment of the prescribed fee.

\_(2)\_ On the transfer of an application for a licence, the transferee becomes the applicant for the licence.

#### \_50. Recommendation of application for retention licence\_

\_(1)\_ The Director is to consider an application for a licence.

\_(2)\_ If the Director intends to recommend to the Minister that the application be granted, the Director is to -

\_(a)\_ notify that intention by notice in writing -

\_(i)\_ to the applicant; and

\_(ii)\_ as required under section 29 of the Native Title Act 1993 of the Commonwealth; and

\_(b)\_ publish a notice of that intention in a newspaper circulating in the relevant area.

\_(3)\_ A notice under subsection (2)(b) is to specify -

\_(a)\_ the name of the applicant; and

\_(b)\_ the area of land in respect of which the application is made; and

\_(c)\_ any other prescribed matter.

#### \_51. Objection to retention licence\_

\_(1)\_ Any person with an interest or estate in land within the area specified in a notice published under section 50(2)(b) may object to the granting of the application for a licence in respect of that land.

\_(2)\_ An objection is to -

\_(a)\_ be in writing; and

\_(b)\_ specify the grounds; and

\_(c)\_ be accompanied by the prescribed fee; and

\_(d)\_ be lodged with the Registrar within 28 days after the date of the publication of the notice under section 50(2)(b).

\_(3)\_ An objection is to be heard and determined by the Mining Tribunal.

#### \_52. Amendment of application after objection\_

\_(1)\_ If the Mining Tribunal upholds an objection relating

to  
any part of the land in respect of which an application is sought,  
it  
may allow the applicant to amend the application by excluding  
that  
part.

\_(2)\_ An application amended under subsection (1) is taken  
to be  
lodged on the date on which the original application was lodged.

### \_53. Granting application for retention licence\_

\_(1)\_ After considering an application for a licence and  
any  
recommendation of the Director and subject to any decision of  
the  
Mining Tribunal, the Minister may -

\_(a)\_ grant the application; or

\_(b)\_ refuse to grant the application.

\_(2)\_ The Minister may only grant an application for a licence  
if satisfied that -

\_(a)\_ the land comprised in the licence is likely to be able  
to be  
effectively and efficiently mined for the minerals to which  
the  
licence is to relate; and

\_(b)\_ there is a sufficient quantity of minerals to justify  
mining;  
and

\_(c)\_ the applicant is justified for economic or other reasons  
not  
to proceed to mine; and

\_(d)\_ the applicant has provided a security deposit.

\_(3)\_ If the Minister intends to grant an application for  
a  
licence contrary to the recommendation of the Director -

\_(a)\_ the Director is to notify that intention in accordance  
with  
section 50(2) and (3); and

\_(b)\_ a person with an interest or estate in the land is entitled  
to object in accordance with section 51.

\_(4)\_ The Minister, by notice in writing, must notify the  
applicant of -

\_(a)\_ the grant of the application; or

\_(b)\_ the refusal to grant the application and the reasons for the refusal.

#### \_54. Retention licence over private land\_

The holder of a retention licence must not explore on private land which has on it any dwelling or other substantial building without the consent of the owner and occupier of the land within 100 metres of the surface of -

\_(a)\_ any natural lake, artificial lake, dam, reservoir, water-producing well or artificial pond; or

\_(b)\_ any dwelling or substantial building.

Penalty:

Fine not exceeding 100 penalty units.

#### \_55. Conditions of retention licence\_

\_(1)\_ The Minister may grant an application for a licence subject to any conditions the Minister considers appropriate.

\_(2)\_ If a licence is held by 2 or more persons, those persons are jointly and severally liable for complying with any conditions of the licence.

\_(3)\_ The Minister may vary or rescind any condition of the licence.

\_(4)\_ Before varying or rescinding any condition of a licence, the Minister, by notice in writing served on the licensee, is to notify the licensee of -

\_(a)\_ the intent to vary the licence condition; and

\_(b)\_ the nature of the variation; and

\_(c)\_ the right of the licensee to make submissions in relation to the matter.

\_(5)\_ A licensee may appeal to the Mining Tribunal against the Minister's decision to vary the condition within 28 days after the date of the decision.

\_(6)\_ The variation of a condition of the licence takes effect

-

\_(a)\_ if an appeal is not made under subsection (5), 28 days after service of a notice under subsection (4); or

\_(b)\_ if an appeal is made under subsection (5) and the Mining Tribunal makes an order affirming the decision, 10 days after the date of the order.

#### Division 2 - Retention licences

##### 56. Retention licence

\_(1)\_ On granting an application for a licence and on payment of the prescribed fee, the Minister is to issue a retention licence.

\_(2)\_ A licence is to -

\_(a)\_ be in an approved form; and

\_(b)\_ include the following particulars:

\_(i)\_ a description of the area of land over which it is granted;

\_(ii)\_ the total area of that land;

\_(iii)\_ the type of minerals in respect of which it is granted;

\_(iv)\_ the terms and conditions to which it is subject;

\_(v)\_ the period for which it is in force.

\_(3)\_ A licensee is to pay rent to the Crown in respect of the land over which the licence is granted at a prescribed rate and in a prescribed manner.

##### 57. Area of land comprised in retention licence

The area of land comprised in a licence must not exceed -

\_(a)\_ for a licence relating to minerals other than Category 2 or Category 4 minerals, 10 square kilometres; or

\_(b)\_ for a licence relating to Category 2 or Category 4 minerals, 50 square kilometres.

##### 58. Authority of retention licence

\_(1)\_ A licence authorises the licensee -

\_(a)\_ to carry out any of the following which is necessary to evaluate the potential for mining:

\_(i)\_ geological, geophysical and geochemical exploration programs;

\_(ii)\_ mining feasibility studies;

\_(iii)\_ metallurgical testing;

\_(iv)\_ environmental studies;

\_(v)\_ marketing studies;

\_(vi)\_ engineering and design studies; and

\_(b)\_ to enter on, and pass over, any Crown land or private land for those purposes.

\_(2)\_ A person may only enter on, or pass over, private land by giving written notice in an approved form to the owner or occupier of the land 14 days or any shorter period the owner or occupier allows before doing so.

\_(3)\_ A person must not hinder or obstruct a licensee from carrying out any activity under the licence.

Penalty:

Fine not exceeding 100 penalty units.

\_(4)\_ A person must not sell any mineral recovered whilst carrying out authorised activities without the approval of the Director.

Penalty:

Fine not exceeding 500 penalty units or revocation of the licence, or both.

\_59. Term of retention licence\_

\_(1)\_ A licence, unless revoked earlier, is in force for a period, not exceeding 5 years, as the Minister determines.

\_(2)\_ The Minister may extend the term of a licence for any period or periods each not exceeding 5 years.

\_60. Exemption from conditions of retention licence\_

\_(1)\_ A licensee may apply to the Minister for an exemption from any condition of a licence.

\_(2)\_ An application is to be -

- \_(a)\_ in an approved form; and
- \_(b)\_ accompanied by the prescribed fee; and
- \_(c)\_ lodged with the Registrar.

\_(3)\_ The Minister may -

- \_(a)\_ grant the application; or
- \_(b)\_ refuse to grant the application.

\_(4)\_ If the Minister grants the application, the Minister is to issue the licensee with a certificate of exemption.

\_(5)\_ A certificate of exemption -

\_(a)\_ remains in force for the period specified in the certificate;  
and

\_(b)\_ is subject to any conditions specified in the certificate.

#### \_60A. Annual report and return\_

\_(1)\_ A licensee is to submit to the Director an annual report

\_(a)\_ at least one month before the anniversary of the date on which the licence was granted; or

\_(b)\_ on any other date the Director determines.

\_(2)\_ The annual report is to -

\_(a)\_ be in an approved form; and

\_(b)\_ be accompanied by a statutory declaration as to its accuracy;  
and

\_(c)\_ specify the amounts expended in respect of any exploration carried out during the preceding 12 months; and

\_(d)\_ contain a summary of the matters specified in section 187(2);  
and

\_(e)\_ give details of any proposed work; and

\_(f)\_ contain any other matter relating to the licence the Director requires.

\_(3)\_ A licensee is to submit to the Director any return the

Director requires at any time the Director directs.

\_60B. Duties under retention licence\_

\_(1)\_ A licensee is to carry out any exploration efficiently and effectively.

\_(2)\_ A licensee is to carry out any exploration and rehabilitation of land consistently with the standards specified in any relevant Code of practice.

\_60C. Exploration without licence\_

A person who is not a licensee must not explore for the minerals to which any retention licence relates in the licence area without the written consent of the licensee.

Penalty:

Fine not exceeding 100 penalty units.

\_Division 3 - Dealings with licences\_

\_61. Variation of retention licence\_

\_(1)\_ The Minister, with the approval of the licensee, by notice in writing, may vary the licence by removing a mineral from the licence.

\_(2)\_ On the application of a licensee, the Minister, by notice in writing, may vary the licence by -

\_(a)\_ adding to, or reducing, the area of land comprised in the licence; and

\_(b)\_ adding or removing a mineral from the licence.

\_(3)\_ If a licensee fails to comply with, or contravenes, a provision of this Act or a condition of the licence, the Minister, by notice in writing, may vary the licence by -

\_(a)\_ changing or adding any condition; or

\_(b)\_ reducing the area of land comprised in the licence; or

\_(c)\_ removing a mineral from the licence.

\_(4)\_ Before varying a licence, the Minister, by notice in writing served on the licensee, is to notify the licensee of -



\_(a)\_ the intent to vary the licence; and  
\_(b)\_ the nature of the variation; and  
\_(c)\_ the right of the licensee to make submissions in relation  
to  
the matter.

\_(5)\_ A licensee may appeal to the Mining Tribunal against  
the  
Minister's decision to vary the licence within 28 days after the  
date  
of the decision.

\_(6)\_ The variation of the licence takes effect -  
\_(a)\_ if an appeal is not made under subsection (5), 28 days  
after  
service of a notice under subsection (4); or  
\_(b)\_ if an appeal is made under subsection (5), and the Mining  
Tribunal makes an order affirming the decision, 10 days after  
the  
date of the order.

#### \_62. Application for transfer of retention licence\_

\_(1)\_ A licensee may apply to the Minister for approval to  
transfer a licence.

\_(2)\_ An application is to be -  
\_(a)\_ in an approved form; and  
\_(b)\_ accompanied by the duly executed instrument of transfer;  
and  
\_(c)\_ accompanied by the prescribed fee; and  
\_(d)\_ lodged with the Registrar within 28 days after the transfer  
is executed.

\_(3)\_ The Registrar may extend the period referred to in  
subsection (2)(d) if satisfied that it is reasonable to do so.

\_(4)\_ The Registrar, by notice in writing, is to notify any  
person who has lodged a caveat under Part 10 of an application  
lodged  
under this section.

\_(5)\_ A notice under subsection (4) is to be sent by certified  
mail so as to be received at least 14 days before the approval  
takes  
effect.

\_(6)\_ A person who has lodged a caveat under Part 10 may  
object

to the Mining Tribunal against an application for approval to transfer a licence within 14 days after receipt of a notice under subsection (5).

63. Approval of transfer of retention licence

(1) The Minister may -

(a) approve the application for the transfer of a licence, with or without conditions; or

(b) refuse to approve the application.

(2) The Minister, by notice in writing, must notify the applicant of -

(a) the approval of the application; or

(b) the refusal to approve the application and the reasons for the refusal.

(3) A transfer -

(a) is of no effect unless approved by the Minister; and

(b) takes effect, if approved, on the date of the approval.

64. Extension of term of retention licence

(1) A licensee may apply to the Minister for an extension of the term of the licence.

(2) An application is to be -

(a) in an approved form; and

(b) accompanied by the prescribed fee; and

(c) lodged with the Registrar before the licence ceases to be in force.

(3) The Minister must -

(a) grant an application for any period the Minister determines and with or without conditions; or

(b) refuse to grant the application.

(4) The Minister, by notice in writing, must notify the applicant of -

(a) the grant of the application; or

the  
\_(b)\_ the refusal to grant the application and the reasons for the refusal.

\_(5)\_ A licensee may appeal to the Mining Tribunal against the Minister's refusal to grant the application within 28 days after receipt of a notice under subsection (4)(b).

\_(6)\_ A licence remains in force until -

\_(a)\_ the Minister makes a decision under subsection (3); or

\_(b)\_ if an appeal is made under subsection (5), the Mining Tribunal makes an order in relation to the appeal.

#### \_65. Term of extended licence\_

\_(1)\_ A licence extended under section 64, unless revoked earlier, is in force for a period, not exceeding 5 years, as the Minister determines.

\_(2)\_ If an application to extend a licence is granted before the licence ceases to be in force, the period referred to in subsection (1) starts on the day the licence ceases to be in force.

\_(3)\_ If an application to extend a licence is not granted before the licence ceases to be in force, the licence -

is  
\_(a)\_ is taken to continue to be in force until the application is granted, refused or withdrawn, whichever occurs first; and

it  
\_(b)\_ if extended, continues in force from the date on which it ceases to be in force until the end of the period referred to in subsection (1).

#### \_66. Revocation of retention licence\_

\_(1)\_ The Minister may revoke a licence or part of a licence if -

\_(a)\_ the licensee fails to comply with, or contravenes -

\_(i)\_ any provision of this Act; or

\_(ii)\_ any condition of the licence; or

is  
\_(b)\_ satisfied that any area of land comprised in the licence is required for any public purpose.

\_(2)\_ Before revoking a licence or part of a licence under subsection (1)(a), the Minister -

the     \_(a)\_ by notice in writing served on the licensee, is to notify  
licensee of the intention to revoke the licence or part of the  
licence; and

in       \_(b)\_ is to give the licensee an opportunity to make submissions  
relation to the matter.

      \_(3)\_ If the Minister revokes a licence or part of a licence,  
the Minister, by notice in writing, is to notify the licensee.

      \_(4)\_ If the Minister revokes a licence or part of a licence  
under subsection (1)(b), the licensee is entitled to compensation  
under Part 8.

may      \_(5)\_ The Minister, by notice published in the \_Gazette\_,  
notify the revocation of a licence or part of a licence.

the      \_(6)\_ A licensee may appeal to the Mining Tribunal against  
the Minister's decision to revoke the licence within 28 days after  
the date of the decision.

      \_(7)\_ The revocation of a licence takes effect -

after     \_(a)\_ if an appeal is not made under subsection (6), 28 days  
publication of a notice under subsection (5); or

the      \_(b)\_ if an appeal is made under subsection (6) and the Mining  
Tribunal makes an order affirming the decision, 14 days after  
the date of the order.

#### \_67. Surrender of retention licence\_

      \_(1)\_ A licensee may apply to the Director for approval to  
surrender a licence or part of a licence.

or part   \_(2)\_ An application for approval to surrender a licence  
of a licence is to be -

      \_(a)\_ in an approved form; and

      \_(b)\_ accompanied by the licence; and

      \_(c)\_ accompanied by the prescribed fee; and

      \_(d)\_ lodged with the Registrar.

      \_(3)\_ The Director may -

or       \_(a)\_ approve the application, with or without any conditions;

\_(b)\_ refuse to approve the application.

\_(4)\_ The Director, by notice in writing, is to notify the applicant of -

\_(a)\_ the approval of the application; or

\_(b)\_ the refusal to approve the application and the reason for the refusal.

#### \_PART 4 - Mining Leases\_

##### \_Division 1 - Applications, marking out and objections\_

###### \_68. Notice to apply for mining lease\_

\_(1)\_ If the Minister is of the opinion that mining operations should commence on any area of land comprised in a retention licence, the Minister, by notice in writing, may require the licensee to provide reasons for not applying for a lease.

\_(2)\_ A notice is to specify -

\_(a)\_ the area of land to be subject to a lease; and

\_(b)\_ the period within which the licensee is to provide reasons for not applying for a lease.

\_(3)\_ The Minister, by notice in writing, may direct the licensee to apply for a lease within a specified period if -

\_(a)\_ the licensee fails to provide reasons within the specified period; or

\_(b)\_ the Minister, after considering any reasons provided, is not satisfied that the licensee should not apply for a lease.

\_(4)\_ If the licensee fails to apply for a lease within the specified period or fails to fulfil the requirements of section 75(3)

within 6 months after making an application for a lease or within any other time the Minister determines, the Minister may-

\_(a)\_ revoke the licence held by the licensee; or

\_(b)\_ amend it to exclude the area of land specified in a notice under subsection (2)(a).

###### \_69. Mining without lease prohibited\_

A person must not carry out any mining in any area of land unless

area  
\_(a)\_ the person is the holder of a lease in respect of that  
of land; or

\_(b)\_ the land is private land and mining is carried out under  
section 7; or

\_(c)\_ the person is authorised to do so under a mineral tenement.

Penalty:

not  
Fine not exceeding 500 penalty units or imprisonment for a term  
exceeding 6 months, or both.

\_70. Applications for mining lease\_

\_(1)\_ A person may apply to the Minister for a lease.

\_(2)\_ An application is to -

\_(a)\_ be in an approved form; and

\_(b)\_ specify the minerals in respect of which it is made; and

\_(c)\_ be accompanied by a statement specifying -

\_(i)\_ the mining to be carried out; and

the  
\_(ii)\_ a description of the area of land in respect of which  
lease is sought; and

\_(iii)\_ the financial and technical resources available to the  
applicant to carry out the mining; and

\_(iv)\_ an estimate of the proposed expenditure; and

\_(d)\_ be accompanied by a plan of that area; and

\_(e)\_ be accompanied by the prescribed fee; and

out  
\_(f)\_ be lodged with the Registrar within 7 days after marking  
that area under section 72; and

\_(g)\_ be accompanied by 6 months' rent in advance; and

\_(h)\_ contain any other prescribed details.

further  
\_(3)\_ The Director may require an applicant to provide  
information.

area  
\_(4)\_ A person may not apply for a lease in relation to an  
of land comprised in a previous exploration licence or previous  
retention licence in respect of minerals specified in that licence

until a date specified by the Director that is at least 2 months after that area is no longer subject to that previous licence.

71. Exclusive right to mining lease

(1) The holder of an exploration licence or a retention licence has the exclusive right to mark out and apply for a lease in respect of -

(a) the area or part of the area of land comprised in the licence; and

(b) the minerals specified in the licence.

(2) The holder of an exploration licence or retention licence may forgo the exclusive right referred to in subsection (1) by notice in writing to any other person consenting to that person, either alone or in conjunction with the holder, marking out and applying for a lease.

(3) A person who receives a notice under subsection (2) is to provide the Registrar with a copy of that notice within 14 days of the date of the notice.

(4) If, in respect of an area of land comprised in an exploration or a retention licence, a person forgoes an exclusive right to mark out and apply for a lease and a lease is granted, that area of land ceases to be subject to the exploration licence or retention licence.

72. Marking out

(1) An applicant for a lease is to mark out the land to which the application relates in the prescribed manner.

(2) An applicant marking out land may enter on, and pass over, land for that purpose.

(3) An owner or occupier of land may make a claim to the Mining Tribunal for any unnecessary or unreasonable damage to land or property caused by the applicant in marking out land.

(4) In respect of any area of land covered by the sea or any lake, pond, river or stream or any area of land which does not include

the surface of the earth, an applicant -

\_(a)\_ need not mark out that area; and

\_(b)\_ must comply with any conditions determined by the Director.

\_73. Pending applications for leases\_

\_(1)\_ An application for a lease is pending from the marking out of the land until whichever of the following happens first:

\_(a)\_ the application is granted;

\_(b)\_ the application is refused;

\_(c)\_ the application lapses;

\_(d)\_ the application is withdrawn.

\_(2)\_ An application for a lease lapses 12 months after the marking out unless the Director extends that period.

\_(3)\_ The Director may only extend the period of 12 months if satisfied that -

\_(a)\_ the failure to determine the application is not caused by default of the applicant; or

\_(b)\_ there is sufficient reason to do so.

\_74. Priority of applications for leases\_

\_(1)\_ If more than one application is received for a lease in respect of all or part of the same land, the order of priority is as follows:

\_(a)\_ an application by a person who marks out the land before any other person has priority over an application by that other person;

\_(b)\_ for applications where marking out is done on the same day, the order of priority is as determined by the Director according to the relative merits of the applications;

\_(c)\_ for applications where marking out is done on the same day and which are determined by the Director to be of equal merit, the order of priority is as determined by a ballot conducted in an



approved manner;

\_(d)\_ applications received up to and including 4 working days after the date specified under section 70(4) have equal priority and are to be determined without reference to any other application.

\_(2)\_ The Registrar is to reject any application received later than 3 months after receipt of an application determined to have priority.

\_75. Recommendation of application for mining lease\_

\_(1)\_ The Director is to consider an application for a lease.

\_(2)\_ If the Director intends to recommend to the Minister that the application be granted, the Director is to notify that intention by notice in writing -

\_(a)\_ to the applicant; and

\_(b)\_ as required under section 29 of the Native Title Act 1993 of the Commonwealth; and

\_(c)\_ to the holder of a lease under section 106.

\_(2A)\_ If the Director intends to recommend to the Minister that the application be granted, the Director is to provide the applicant with a copy of the proposed lease.

\_(2B)\_ The applicant, within 14 days after receiving a copy of the proposed lease, may make submissions to the Minister in relation to the proposed terms and conditions of that lease.

\_(3)\_ The Minister may only grant an application for a lease if satisfied that the applicant -

\_(a)\_ has demonstrated that there is a sufficient quantity of minerals to justify mining; and

\_(b)\_ intends to mine; and

\_(c)\_ intends to comply with this Act; and

\_(d)\_ has an appropriate mining plan; and

\_(e)\_ is likely to have sufficient financial and technical resources to carry out the mining plan; and

\_(f)\_ has provided the Director with sufficient information relating to the likely impact on the environment; and

\_(g)\_ if the application is in respect of private land, has entered into a compensation agreement with the owner or occupier of the land; and

\_(h)\_ has provided a security deposit.

\_(4)\_ Subsection (3)(g) does not apply to the prescribed area of land in the municipal area of West Tamar that is more than 15 metres from the surface of the land.

#### \_76. Objections to mining lease\_

\_(1)\_ Any person with an interest or estate in the area of land in respect of which a lease is sought may object to the granting of the application of a lease in respect of that area.

\_(2)\_ An objection is to -

\_(a)\_ be in writing; and

\_(b)\_ specify the grounds; and

\_(c)\_ be accompanied by the prescribed fee; and

\_(d)\_ be lodged with the Registrar within 28 days after the date of marking out.

\_(3)\_ An objection is to be heard and determined by the Mining Tribunal.

#### \_77. Amendment of applications after objections\_

\_(1)\_ If the Mining Tribunal upholds an objection in respect of a portion of the land comprised in the application, it may allow the applicant to amend the application for a lease by excluding that portion.

\_(2)\_ An application amended under subsection (1) is taken to be lodged on the date on which the original application was lodged.

#### \_78. Granting application for mining lease\_

\_(1)\_ After considering an application for a lease and any recommendation of the Director and subject to any decision of the

Mining Tribunal, the Minister may -

\_(a)\_ grant the application; or

\_(b)\_ refuse to grant the application.

\_(2)\_ If the Minister intends to grant a lease contrary to the recommendation of the Director -

\_(a)\_ the Director is to notify that intention in accordance with section 75(2); and

\_(b)\_ a person with an interest or estate in the land is entitled to object in accordance with section 76.

\_(3)\_ The Minister, by notice in writing, must notify an applicant of -

\_(a)\_ the grant of the application; or

\_(b)\_ the refusal to grant the application and the reasons for the refusal.

#### \_79. Mining lease over private land\_

The holder of a lease must not explore or carry out mining operations on private land which has on it any dwelling or other substantial building without the consent of the owner and occupier of the land within 100 metres of the surface of -

\_(a)\_ any natural lake, artificial lake, dam, reservoir, water-producing well or artificial pond; or

\_(b)\_ any dwelling or substantial building.

Penalty:

Fine not exceeding 500 penalty units.

#### \_80. Conditions of mining lease\_

\_(1)\_ The Minister may grant an application for a lease subject to any conditions the Minister considers appropriate.

\_(2)\_ If a lease is held by 2 or more persons, those persons are jointly and severally liable for complying with the conditions of the lease.

\_(3)\_ The Minister may vary or rescind any condition of the lease.

\_(4)\_ The department or authority responsible for the Water Management Act 1999 is to ensure, as far as practicable, that a lessee has sufficient access under that Act to water for the purposes of the lease.

#### Division 2 - Mining leases

##### 81. Mining lease

\_(1)\_ On granting an application for a lease and on payment of the prescribed fee, the Minister is to issue a lease.

\_(2)\_ A lease is to -

\_(a)\_ be in an approved form; and

\_(b)\_ include the following particulars:

\_(i)\_ a description of the area of land over which it is granted;

\_(ii)\_ the total area of that land;

\_(iii)\_ the type of minerals in respect of which it is granted;

\_(iv)\_ the terms and conditions to which it is subject;

\_(v)\_ the period for which it is in force.

\_(3)\_ The Minister may issue a lease with the endorsement "subject to survey".

\_(4)\_ If a survey is carried out in respect of the area of land comprised in the lease, the Minister is to provide a supplement to the lease specifying the description of that area as ascertained by the survey.

##### 82. Consolidated mining lease

The Minister may issue a consolidated lease in respect of more than one area of land if satisfied that greater facilities for mining operations are more likely if those areas of land are comprised in one lease.

##### 83. Area of land comprised in mining lease

\_(1)\_ The area of land comprised in a lease is an area determined by the Minister and which is at least the minimum area required for mining operations.

\_(2)\_ Land comprised in a lease may differ in size and shape

from the land over which the lease was sought in the application for the lease.

\_(3)\_ An area of land comprised in a lease must not include an area which -

\_(a)\_ is already a mineral tenement for the mineral to which the mineral tenement relates; or

\_(b)\_ is the subject of an application for a mineral tenement for the mineral to which the application relates.

#### \_84. Authority of mining lease\_

\_(1)\_ A lease authorises the lessee -

\_(a)\_ to carry out mining operations in the area of land specified in the lease for minerals specified in the lease; and

\_(b)\_ for that purpose, to enter on, and pass over, Crown land; and

\_(c)\_ to enter on, or carry out mining operations on, private land within the mining lease if a compensation agreement is in force with the owner or occupier of that land.

\_(2)\_ A person must not hinder or obstruct a lessee from carrying out any activity under the lease.

Penalty:

Fine not exceeding 100 penalty units.

#### \_85. Term of mining lease\_

\_(1)\_ A lease, unless revoked earlier, is in force for the period the Minister determines.

\_(2)\_ The Registrar, by notice in writing, is to notify the lessee of the impending expiry of the lease at least 3 months before it ceases to be in force.

#### \_86. Exemption from conditions of mining lease\_

\_(1)\_ A lessee may apply to the Minister for an exemption from any condition of a lease.

\_(2)\_ An application is to be -

\_(a)\_ in an approved form; and

\_(b)\_ accompanied by the prescribed fee; and

\_(c)\_ lodged with the Registrar.

\_(3)\_ The Minister may -

\_(a)\_ grant the application; or

\_(b)\_ refuse to grant the application.

\_(4)\_ If the Minister grants an application, the Minister is to issue the lessee with a certificate of exemption.

\_(5)\_ A certificate of exemption -

\_(a)\_ remains in force for the period specified in the certificate;  
and

\_(b)\_ is subject to any conditions specified in the certificate.

#### \_87. Quarterly returns\_

\_(1)\_ A lessee is to submit to the Director a return within 14 days after the end of each quarter.

\_(2)\_ A return is to -

\_(a)\_ be in an approved form; and

\_(b)\_ be accompanied by a statutory declaration as to its accuracy;  
and

\_(c)\_ specify the nature, quantity and value of the minerals obtained during the quarter; and

\_(d)\_ specify the average number of persons employed during that quarter; and

\_(e)\_ contain any other statistical information relating to the lease the Director requires.

\_(3)\_ The Director may require a person who purchases a specified mining product to submit a return specifying the nature, quantity, value and source of that mining product.

#### \_88. Duties under mining lease\_

The lessee is to -

\_(a)\_ carry out any mining operations efficiently, effectively and consistent with standards specified in any relevant Code of

practice; and

\_(b)\_ permit the Director to inspect any specimen or material obtained during any mining operations.

Division 3 - Subleases

89. Sublease

\_(1)\_ The lessee may apply to the Minister for approval to sublease a lease or part of a lease to another person.

\_(2)\_ An application is to be -

\_(a)\_ in an approved form; and

\_(b)\_ accompanied by the instrument of sublease; and

\_(c)\_ accompanied by the prescribed fee; and

\_(d)\_ lodged with the Registrar within 28 days after the sublease is signed.

\_(3)\_ The Registrar may extend the period referred to in subsection (2)(d) if satisfied that it is reasonable to do so.

90. Recommendation of application for sublease

\_(1)\_ The Director is to consider an application for a sublease.

\_(2)\_ The Director may only recommend that the Minister grant an application for a sublease if satisfied that the person to whom a lease is to be subleased -

\_(a)\_ intends to mine; and

\_(b)\_ intends to comply with the Act; and

\_(c)\_ has an appropriate mining plan; and

\_(d)\_ is likely to have sufficient financial and technical resources to carry out the mining plan; and

\_(e)\_ has provided the Director with sufficient information relating to the likely impact on the environment; and

\_(f)\_ has provided a security deposit.

91. Approval of sublease

\_(1)\_ The Minister may -

\_(a)\_ approve the application with or without conditions; or

\_(b)\_ refuse to approve the application.

lessee     \_(2)\_ The Minister, by notice in writing, must notify the  
of -

\_(a)\_ the approval of the application; or

for     \_(b)\_ the refusal to approve the application and the reasons  
the refusal.

\_(3)\_ A sublease -

\_(a)\_ is of no effect unless approved by the Minister; and

\_(b)\_ takes effect, if approved, on the date of approval.

and     \_(4)\_ This Part applies to a sublease as if it were a lease  
the person holding the sublease were the lessee.

#### \_92. Term of sublease\_

date     \_(1)\_ A sublease ceases to be in force no later than the  
the lease under which it is given ceases to be in force or is  
revoked  
or terminated.

not     \_(2)\_ If the lease is revoked or terminated for any reason  
due to the default of the holder of the sublease, the Minister,  
on the  
application of the holder, may grant the holder a lease under  
this  
Part.

from     \_(3)\_ The term of a lease granted under subsection (2) is  
the date on which the sublease was approved until -

\_(a)\_ the end of the period determined under section 85; or

\_(b)\_ any shorter period the Minister determines.

#### \_Division 4 - Dealings with leases\_

#### \_93. Application for transfer of mining lease\_

\_(1)\_ A lessee may apply to the Minister for approval to  
transfer a lease.

\_(2)\_ An application is to be -

\_(a)\_ in an approved form; and

and     \_(b)\_ accompanied by the duly executed instrument of transfer;



\_(c)\_ accompanied by the prescribed fee; and

\_(d)\_ lodged with the Registrar within 28 days after the transfer is executed.

\_(3)\_ The Registrar may extend the period referred to in subsection (2)(d) if satisfied that it is reasonable to do so.

\_(4)\_ The Registrar, by notice in writing, is to notify any person who has lodged a caveat under Part 10 of an application lodged under this section.

\_(5)\_ A notice under subsection (4) is to be sent by certified mail so as to be received 14 days before the approval takes effect.

\_(6)\_ A person who has lodged a caveat under Part 10 may object to the Mining Tribunal against an application for approval to transfer a licence within 14 days after receipt of a notice under subsection (5).

#### \_94. Recommendation of application for transfer\_

\_(1)\_ The Director is to consider an application for the transfer of a lease.

\_(2)\_ The Director may only recommend that the Minister grant an application for the transfer of a lease if satisfied that the applicant -

\_(a)\_ intends to mine; and

\_(b)\_ intends to comply with this Act; and

\_(c)\_ has an appropriate mining plan; and

\_(d)\_ is likely to have sufficient financial and technical resources to carry out the mining plan; and

\_(e)\_ has provided the Director with sufficient information relating to the likely impact on the environment; and

\_(f)\_ has provided a security deposit.

#### \_95. Approval of transfer of mining lease\_

\_(1)\_ The Minister may -

\_(a)\_ approve the application with or without conditions; or

\_(b)\_ refuse to approve the application.

\_(2)\_ The Minister, by notice in writing, must notify the lessee

of -

- \_(a)\_ the approval of the application; or
- \_(b)\_ the refusal to approve the application and the reasons for the refusal.

\_(3)\_ A transfer -

- \_(a)\_ is of no effect unless approved by the Minister; and
- \_(b)\_ takes effect, if approved, on the date of the approval.

\_96. Application for renewal of mining lease\_

\_(1)\_ A lessee may apply to the Minister for a renewal of a lease not more than 3 months before and not later than one month after the lease ceases to be in force.

\_(2)\_ An application is to be -

- \_(a)\_ in an approved form; and
- \_(b)\_ accompanied by the prescribed fee; and
- \_(c)\_ lodged with the Registrar.

\_97. Granting of application for renewal\_

\_(1)\_ The Minister may -

- \_(a)\_ grant an application for the renewal of a lease, with or without conditions; or
- \_(b)\_ refuse to grant the application.

\_(2)\_ The Minister must grant the application if satisfied that -

- \_(a)\_ the lessee has submitted a mining plan for the renewal period; and
- \_(b)\_ the lessee has complied with the conditions of the lease and the provisions of this Act; and
- \_(c)\_ a failure to comply with any condition of a lease was exempted under section 86; and
- \_(d)\_ the lessee has provided a security deposit.

\_(3)\_ The Director, by notice in writing, must notify the applicant of -

\_(a)\_ the grant of the application; or  
\_(b)\_ the refusal to grant the application and the reasons for  
the refusal.

\_(4)\_ A lessee may appeal to the Mining Tribunal against  
the Minister's refusal to grant the application within 28 days after  
receipt of a notice under subsection (3)(b).

\_98. Term of renewed lease\_

\_(1)\_ A lease is renewed for the period, not exceeding 20  
years,  
the Minister determines.

\_(2)\_ If an application to renew a lease is granted before  
the lease ceases to be in force, the period referred to in subsection  
(1)  
starts on the day the lease would have ceased to be in force if  
it was  
not renewed.

\_(3)\_ A lease continues in force -

\_(a)\_ if an application for renewal is made but not granted  
before  
it ceases to be in force, until the application is granted,  
refused  
or withdrawn, whichever occurs first; and

\_(b)\_ if an application is granted before it ceases to be in  
force,  
from the date on which it ceases to be in force until the end  
of  
the period referred to in subsection (1).

\_99. Revocation of mining lease\_

\_(1)\_ The Minister may revoke a lease or part of a lease  
if -

\_(a)\_ the lessee fails to comply with, or contravenes -

\_(i)\_ any provision of this Act; or

\_(ii)\_ any condition of the lease; or

\_(b)\_ satisfied that any area of land comprised in the lease  
is  
required for any public purpose; or

\_(c)\_ satisfied that mining has not taken place for 12 months.

\_(2)\_ Before revoking a lease or part of a lease under

subsection (1)(a), the Minister -

the  
\_(a)\_ by notice in writing served on the lessee, is to notify the lessee of the intention to revoke the lease or part of the lease; and

and  
\_(b)\_ is to give the lessee an opportunity to make submissions and give evidence in relation to the matter.

the  
\_(3)\_ If the Minister revokes a lease or part of a lease, the Minister, by notice in writing, is to notify the lessee.

under  
\_(4)\_ If the Minister revokes a lease or part of a lease under subsection (1)(b), the lessee is entitled to compensation under Part 8.

may  
\_(5)\_ The Minister, by notice published in the Gazette, notify the revocation of a lease or part of a lease.

the  
\_(6)\_ A lessee may appeal to the Mining Tribunal against the Minister's decision to revoke the lease within 28 days after the date of the decision.

\_(7)\_ The revocation of a lease takes effect -

after  
\_(a)\_ if an appeal is not made under subsection (6), 28 days after publication of a notice under subsection (5); or

the  
\_(b)\_ if an appeal is made under subsection (6) and the Mining Tribunal makes an order affirming the decision, 10 days after the date of the order.

#### 100. Surrender of mining lease

\_(1)\_ A lessee may apply to the Director for approval to surrender a lease or part of a lease.

part  
\_(2)\_ An application for approval to surrender a lease or of a lease is to be -

\_(a)\_ in an approved form; and

\_(b)\_ accompanied by the lease; and

\_(c)\_ accompanied by the prescribed fee; and

\_(d)\_ lodged with the Registrar.

\_(3)\_ The Director may -

\_(a)\_ approve the application, with or without any conditions;  
or

\_(b)\_ refuse to approve the application.

\_(4)\_ The Director, by notice in writing, is to notify the applicant of -

\_(a)\_ the approval of the application; or

\_(b)\_ the refusal to approve the application and the reasons  
for  
the refusal.

#### \_Division 5 - Rent and royalty\_

##### \_101. Rent\_

\_(1)\_ A lessee must pay an annual rent to the Crown in respect of a lease at a prescribed rate.

\_(2)\_ Subsection (1) does not apply to a lessee who is the  
owner  
of land and minerals to which the lease relates.

\_(3)\_ Annual rent falls due on 1 July each year.

\_(4)\_ If the lessee fails to pay the annual rent by 1 January  
in  
the following year, the Registrar is to cancel the lease and,  
by  
notice in writing, notify the lessee of the cancellation.

\_(5)\_ A lessee may appeal to the Minister within 28 days  
after  
receipt of the notice of cancellation.

\_(6)\_ The Minister may reinstate the lease if -

\_(a)\_ an appeal is made within the period specified in  
subsection (5); and

\_(b)\_ the Minister considers that reinstatement is warranted.

##### \_102. Royalty\_

\_(1)\_ Subject to subsection (1B), a lessee must pay royalty  
at a  
prescribed rate in respect of a mineral sold under a lease.

\_(1A)\_ Subject to subsection (1B), a licensee must pay  
royalty  
at a prescribed rate in respect of a mineral sold under a licence.

\_(1B)\_ A lessee or a licensee must pay royalty calculated

at a prescribed rate in respect of a mineral sold under a lease or licence for -

\_(a)\_ the years commencing 1 July 1996, 1 July 1997 and 1 July 1998; and

\_(b)\_ any year commencing on or after 1 July 1999.

(1B) \_(1C)\_ The maximum rate of royalty payable under subsection is the prescribed maximum rate.

\_(2)\_ Royalty is payable -

\_(a)\_ from the date on which any mineral recovered under a lease or a licence is sold; and

\_(b)\_ by the prescribed date and in respect of the prescribed period.

\_(3)\_ A rate of royalty may be calculated -

\_(a)\_ as a percentage of the value of the mineral; or

\_(b)\_ as an amount based on specified measurement; or

\_(c)\_ by reference to any other prescribed matter.

\_(4)\_ Interest is payable on any royalty not paid by the due date at the prescribed rate.

\_(4A)\_ The Minister may waive all or part of any interest payable under subsection (4), vary that rate of interest or defer payment of all or part of that interest.

\_(5)\_ Royalty is payable -

\_(a)\_ in respect of any mineral recovered from Crown land, to the Minister; and

\_(b)\_ in respect of any mineral recovered from private land

\_(i)\_ to the owner of the land if the owner owns the mineral; or

\_(ii)\_ to the owner of the mineral if the owner is not the owner of the land; or

\_(iii)\_ to the Crown if the Crown owns the mineral.

\_(6)\_ For the purposes of calculating the rate of royalty,

regulations may prescribe the manner in which -

- \_(a)\_ the quantity of minerals is to be calculated; and
- \_(b)\_ the value of minerals is to be calculated.

\_(7)\_ The Minister may waive all or part of royalty payable, vary the rate of royalty payable or defer payment of all or part of royalty payable in respect of any mineral recovered under a lease in respect of Crown land or private land if -

- \_(a)\_ the mineral recovered vests in the Crown; and
- \_(b)\_ the Minister is satisfied that the mineral is being used for a community purpose approved by the Minister.

\_(8)\_ The owner of a mineral recovered from private land may waive all or part of royalty.

\_(9)\_ Royalty is not payable in respect of any mineral, recovered on Crown land or a State forest, which is required for the purposes of the Crown.

\_102A. Royalty rebate\_

\_(1)\_ The Minister, after consultation with the Treasurer, may grant a rebate on royalty payable subject to any conditions, and for any period, the Minister considers appropriate.

\_(2)\_ A rebate on royalty payable is to be at a prescribed rate.

\_103. Recovery and collection of royalty\_

\_(1)\_ Royalty and any interest on royalty payable under this Part are -

- \_(a)\_ debts due to the Crown if the Crown owns the land or the minerals; or
- \_(b)\_ debts due to the owner of land if the owner owns the mineral.

\_(2)\_ The Minister, on payment of the prescribed fee by an owner of Category 1, 2 or 5 minerals is to arrange for the collection, on behalf of the owner, of royalty payable in respect of the minerals.

\_(3)\_ . . . . .

\_104. Termination of interest in mining lease\_

Any interest in a lease terminates on the date on which the lease ceases to be in force or is revoked or surrendered.

\_105. Removal of building, machinery and property\_

\_(1)\_ A former lessee or a person lawfully claiming under the lessee may enter land to remove any building, machinery or other property belonging to the former lessee from the land within 6 months after any interest of the former lessee in the lease is terminated.

\_(2)\_ The Minister may require a former lessee to remove any building, machinery or other property at any time within the period referred to in subsection (1) if satisfied that the presence of the building, machinery or other property is likely to interfere with the mining or rehabilitation of the land.

\_(3)\_ A person must not remove any building, machinery or other property after the period referred to in subsection (1) without the written approval of the Director.

Penalty:

Fine not exceeding 100 penalty units.

\_(4)\_ Any building, machinery or other property on Crown land which has not been removed vests in the Crown.

\_(5)\_ Any building, machinery or other property on private land which has not been removed vests in the owner of the land unless the former lessee and owner agree otherwise.

\_106. Lease for storage\_

\_(1)\_ A former lessee may apply to the Minister for a lease to store any building, machinery, mining product or other property on the land.

\_(2)\_ An application is to be -

\_(a)\_ in an approved form; and

\_(b)\_ lodged with the Registrar within 6 months after the lease ceases to have effect.



\_(3)\_ The Minister may -

subject  
\_(a)\_ grant the application with or without conditions and  
to any rent the Minister determines; or

\_(b)\_ refuse to grant the application.

to  
\_(4)\_ The Minister may cancel a lease if the lessee fails  
comply with, or contravenes, any condition of the lease.

may  
\_(5)\_ A person to whom a lease is granted under this section  
also apply for a lease under section 70.

on  
\_(6)\_ A lease issued under this section ceases to have effect  
the granting of a lease under section 78 in respect of all or  
part of  
the land to which the lease under this section relates.

## \_PART 5 - Prospecting Licences and Fossicking Areas\_

### \_Division 1 - Prospecting licences\_

#### \_107. Prospecting without licence prohibited\_

a  
A person must not prospect unless the person is the holder of  
a  
prospecting licence.

Penalty:

Fine not exceeding 100 penalty units.

#### \_108. Application for prospecting licence\_

\_(1)\_ A person may apply to the Director for a prospecting  
licence.

\_(2)\_ An application is to -

\_(a)\_ be in an approved form; and

\_(b)\_ be accompanied by the prescribed fee; and

\_(c)\_ contain any other prescribed details; and

\_(d)\_ be lodged with the Registrar.

#### \_109. Granting application for prospecting licence\_

\_(1)\_ The Director may -

\_(a)\_ grant the application for a licence; or

\_(b)\_ refuse to grant the application.

\_(2)\_ The Director, by notice in writing, must notify an applicant of -

\_(a)\_ the grant of the application; or

\_(b)\_ the refusal to grant the application and the reasons for the refusal.

\_110. Conditions of prospecting licence\_

\_(1)\_ The Director may grant an application for a licence subject to any condition the Director considers appropriate.

\_(2)\_ The Director may vary or rescind any condition of the licence.

\_111. Prospecting licence\_

\_(1)\_ On granting an application for a licence and on payment of the prescribed fee, the Director is to issue a licence.

\_(2)\_ A licence is to -

\_(a)\_ be issued to an individual; and

\_(b)\_ be in an approved form; and

\_(c)\_ specify the period for which it is in force.

\_112. Authority of prospecting licence\_

\_(1)\_ The holder of a licence may prospect on -

\_(a)\_ any Crown land which is not subject to a mineral tenement; or

\_(b)\_ any Crown land which is subject to a mineral tenement with the written consent of the tenement holder; or

\_(c)\_ any other land which is subject to a mineral tenement with the written consent of the tenement holder and the owner or occupier of the land; or

\_(d)\_ any private land with the consent of the owner or occupier.

\_(2)\_ A licence authorises the licensee -

\_(a)\_ to map any area of land to which the licence relates; and

\_(b)\_ to collect rock or mineral samples by hand; and

\_(c)\_ to collect water and soil samples by hand; and

\_(d)\_ to take geophysical measurements using hand-held instruments.

\_(3)\_ The owner or occupier of land or the holder of a mineral tenement may -

\_(a)\_ give consent subject to any condition; or

\_(b)\_ withdraw that consent at any time.

\_(4)\_ A holder of a mineral tenement who refuses to give consent

for the holder of a licence to prospect on land which is subject to

the mineral tenement must give that person written reasons for the refusal.

#### \_113. Term of prospecting licence\_

A licence, unless revoked earlier, is in force for a period, not exceeding one year, the Director determines.

#### \_114. Revocation of prospecting licence\_

The Director may revoke a licence if the licensee fails to comply with, or contravenes -

\_(a)\_ any provision of this Act; or

\_(b)\_ any condition of the licence.

#### \_115. Reports and work program\_

The Director may require the holder of a prospecting licence to provide the Director with -

\_(a)\_ a work program relating to any prospecting carried out under

that licence; and

\_(b)\_ reports relating to that prospecting.

### \_Division 2 - Fossicking areas\_

#### \_116. Fossicking areas\_

\_(1)\_ The Minister, by order, may declare any area to be a fossicking area if satisfied that -

\_(a)\_ no other mineral tenement exists in respect of that area; or

\_(b)\_ if another mineral tenement exists in respect of that area,

fossicking in that area is not likely to interfere to any substantial degree with anything done under that mineral tenement.

\_(2)\_ Any person may fossick in a fossicking area without a licence subject to any conditions the Minister determines.

## \_PART 6 - Drill Core and Cutting\_

### \_Division 1 - Exploration and retention licences\_

\_117. Notification by licensee of drill core and cutting recovered\_

\_(1)\_ The holder of an exploration licence or retention licence, by notice in writing, is to notify the Director of any drill core or cutting recovered from land in the licence area.

\_(2)\_ A notice is to -

\_(a)\_ identify, to the satisfaction of the Director, the place from which any drill core or cutting was recovered; and

\_(b)\_ contain the date on which it was recovered.

\_118. Disposal by licensee\_

A licensee must not dispose of a drill core or cutting or that part of it which is not required for assay or other geoscientific investigation except in accordance with any written directions of the Director.

Penalty:

Fine not exceeding 100 penalty units.

\_119. Deposit by licensee of drill core or cutting\_

\_(1)\_ A licensee, unless the drill core or cutting has been disposed of, is to deposit with the Director, at the licensee's expense, the drill core or cutting recovered from land as soon as practicable after the land ceases to be -

\_(a)\_ in a licence area; or

\_(b)\_ the subject of an application for the grant of an exploration licence, a retention licence or a lease.

\_(2)\_ The Director may require the licensee to deposit with the

Director, at the licensee's expense, a drill core or cutting which is stored under section 123.

Division 2 - Mining leases

120. Notification by lessee of drill core and cutting recovered

(1) A lessee, by notice in writing, is to notify the Director of any drill core or cutting recovered from a hole of more than 15 metres in length drilled on land within the lease area.

(2) A notice is to -

(a) identify the location of the drill hole; and

(b) give a detailed account of the material drilled or obtained; and

(c) contain any other information the Director requires.

121. Disposal and deposit by lessee

(1) A lessee must not dispose of a drill core or cutting stored under section 123 unless the lessee has given 3 months' notice in writing to the Director.

Penalty:

Fine not exceeding 100 penalty units.

(2) The Director may require the lessee to deposit with the Director, at the lessee's expense, a drill core or cutting which is stored under section 123.

122. Deposit by lessee of drill core or cutting

A lessee, unless the drill core or cutting has been disposed of, is to deposit with the Director, at the lessee's expense, the drill core or cutting recovered from land as soon as practicable after the land ceases to be -

(a) in a lease area; or

(b) the subject of an application for the grant of a retention licence.

Division 3 - Miscellaneous matters

123. Labelling, storing and preserving of drill core or cutting

\_(1)\_ A licensee or lessee is to label a drill core or cutting or that part of it which is not required for assay or other geoscientific investigation.

\_(2)\_ A licensee or lessee is to label, store and preserve a drill core or cutting in accordance with any requirements the Director determines.

\_(3)\_ This section does not apply if a drill hole is sunk in surface gravel or alluvial ground.

#### \_124. Inspection of drill core and cutting\_

\_(1)\_ A licensee or lessee is to make available any drill core or cutting stored under section 123 for inspection by the Director or any other person authorised by the Director.

\_(2)\_ The Director or other person while inspecting a drill core or cutting may take samples of the drill core and cutting for assay or other geoscientific investigation.

\_(3)\_ The Director is to ensure that any information obtained as a result of an assay or investigation is not published unless -

\_(a)\_ the licensee or lessee consents; or

\_(b)\_ the Minister otherwise directs.

\_(4)\_ Any information obtained as a result of an assay or geoscientific investigation is exempt from the provisions of the Right to Information Act 2009.

#### \_125. Library of drill core and cuttings\_

\_(1)\_ The Director is to maintain a library of drill core and cuttings deposited with the Director.

\_(2)\_ The Director may dispose of any drill core or cutting as the Director thinks fit.

#### \_126. Examination of drill core or cutting\_

\_(1)\_ Subject to subsections (2) and (3), any person may examine any drill core or cutting deposited with the Director at any place the Director thinks fit during normal business hours.

\_(2)\_ A person must not examine a drill core or cutting taken from a licence area and stored with the Director in accordance with a direction under section 118 -

\_(a)\_ while the land from which it was taken -

\_(i)\_ remains in the licence area; or

\_(ii)\_ is the subject of a retention licence or lease without interruption from the date on which the drill core or cutting was taken; or

\_(iii)\_ is the subject of an application for a retention licence or a lease; and

\_(b)\_ without the written approval of the licensee, lessee or the applicant.

\_(3)\_ A person may not examine a drill core or cutting taken from a lease area and stored in accordance with any requirements of the Director under section 123 -

\_(a)\_ while the land from which it was taken -

\_(i)\_ remains in the lease area; or

\_(ii)\_ is the subject of a retention licence without interruption from the date on which the drill core or cutting was taken; or

\_(iii)\_ is the subject of an application for a retention licence; and

\_(b)\_ without the written approval of the lessee, licensee or applicant.

## \_PART 7 - Claims and Appeals\_

### \_Division 1 - Jurisdiction and proceedings\_

#### \_127. Mining Tribunal\_

\_(1)\_ There is established a Mining Division of the Magistrates Court of Tasmania to be known as the Mining Tribunal.

\_(2)\_ For the purposes of exercising its jurisdiction, the Mining Tribunal is to be constituted by a magistrate.

#### \_128. Jurisdiction of Mining Tribunal\_

The Mining Tribunal has jurisdiction to hear and determine

proceedings

relating to any of the following matters:

to a  
\_ (a) \_ the area, dimension or boundary of land which is subject  
to a  
mineral tenement;

a  
\_ (b) \_ the right to the possession or occupation of land under  
a  
licence or lease;

or  
\_ (c) \_ the right to the use and enjoyment of water for exploring  
or  
mining;

is  
\_ (d) \_ trespass or encroachment on, or injury to, land which  
is  
subject to a mineral tenement;

\_ (e) \_ any demand for debt or damages arising out of prospecting,  
exploring or mining;

relating  
\_ (f) \_ any demand for specific performance of any contract  
relating  
to a mineral tenement or mining;

any  
\_ (g) \_ the right to any mineral in, or to be recovered from,  
any  
land which is subject to mineral tenement and the rights under,  
or  
arising out of, any contract relating to any such mineral;

\_ (h) \_ any transfer or disposition of, or charge on, a mineral  
tenement;

\_ (i) \_ any matter concerning -

\_ (i) \_ any partnership or joint venture relating to a mineral  
tenement, prospecting, exploring or mining; or

partnership  
\_ (ii) \_ the existence, formation and dissolution of that  
partnership  
or joint venture; or

partnership  
\_ (iii) \_ the taking of accounts in connection with that  
partnership  
or joint venture; or

or  
\_ (iv) \_ the contributions of the partners as between themselves;

partners;  
\_ (v) \_ the determination of questions arising between the  
partners;

several  
\_ (j) \_ contributions by or between persons holding joint or  
several  
interests in a mineral tenement towards rent or other expenses  
in



relation to a mineral tenement;

\_(k)\_ trespass or encroachment on land as a result of prospecting,  
exploring or mining;

\_(l)\_ trespass or encroachment on, injury to or any matter affecting roads, railways or other property constructed, held or occupied under this Act;

\_(m)\_ the working or management of land which is subject to a mineral tenement;

\_(n)\_ all rights claimed in, under or in relation to a mineral tenement or purported mineral tenement;

\_(o)\_ any interest in, or affecting, a mineral tenement;

\_(p)\_ the unauthorised removal of any mineral from land which is subject to a mineral tenement;

\_(q)\_ the refusal of the holder of an exploration licence to give consent to the holder of a prospecting licence to prospect on land which is subject to the exploration licence;

\_(r)\_ the infringement of, or interference with, any right under this Act;

\_(s)\_ the amount of compensation payable for loss or damage caused to land;

\_(t)\_ any dispute relating to a mineral tenement or former mineral tenement between the holder of the mineral tenement and the owner or occupier of land;

\_(u)\_ any dispute relating to a mineral tenement or former mineral tenement in respect of private land;

\_(v)\_ any appeals and objections under this Act.

#### 129. Claims

\_(1)\_ A person may lodge a claim with the Registrar in relation to a matter referred to in section 128 other than an appeal under this Act.

\_(2)\_ The Registrar is to refer the claim to the Director within

7 days after it is lodged.

130. Claim resolution

(1) The Director is to attempt to resolve any claim lodged under section 129.

(2) Any party to a claim may require the Director to attempt to resolve the claim within 28 days.

(3) A resolution of a claim to the satisfaction of all parties is final and binding on the parties.

(4) The Director is to prepare, and the Registrar is to keep, a record of the terms of the resolution of a claim.

(5) A record of the terms of the resolution of a claim is conclusive evidence of those terms.

(6) The Director is to notify the Registrar if the Director is unable to resolve the claim to the satisfaction of all parties.

(7) The Registrar is to refer a claim to the Mining Tribunal within 7 days of receiving the notification.

131. Hearings and proceedings

(1) The practice and procedure of the Mining Tribunal is to be in accordance with the rules of court applicable to the Magistrates Court (Civil Division).

(1A) The Mining Tribunal is to hear and determine proceedings relating to an appeal under this Act -

(a) by taking into account only the evidence and documents the Minister relied on when he or she made the decision under the Act to which the proceedings relate; or

(b) by way of a new hearing if both parties to the appeal agree.

(2) The Mining Tribunal -

(a) is not bound by the rules of evidence; and

(b) must observe the principles of natural justice.

(3) Any evidence is to be taken on oath or affirmation and recorded.

\_(4)\_ A party to any proceedings may appear before the Mining Tribunal -

\_(a)\_ in person; or

\_(b)\_ by representation by an Australian legal practitioner if-

\_(i)\_ the other parties agree; or

\_(ii)\_ the Mining Tribunal grants leave.

\_(5)\_ Proceedings are not invalid by reason only of -

\_(a)\_ any inaccurate description of a person or place in any document; or

\_(b)\_ any defect or error in any document.

#### \_132. Witnesses\_

A person must not fail to appear as a witness at a hearing when summoned.

Penalty:

Fine not exceeding 10 penalty units.

#### \_133. Orders of Mining Tribunal\_

\_(1)\_ The Mining Tribunal may make any order it considers appropriate -

\_(a)\_ to determine any claim brought before it; or

\_(b)\_ to enforce any order previously made.

\_(2)\_ A certified copy of an order is to be -

\_(a)\_ served on a person; or

\_(b)\_ if the person cannot be found within 7 days after the order is made, published in a newspaper generally circulating in the area to which the order relates.

\_(3)\_ A person must not fail to comply with, or contravene, an order of the Mining Tribunal.

Penalty:

Fine not exceeding 50 penalty units.

\_(4)\_ The Mining Tribunal has the same powers in relation to the

enforcement of its judgments and orders as the Supreme Court has in relation to its judgments and orders.

\_(5)\_ An order of the Mining Tribunal for the payment of any money -

\_(a)\_ is taken to be a judgment of the Magistrates Court (Civil Division); and

\_(b)\_ is enforceable accordingly.

#### \_134. Ejection or seizure\_

\_(1)\_ If a person fails to comply with an order for the delivery to any other person of any thing, the Mining Tribunal, by warrant, may authorise any police officer or person named in the warrant -

\_(a)\_ to eject the person from a mining tenement; or

\_(b)\_ to seize the thing.

\_(2)\_ The costs and expenses incidental to the warrant and any action taken under the warrant are debts -

\_(a)\_ due by the person failing to comply with, or contravening, the order to the person to whom delivery was ordered; and

\_(b)\_ recoverable in the Magistrates Court (Civil Division).

#### \_135. Costs\_

The Mining Tribunal may award or apportion costs in any proceedings.

#### \_136. Register of claims and decisions\_

\_(1)\_ The Mining Tribunal is to keep a register of -

\_(a)\_ the particulars of each claim; and

\_(b)\_ any decision and order it makes.

\_(2)\_ On payment of the prescribed fee, a person may -

\_(a)\_ inspect the register; and

\_(b)\_ obtain a copy of an entry in the register.

#### \_137. Questions of law\_

\_(1)\_ The Mining Tribunal, at the request of any person or of its own initiative, may refer any question of law to the Supreme Court

for its opinion.

in  
\_(2)\_ The Mining Tribunal must not make any decision or order  
respect of a matter on which a question has been referred until  
the  
Supreme Court gives its opinion on the question.

of,  
\_(3)\_ The Supreme Court may make any order as to the costs  
and incidental to, the hearing of the question.

\_138. Transfer of proceedings into Supreme Court\_

\_(1)\_ A party to any proceeding under this Part may apply  
to the  
Supreme Court or a judge for the proceeding to be transferred  
to the  
Supreme Court.

\_(2)\_ An application may be made even if the proceedings  
are  
wholly or partly beyond the jurisdiction of the Supreme Court.

\_(3)\_ The Supreme Court or a judge may order that proceedings  
be  
transferred to the Supreme Court if satisfied that it is desirable  
to  
do so.

\_139. Transfer of proceedings to Mining Tribunal\_

\_(1)\_ A court in which proceedings are taken in respect of  
a  
matter over which the Mining Tribunal has jurisdiction may -

\_(a)\_ stay the proceedings; and

\_(b)\_ make an order transferring the proceedings to the Mining  
Tribunal.

\_(2)\_ An order under subsection (1)(b) may make provision  
as to  
the costs of, and incidental to, the initial proceedings.

\_Division 2 - Appeals\_

\_140. Appeals\_

\_(1)\_ Subject to section 143, a party to proceedings under  
this  
Part may appeal to the Supreme Court against an order of the Mining  
Tribunal.

\_(2)\_ An appeal -

\_(a)\_ is to be made in writing within 28 days after the order  
is

made; and

\_(b)\_ is to state the grounds of the appeal.

\_(3)\_ An appellant is to serve a copy of the notice -

\_(a)\_ on the Mining Tribunal; and

\_(b)\_ on each other party to the proceedings.

\_(4)\_ The Mining Tribunal is to transmit to the Supreme Court all the evidence, notes, reasons and proceedings in relation to the subject matter of the appeal.

\_(5)\_ A notice of appeal does not operate as a stay of proceedings before the Mining Tribunal but the Supreme Court, on the application of any party, may make an order in respect of -

\_(a)\_ the stay of proceedings; or

\_(b)\_ the suspension of mining; or

\_(c)\_ the appointment of receivers.

\_(6)\_ An order staying proceedings lapses on the withdrawal or abandonment of an appeal.

#### \_141. Hearing of appeal\_

An appeal from the Mining Tribunal is to be determined -

\_(a)\_ on the proceedings of the Mining Tribunal; or

\_(b)\_ on the order of the Supreme Court by way of a new hearing; or

\_(c)\_ on the agreement of the parties by way of a new hearing.

#### \_142. Withdrawal and dismissal of appeal\_

\_(1)\_ An appellant may withdraw an appeal at any time.

\_(2)\_ If an appeal is withdrawn or abandoned, the respondent may apply to a judge for the appeal to be dismissed.

\_(3)\_ A judge may -

\_(a)\_ dismiss the appeal; and

\_(b)\_ make an order as to costs of, or incidental to, the appeal.

#### \_143. Exceptions to rights of appeal\_

There is no right of appeal against an order of the Mining Tribunal

in  
respect of -

of  
\_(a)\_ any proceeding in which the parties agree that the order  
of the Mining Tribunal is final; or

the  
\_(b)\_ any matter for which it is provided that the order of  
the Mining Tribunal is final.

\_PART 8 - Compensation\_

\_Division 1 - Private land\_

\_144. Compensation for compensable loss\_

the  
\_(1)\_ Compensation is payable by the licensee or lessee to  
the owner or occupier of private land for any compensable loss suffered  
or likely to be suffered as a consequence of exploration or mining  
under the licence or lease.

\_(2)\_ Compensation is not payable -

land  
\_(a)\_ for the value of any mineral in or under the surface of  
land comprised in a licence or lease; or

the  
\_(b)\_ in respect of any land which became private land after  
the commencement of work or mining on that land under the licence  
or lease.

\_(3)\_ Compensation is payable at a rate -

\_(a)\_ specified in a compensation agreement; or

\_(b)\_ if there is no agreement, determined by the Mining Tribunal  
under section 150.

\_(4)\_ The amount of compensation payable -

or  
\_(a)\_ is not affected by any subsequent change in the ownership  
or occupancy of the land; and

by  
\_(b)\_ must not be greater if the land is owned and occupied  
by different persons than if it is not.

\_145. Compensation agreement for compensable loss\_

the  
\_(1)\_ A licensee or lessee may enter into an agreement with

owner or occupier of land as to the amount of compensation payable under section 144.

\_(2)\_ A compensation agreement is to include the following matters:

\_(a)\_ a description of the proposed work or mining and the location and area of the work or mining;

\_(b)\_ the anticipated date of commencement and anticipated duration of the proposed work or mining;

\_(c)\_ the agreed point or points of entry onto and exit from the land for the purposes of the work or mining;

\_(d)\_ the number and type of vehicles, plant and equipment involved;

\_(e)\_ a description of the facilities and sanitary arrangements to be provided on the land.

#### \_146. Claim for compensation for licences\_

A claim for compensation in respect of an exploration licence or retention licence for compensable loss which is not the subject of a compensation agreement is to be made not later than 3 months after whichever of the following occurs last:

\_(a)\_ work or mining which caused the compensable loss ceases;

\_(b)\_ the licence under the authority of which the compensable loss occurred ceases to be in force;

\_(c)\_ the affected land ceases to be occupied.

#### \_Division 2 - Crown land\_

#### \_147. Compensation for damage to improvements\_

\_(1)\_ Compensation is payable by a licensee or lessee to the Crown for any damage to any improvement on the land carried out by or for the Crown if the improvement was carried out -

\_(a)\_ before the lease or licence was issued; or

\_(b)\_ after consultation with the licensee or lessee.

\_(2)\_ Compensation is payable by a licensee or lessee to a Crown



lessee or Crown licensee for any damage to any improvement on the land  
if -

\_(a)\_ the improvement was approved under the \_Crown Lands Act 1976\_, the \_Forestry Act 1920\_ or the \_Living Marine Resources Management Act 1995\_; and

\_(b)\_ the improvement was carried out -

\_(i)\_ before the lease or licence was issued; or

\_(ii)\_ after consultation with the licensee or lessee.

\_(3)\_ This section applies -

\_(a)\_ to Crown land if a Crown licence or Crown lease in respect of that land has been cancelled because of the damage; and

\_(b)\_ to a person who has ceased to be a licensee or lessee after the damage has occurred.

\_(4)\_ Compensation is payable at a rate -

\_(a)\_ agreed to by the parties under section 148; or

\_(b)\_ if there is no agreement, determined by the Mining Tribunal under section 150.

\_148. Compensation agreement for damage to improvement\_

\_(1)\_ A licensee or lessee may enter into an agreement with a Crown lessee or Crown licensee as to the amount of compensation payable under section 147.

\_(2)\_ A licensee or lessee is to lodge a copy of the agreement with the Director.

\_Division 3 - Public purpose\_

\_149. Compensation for revocation due to public purpose\_

\_(1)\_ Compensation is payable by the Crown to the holder of a lease which is revoked under section 99(1)(b).

\_(2)\_ The holder of the lease may enter into an agreement with the Crown as to the amount of compensation payable.

\_Division 4 - General provisions\_

\_150. Determination of compensation\_

\_(1)\_ If there is no compensation agreement, any person who

is  
the owner or occupier of land, the Crown lessee or Crown licensee,  
the  
holder of a mineral tenement or an applicant for a mineral tenement  
may apply to the Mining Tribunal to determine the amount of  
compensation payable under this Part in regard to land in which  
that  
person has an estate or interest.

\_(2)\_ In determining the amount of compensation payable,  
the  
Mining Tribunal is to take into account any amount previously  
paid for  
compensation.

\_151. Disputes as to compensation payable\_

\_(1)\_ A party to a compensation agreement may apply to the  
Mining Tribunal to determine a dispute arising out of the  
agreement.

\_(2)\_ The Mining Tribunal may determine a dispute only if  
satisfied, after considering evidence put to it, that the party  
has  
attempted to settle the dispute but has been unable to do so because  
-

\_(a)\_ the other party has refused to negotiate a settlement;  
or

\_(b)\_ both parties are unable to settle the dispute.

\_PART 9 - Geoscientific Investigation and Research\_

\_Division 1 - Powers relating to investigation and research\_

\_152. Contracts for investigation and research\_

The Minister may -

\_(a)\_ enter into any contract relating to investigation and  
research of the geology in this State; and

\_(b)\_ do anything necessary or convenient for the purpose of  
this  
Part.

\_153. Geoscientific investigation and research\_

The Minister may -

\_(a)\_ devise plans for investigation and research of the geology  
in  
this State; and

\_(b)\_ arrange for any other person to carry out the investigation  
and research.

\_154. Purchase of plant and equipment\_

or  
\_ (1) \_ The Minister may purchase any plant, machinery, vehicle or equipment necessary or desirable for the purposes of this Part.

or  
\_ (2) \_ The Minister may lease any plant, machinery, vehicle or equipment on any terms and conditions the Minister considers appropriate.

\_155. Surveys\_

The Minister may cause to be carried out any geological, geophysical, geochemical, topographical or other survey necessary or desirable for the purposes of this Part.

\_156. Research\_

The Minister may promote or undertake any research or inquiry relating to -

- \_ (a) \_ the treatment of any mineral or earth; and
- \_ (b) \_ the marketing of any mineral or earth; and
- \_ (c) \_ the remediation of any land affected by mining.

\_157. Drilling operations\_

\_ (1) \_ The Minister may authorise any person to carry out

- \_ (a) \_ percussion drilling operations; or
- \_ (b) \_ diamond drilling operations; or
- \_ (c) \_ any other boring operations.

the  
\_ (2) \_ Any operations carried out on land administered by the Minister responsible for the administration of the National Parks and Reserves Management Act 2002 are to be carried out in accordance with any management plan in respect of that land.

\_158. Appointment of employees\_

Subject to and in accordance with the State Service Act 2000, persons may be appointed or employed for the purposes of this Part.

\_Division 2 - Financial provisions\_

159. Geoscientific Investigation and Research Trust Fund

(1) There is established in Treasury a Geoscientific Investigation and Research Trust Fund.

(2) The Geoscientific Trust Fund consists of -

(a) any money appropriated by Parliament for the purpose of this Part; and

(b) any money received for the hire of any plant, machinery, vehicle or equipment under this Part; and

(c) any other money received for the purpose of this Part; and

(d) any money the Treasurer directs to be paid into the Geoscientific Trust Fund.

160. Application of Geoscientific Trust Fund

Any money in the Geoscientific Trust Fund is to be applied for -

(a) any specified geoscientific investigation or research; or

(b) any survey carried out under section 155; or

(c) any inquiry under section 156; or

(d) any application for financial assistance; or

(e) any other purpose the Minister directs.

161. Financial assistance

(1) A person may apply to the Minister for financial assistance in carrying out any investigation and research under this Part.

(2) An application is to -

(a) be in writing; and

(b) contain any details the Minister requires; and

(c) be lodged with the Director.

(3) The Minister may -

(a) grant the application, subject to any condition the Minister considers appropriate; or

(b) refuse to grant the application.

\_(4)\_ The Minister, by notice in writing, must notify the applicant of -

\_(a)\_ the grant of an application; or

\_(b)\_ the refusal to grant the application and the reasons for the refusal.

#### PART 9A - Landslip Areas

##### 161A. Interpretation

In this Part -

A landslip area means an area of land declared under section 161B(1) to be an A landslip area;

affected owner means an owner of land that is likely to be affected by the making of an order under section 161B(1);

B landslip area means an area of land declared under section 161B(1) to be a B landslip area;

landslip area means an area of land declared under section 161B(1) to be an A landslip area or B landslip area.

##### 161B. Declaration of landslip areas

\_(1)\_ The Minister on the recommendation of the Director, by order, may declare an area of a municipal area to be an A landslip area or a B landslip area.

\_(2)\_ The Director may make a recommendation under subsection (1) if satisfied that the specified area is subject to earth movement because of inherent instability.

\_(3)\_ The Director must give the council of the relevant municipal area written notice of his or her intention to recommend the making of an order under subsection (1).

\_(4)\_ The council of the relevant municipal area, within 30 days after receiving the Director's notice, may notify the Director in writing that the council objects to the intended recommendation.

\_(5)\_ The Director must give each affected owner within the proposed landslip area written notice of -

\_(a)\_ his or her intention to recommend the making of the order; and

\_(b)\_ the effect that the making of the order would have; and

\_(c)\_ the affected owner's right to object to the intended recommendation.

\_(6)\_ An affected owner, within 30 days after receiving the Director's notice, may notify the Director in writing that the affected owner objects to the intended recommendation.

\_(7)\_ A notice under subsection (3) or (5) must adequately identify the proposed landslip area.

\_(8)\_ Before making a recommendation under subsection (1), the Director must -

\_(a)\_ consider each objection notified under subsection (4) or (6);  
and

\_(b)\_ notify each objecting affected owner, and the relevant council, of the outcome of the objection.

\_(9)\_ Subsections (3), (4), (5), (6), (7) and (8) do not apply if the Director reasonably considers that an order under subsection (1) should be made urgently.

\_(10)\_ An order under subsection (1) takes effect on the day specified in the order, being a day that is at least 30 days after its making is notified in the Gazette.

#### 161C. Registration of landslip area order

\_(1)\_ As soon as practicable after making an order under section 161B, the Minister must cause it to be registered by -

\_(a)\_ for land in the landslip area that is under the Land Titles Act 1980, lodging with the Recorder of Titles a copy of the order and a statement signed by the Minister specifying the titles affected by the order; and

\_(b)\_ for other land in the landslip area, filing with the Recorder of Titles a certified copy of the order under the Registration of Deeds Act 1935 as if it were an instrument to which the Minister is a party.

\_(2)\_ The Recorder of Titles must record the particulars of an order registered under subsection (1)(a) on all titles to land affected by the order.

\_(3)\_ An order recorded on a title to land is an interest

for  
the purposes of section 40 of the Land Titles Act 1980.

(4) The Director must -

(a) endorse a certified copy of an order registered under subsection (1)(b) with a statement that the order has been registered under this section; and

(b) keep it and all other relevant documents relating to the order.

161D. Revocation or amendment of landslip area order

(1) The Minister on the recommendation of the Director may, by order -

(a) revoke an order made under section 161B; or

(b) amend the order by -

(i) changing the category of the landslip area; or

(ii) altering the area of the landslip area.

(2) The Minister must cause an order under subsection (1) to be registered in accordance with section 161C as soon as practicable after making the order.

(3) The provisions of sections 161B and 161C apply to an order under this section by which -

(a) land that is not part of a landslip area becomes part of one;  
or

(b) land in a B landslip area becomes part of an A landslip area.

## PART 10 - Miscellaneous

Division 1 - Matters relating to licences, leases and mining

162. Priority between applications for leases and licences

If applications for a lease and an exploration licence, retention licence or special exploration licence are received on the same day,  
the Minister is to determine the priority of applications.

162A. Licences not personal property for purposes of Personal Property Securities Act 2009 of the Commonwealth

A licence in force under this Act is not personal property for

the  
purposes of section 8(1)(k) of the Personal Property Securities  
Act  
2009\_ of the Commonwealth.

163. Fossil sites\_

\_(1)\_ The Minister, by order, may declare any area to be  
a  
fossil site.

\_(2)\_ A person must not collect any fossil from a fossil  
site -

\_(a)\_ without the Director's written approval; or

\_(b)\_ otherwise than in accordance with that approval.

Penalty:

Fine not exceeding 50 penalty units.

\_(3)\_ The Director may give an approval subject to any terms  
and  
conditions.

164. Speleothems\_

\_(1)\_ A person must not disturb, collect or remove any  
speleothem from a cave -

\_(a)\_ without the Director's written approval; or

\_(b)\_ otherwise than in accordance with that approval.

Penalty:

Fine not exceeding 50 penalty units.

\_(2)\_ The Director may give an approval subject to any terms  
and  
conditions.

165. Aerial geophysical surveys\_

\_(1)\_ A person must not carry out or cause to be carried  
out any  
aerial geophysical surveys over land without the Director's  
approval.

Penalty:

Fine not exceeding 500 penalty units.

\_(2)\_ The Director may require any person to provide the  
Director with a copy of any data or report of any survey carried  
out  
under subsection (1).



(1)            \_(3)\_ The person who carries out a survey under subsection  
must offer to sell or give the holder of a mineral tenement in  
respect  
of land to which the survey relates copies of any data and reports  
of  
that survey.

Penalty:

Fine not exceeding 100 penalty units.

              \_(4)\_ The Minister, on the advice of the Director, is to  
determine any dispute relating to the selling or giving of data  
and  
reports under subsection (3).

#### \_166. Encroachment on adjoining land\_

              \_(1)\_ If the holder of a mineral tenement needs to encroach  
on,  
or make use of, any adjoining land in order to exercise any rights  
under the mineral tenement, the holder may -

              \_(a)\_ apply for the appropriate mineral tenement, if a mineral  
tenement is not already in force in respect of that land; or

              \_(b)\_ apply to the Mining Tribunal for an order permitting the  
encroachment or use of that land, if a mineral tenement is in  
force  
in respect of that land.

              \_(2)\_ The Mining Tribunal may make the order subject to any  
conditions.

#### \_167. Encroachment of water\_

              \_(1)\_ Any person may apply to the Mining Tribunal for an  
order  
authorising a suitably qualified person to survey or inspect any  
land  
on which water has encroached, or is likely to encroach, as a  
result  
of any mining operations.

              \_(2)\_ The Mining Tribunal may make the order subject to any  
conditions.

              \_(3)\_ A person authorised by the order may enter on any land,  
mine or building to -

              \_(a)\_ make any survey or inspection; and

              \_(b)\_ use any engines, machinery and appliances that are in  
the  
mine.

\_(4)\_ The owner or person in charge of a mine must not hinder, obstruct or delay a person from exercising any powers under subsection (3).

Penalty:

Fine not exceeding 50 penalty units.

\_(5)\_ A person making a survey or inspection must not divulge any confidential information acquired in the course of the survey or inspection unless the person -

\_(a)\_ is required also to give effect to the order of the Mining Tribunal; or

\_(b)\_ has the written consent of the owner of the mine; or

\_(c)\_ is required to do so in any legal proceedings.

Penalty:

Fine not exceeding 50 penalty units.

\_168. Use of surface water\_

A licensee may use surface water sufficient for drilling if drilling is part of a work program.

\_169. Construction of roads\_

The Minister may cause to be constructed, reconstructed, repaired and maintained any road, track, river crossing or other means of communication the Minister considers necessary or convenient for the purposes of this Act.

\_170. Installation of buildings and facilities\_

The Minister may cause to be erected, installed and maintained any building, structure, plant, machinery, equipment and facility necessary or convenient for the purposes of this Act.

\_171. Entry on land\_

\_(1)\_ A person employed by the Department for the purposes of any geological, geophysical or other scientific investigation may -

\_(a)\_ enter on land, with or without assistants, vehicles or drilling machinery; and

\_(b)\_ open fences and gates; and

\_(c)\_ dig or drill holes; and

\_(d)\_ let off explosives; and

\_(e)\_ do anything else necessary for those purposes.

\_(2)\_ Before exercising any power under subsection (1), a person must -

\_(a)\_ obtain the written authorisation of the Director; and

\_(b)\_ give the occupier reasonable notice of the intention to do so.

\_(3)\_ The Crown must compensate the owner or occupier for any damage caused in the exercise of any power under subsection (1) for an amount -

\_(a)\_ agreed between it and the owner or occupier; or

\_(b)\_ if there is no agreement, determined as a disputed claim for compensation under the Land Acquisition Act 1993.

#### 172. Acquisition and sale of land

\_(1)\_ The Minister may acquire private land which is not the subject of a lease under the Land Acquisition Act 1993 for the purposes of this Act.

\_(2)\_ A purpose for which land is acquired under this section is a public purpose within the meaning of the Land Acquisition Act 1993.

\_(3)\_ A person may apply for a mineral tenement in respect of land acquired under this section.

\_(4)\_ The Minister may sell land acquired under this section in accordance with section 73 of the Land Acquisition Act 1993 as if the Minister were an acquiring authority.

#### 173. Seizure of minerals taken from Crown land

\_(1)\_ The Director may authorise a person or an inspector to seize and detain any minerals which have been taken unlawfully.

\_(2)\_ Any person who claims an interest in any minerals seized

may apply to the Director for their return.

not  
\_(3)\_ The Minister may direct that any minerals which are claimed after seizure be sold or otherwise dealt with in any manner the Minister determines.

\_174. Removal of persons\_

held  
\_(1)\_ A police officer or inspector may remove from land under a mineral tenement a person who, without the consent of the holder of the mineral tenement -

\_(a)\_ is mining on that land; or

\_(b)\_ is taking or removing any minerals from the land.

\_(2)\_ In exercising a power under subsection (1), a police officer or inspector may use any force that is reasonable to remove the person.

\_175. Interest in mineral tenement\_

\_  
\_(1)\_ The interest of any person in a mineral tenement passes

\_(a)\_ to his or her personal representative, on death; or

\_(b)\_ to the trustee or liquidator, in the case of a bankruptcy.

mineral  
\_(2)\_ If a person has made a bequest of an interest in a tenement in his or her will, the executor or administrator is to notify the Director of that bequest within 7 days after assenting to the bequest.

\_176. Legal or equitable interest\_

mineral  
\_(1)\_ A legal or equitable interest in or affecting any tenement is of no effect unless -

\_(a)\_ it is created or dealt with by a written instrument; and

\_(b)\_ the written instrument is approved by the Minister; and

\_(c)\_ the interest is in favour of -

\_(i)\_ any person 18 years of age or more; or

\_(ii)\_ a body corporate; or

\_(iii)\_ a combination of such a person and a body corporate.

a           \_(2)\_ A person may apply to the Minister for approval of  
written instrument referred to in subsection (1).

          \_(3)\_ An application is to -

    \_(a)\_ be in an approved form; and

    \_(b)\_ be accompanied by the prescribed fee; and

    \_(c)\_ contain any information the Minister requires; and

    \_(d)\_ be lodged with the Registrar.

          \_(4)\_ The Minister may -

    \_(a)\_ grant the application subject to any condition the Minister  
considers appropriate; or

    \_(b)\_ refuse to grant the application.

          \_(5)\_ The Minister, by notice in writing, must notify the  
applicant of -

    \_(a)\_ the grant of the application; or

    \_(b)\_ the refusal to grant the application and the reason for  
the refusal.

\_177. Lost licence or lease\_

a           \_(1)\_ A licensee or lessee may apply to the Director for  
duplicate licence or lease if the original has been lost or  
destroyed.

          \_(2)\_ The Director may issue a duplicate of a licence or  
lease if satisfied that -

    \_(a)\_ the original licence or lease has been lost or destroyed;  
and

    \_(b)\_ the term of the original licence or lease has not expired.

\_178. Invalidated licence or lease\_

          \_(1)\_ A licensee or lessee whose licence or lease is  
invalidated because of native title being determined in respect of the licence  
area or lease area has exclusive right to apply for a new licence  
or lease in respect of that area.

          \_(2)\_ An exclusive right to apply for a new licence or lease  
under subsection (1) is in force for a period of 12 months from  
the

date on which the former licence or lease is invalidated or until an application has been made under this section, whichever is the earlier.

179. Leases and licences in respect of Aboriginal land

The Minister may not grant a lease or licence in respect of Aboriginal land, within the meaning of the Aboriginal Lands Act 1995, without the agreement of the Aboriginal Land Council of Tasmania established under that Act.

Division 2 - Rehabilitation of abandoned mining lands

180. Contracts for rehabilitation of mining lands

The Minister may -

(a) cause any abandoned mining land or land affected by former exploration activities to be rehabilitated; and

(b) enter into any contract relating to the environmental rehabilitation of any abandoned mining land or land affected by former exploration activities.

181. Rehabilitation of Mining Lands Trust Fund

(1) There is established in Treasury a Rehabilitation of Mining Lands Trust Fund.

(2) The Rehabilitation Trust Fund consists of -

(a) any money appropriated by Parliament for the purposes of this Part; and

(b) any money received from the sale of any building, machinery or property vested in the Crown under section 105(4); and

(c) any security deposit or part of a security forfeited by the Minister under section 198; and

(d) any other money received for the purpose of this Part; and

(e) any money the Treasurer directs to be paid into the Rehabilitation Trust Fund.

182. Application of Rehabilitation Trust Fund

Any money in the Rehabilitation Trust Fund is to be applied for the purpose of this Part.

Division 3 - Caveats

183. Lodgment

(1) Any person with an interest in a mineral tenement may lodge with the Registrar a caveat forbidding the approval of any transfer or other dealing affecting that mineral tenement.

(2) A caveat is to -

(a) be in an approved form; and

(b) state details of the interest claimed; and

(c) state the full name and address of the caveator; and

(d) state an address within the State for the service of notices and proceedings; and

(e) be accompanied by the prescribed fee.

(3) A person must not lodge successive caveats in respect of the same interest without the Minister's approval.

184. Notice of lodgment

(1) On receipt of a caveat lodged under section 183, the Registrar is to inform the holder of the mineral tenement affected of the caveat of the lodgment.

(2) A notice is to be -

(a) in writing; and

(b) sent by registered post.

(3) The holder of the mineral tenement affected may appeal to the Mining Tribunal against the caveat within 14 days after receipt of the notice.

185. Duration of caveat

(1) A caveat takes effect on the date on which it is lodged.

(2) A caveat ceases to have effect -

(a) if the Mining Tribunal orders its removal, on the date of that order; or

(b) if the caveat is withdrawn, on the date of that withdrawal; or

62 or  
93.  
\_(c)\_ if an application is made to transfer a licence or lease,  
within 14 days after the date of a notice under section 32,

\_186. Caveats under agreement\_

\_(1)\_ If the holder of a mineral tenement or an applicant  
for a lease enters into an agreement with any person for the sale of  
any interest in the mineral tenement or application, either party  
may lodge a caveat.

\_(2)\_ A caveat under subsection (1) is to be -

\_(a)\_ in accordance with section 183(2); and

\_(b)\_ accompanied by a copy of the agreement.

\_(3)\_ A caveat lodged under this section remains in force

\_(a)\_ for the period specified in the agreement, unless sooner  
withdrawn by the consent of the parties; or

\_(b)\_ until removed by order of the Mining Tribunal.

\_Division 4 - Records and confidentiality\_

\_187. Records kept by licensee\_

\_(1)\_ A licensee is to keep up-to-date records of any  
exploration carried out under the licence.

\_(2)\_ A licensee is to ensure that records contain the  
following:

\_(a)\_ details of any exploration carried out;

\_(b)\_ the costs of any exploration carried out;

\_(c)\_ any other details the Director requires.

\_188. Records kept by lessee\_

\_(1)\_ A lessee must keep up-to-date records of any  
exploration and mining carried out under the lease.

\_(2)\_ A lessee is to ensure that records contain the  
following:

\_(a)\_ the quantities and values of products sold or held in  
stock;

\_(b)\_ the quantities of ore and waste mined and ore treated;



\_(c)\_ the sources of ore and waste mined and details of waste disposed of;

\_(d)\_ details of any mine development undertaken;

\_(e)\_ details of any process development;

\_(f)\_ a breakdown of any capital expenditure;

\_(g)\_ the operating costs of any mining and exploration carried out;

\_(h)\_ details of the workforce;

\_(i)\_ details of on-lease exploration as the Director requires;

\_(j)\_ details of ore reserves and resources in accordance with the standards as published by the Australian Institute of Mining and Metallurgy.

#### \_189. Copies of records\_

A licensee or lessee is to -

\_(a)\_ submit to the Director a copy of records kept under this Part as and when required by the Director; and

\_(b)\_ permit the Director to examine any record.

#### \_190. Confidentiality of records\_

\_(1)\_ Any records submitted to the Director under this Part are to be kept confidential for the following periods:

\_(a)\_ records relating to any exploration carried out under an exploration licence, for whichever of the following is the shorter:

\_(i)\_ a period of 5 years from the date on which the records are required to be submitted;

\_(ii)\_ the period during which the licence is in force;

\_(b)\_ records relating to any exploration carried out under a retention licence, the period during which the licence is in force up to a maximum of 5 years;

\_(c)\_ records relating to any exploration and mining carried out

under a lease, the period during which the lease is in force.

\_(2)\_ Records are to be kept confidential after the licence ceases to be in force if -

is  
\_(a)\_ an application for the extension of the term of a licence made during its currency; and

\_(b)\_ no more than 5 years have elapsed since the records were required.

\_(3)\_ The Minister may extend the period during which records are to be kept confidential.

\_(4)\_ This section does not apply to any records which -

\_(a)\_ the licensee or lessee agrees may be made public; or

\_(b)\_ deal exclusively with exploration carried out in any area which is no longer comprised in the licence or lease.

\_(5)\_ The Right to Information Act 2009 does not apply to any records for the period during which they are to be kept confidential under this section.

#### 191. Publication of records

\_(1)\_ The Minister may arrange for any records to be published, printed, adapted or reproduced at any time after the period during which they are to be kept confidential expires.

\_(2)\_ Any records published, printed, adapted or reproduced under subsection (1) are to contain a statement acknowledging any person's copyright in the records.

#### Division 5 - Register

#### 192. Mining register

\_(1)\_ The Registrar is to keep a mining register.

is  
\_(2)\_ The Registrar, by any means approved by the Director, to register the following:

\_(a)\_ licences;

\_(b)\_ leases;

\_(c)\_ subleases;

\_(d)\_ notices to forgo an exclusive right to apply for a lease;

\_(e)\_ notices to forgo an exclusive right to apply for a retention

licence;

and  
\_(f)\_ certificates of exemption from conditions of licences  
leases;

\_(g)\_ transfer of licences and leases;

\_(h)\_ variation of licences and leases;

\_(i)\_ extension of licences and leases;

\_(j)\_ surrender of licences and leases;

\_(k)\_ revocation of licences and leases;

\_(l)\_ compensation agreements;

\_(m)\_ caveats;

\_(n)\_ any legal or equitable interest;

\_(o)\_ any other prescribed matter.

#### \_193. Correction of register\_

the  
\_(1)\_ The Registrar may correct any error or omission in  
register by -

\_(a)\_ inserting an entry; or

\_(b)\_ amending an entry; or

\_(c)\_ deleting an entry.

or  
\_(2)\_ The Registrar is to notify the appropriate licensee  
lessee of any correction made to the register that may affect  
any  
licence or lease issued under this Act.

#### \_194. Inspection of register\_

\_(1)\_ The Registrar is to make the register available for  
inspection during normal business hours.

\_(2)\_ Any person, on payment of the prescribed fee, may -

\_(a)\_ inspect the register; and

\_(b)\_ obtain an extract of an entry in the register; and

\_(c)\_ obtain a copy of anything registered in the register.

#### \_Division 6 - Fees and deposits\_

#### \_195. Refund of application fee\_

The Director may refund a fee paid in respect of an application for a licence or lease if -

\_(a)\_ the application is unsuccessful; and

\_(b)\_ the Director is of the opinion there is sufficient reason to do so.

196. Use of security deposit

\_(1)\_ The Minister may use any amount of a security deposit provided by a licensee or lessee for the following purposes:

\_(a)\_ to remedy any damage to private property if the licensee or lessee fails to pay compensation under Part 8;

\_(b)\_ to mitigate any damage to the environment caused by mining operations or exploration.

\_(2)\_ The Minister may draw any amount of security deposit provided by a licensee if the licensee fails to carry out a work program in respect of the licence.

197. Refund of security deposit

\_(1)\_ The Minister may refund the balance of any security deposit remaining after any amount has been used under section 196.

\_(2)\_ The Minister must not refund the balance until whichever of the following occurs last:

\_(a)\_ if a claim for compensation is not made within the period specified in section 146, at the end of the period;

\_(b)\_ if a claim for compensation is made within that period, after the Mining Tribunal determines the amount of compensation under section 150.

198. Forfeiture of security deposit

A licensee or lessee may forfeit any security deposit or part of a security deposit -

\_(a)\_ if the licensee or lessee fails to comply with a condition of the licence or lease; or

\_(b)\_ if the Minister revokes the licence or lease; or

\_(c)\_ for any other reason the Minister determines.

Division 7 - Miscellaneous matters

199. Evidence

(1) A certificate issued by the Director certifying as to any matter in the register is evidence of that matter.

(2) The issue of a licence or lease under this Act is evidence of compliance with any condition precedent to that issue.

200. Atomic substance

The Minister, by order, may declare a substance to be an atomic substance for the purposes of this Act.

201. Delegations

(1) The Minister may delegate to the Director any powers or functions of the Minister under this Act, other than this power of delegation.

(2) The Director may delegate to any person any powers or functions of the Director or Registrar under this Act, other than this power of delegation.

202. False and misleading statements

A person, in giving any information or making any return under this Act, must not -

(a) make a statement knowing it to be false or misleading; or

(b) omit any matter from a statement knowing that without that matter that statement is misleading.

Penalty:

Fine not exceeding 50 penalty units.

203. Orders to be Statutory Rules

Any order made under this Act is a statutory rule within the meaning of the Rules Publication Act 1953.

204. Code of practice

(1) The Minister may approve a Code of practice for the practical guidance of persons involved in exploration, mining operations, prospecting or fossicking.

\_(2)\_ A Code of practice may -

\_(a)\_ consist of any code, standard, rule, specification or provision relating to exploration, mining operations, prospecting

or fossicking, prepared or adopted by the Director; and

\_(b)\_ apply, incorporate or refer to any document formulated or published by any body or authority as in force at the time the Code

of practice is approved or as amended, formulated or published.

\_(3)\_ The Minister may -

\_(a)\_ approve any revision of the whole or part of a Code of practice; or

\_(b)\_ revoke a Code of practice.

\_(4)\_ Before approving a Code of practice or the revision of the whole or part of a Code of practice or before revoking a Code of practice, the Minister must -

\_(a)\_ consult with any person or organisation the Minister considers appropriate having regard to the application of the Code of practice; and

\_(b)\_ by notice published in the Gazette and in 3 daily newspapers published and circulating in the State, give 28 days' notice of the intention to approve the Code of practice or the revision or revocation of the Code of practice.

\_(5)\_ The Minister must give notice in the Gazette and in 3 daily newspapers published and circulating in the State of -

\_(a)\_ the approval of a Code of practice; or

\_(b)\_ the approval of the revision of the whole or part of a Code of practice; or

\_(c)\_ the revocation of a Code of practice.

\_(6)\_ A notice under subsection (5) is not a statutory rule within the meaning of the Rules Publication Act 1953.

\_(7)\_ The Minister must make available in the Department for inspection by members of the public without charge during normal office hours a copy of -

\_(a)\_ every approved Code of practice; and

\_(b)\_ if an approved Code of practice is revised and the revision is approved, the approved Code of practice as so revised; and

\_(c)\_ if an approved Code of practice applies, incorporates or refers to any other document, that other document.

\_(8)\_ An approved Code of practice and any approved version of a Code of practice have effect on the day on which notice of the approval is published in the \_Gazette\_.

\_(9)\_ An approved Code of practice ceases to have effect on the day on which notice of the revocation is published in the \_Gazette\_.

\_(10)\_ A person is not liable to any civil or criminal proceedings only because the person has failed to observe any provision of an approved Code of practice.

#### \_205. Regulations\_

\_(1)\_ The Governor may make regulations for the purposes of this Act.

\_(2)\_ The regulations may be made so as to apply differently according to matter, limitation, restriction, exception or circumstance specified in the regulations.

\_(3)\_ The regulations may adopt, either wholly or partly and with or without modification, any standards, rules, codes or specifications of any body, organisation or association.

\_(4)\_ The regulations may -

\_(a)\_ authorise any matter to be determined, applied or regulated by a specified person or body; and

\_(b)\_ confer a power or impose a duty on a specified person or class of person.

\_(5)\_ The regulations may -

\_(a)\_ provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and

\_(b)\_ in respect of such an offence, provide for the imposition of a fine not exceeding 10 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.

\_(6)\_ Regulations made for the purpose of section 102(1B)

may  
take effect retrospectively.

206. Repeal

The Acts specified in Schedule 1 are repealed.

207. Savings and transitional provisions

The savings and transitional provisions specified in Schedule 2 apply.

208. Administration of Act

Until provision is made in relation to this Act by order under section

4 of the Administrative Arrangements Act 1990 -

(a) the administration of this Act is assigned to the Minister for State Development and Resources; and

(b) the Department responsible to the Minister for State Development and Resources in relation to the administration of this

Act is Tasmania Development and Resources.

SCHEDULE 1 - Repeals

Section 206

Aid to Mining Act 1927 (18 Geo. V No. 47)

Mining Act 1929 (20 Geo. V No. 71)

Mining Act 1958 (No. 70 of 1958)

Mining Amendment (Beaconsfield Gold Mine) Act 1988 (No. 56 of 1988)

Mining Amendment Act 1989 (No. 21 of 1989)

Mineral Resources Act 1951 (No. 25 of 1951)

SCHEDULE 2 - Savings and Transitional Provisions

Section 207

1. Interpretation

In this Schedule -

commencement day means the day on which this Act commences;

repealed Act means the Mining Act 1929.

2. Contracts and agreements

Any contract or agreement made under the repealed Act before the



commencement day is, on or after that day, enforceable as if it were made under this Act.

### 3. Appeals and objections

(1) Any appeal instituted under the repealed Act and not heard or determined before the commencement day may, on or after that day, be heard and determined under the repealed Act.

(2) Any objection made under the repealed Act and not heard or determined before the commencement day may, on or after that day, be heard and determined under the repealed Act.

### 4. Proceedings

Any proceedings instituted under the repealed Act and not heard or determined before the commencement day may, on or after that day, be heard and determined under the repealed Act.

### 5. Land and minerals exemptions

Any land or mineral exempted under the repealed Act from the provisions of that Act before the commencement day is, on that day, exempted from the provisions of this Act until an order is made under section 5(4) of this Act.

### 6. Public reserves

Any public reserve declared under the repealed Act to be land to which that Act applied before the commencement day is, on that day, land to which this Act applies.

### 7. Exploration licences

(1) The following rights and entitlements in force under the repealed Act immediately before the commencement day are, on that day, exploration licences under this Act:

- (a) exploration licence;
- (b) prospector's licence;
- (c) owner's right;
- (d) owner's consent.

to in  
subclause (1) made under the repealed Act and not determined before  
the commencement day may, on and after that day, be determined  
as if  
it were an application for an exploration licence under this Act.

#### 8. Retention licences

retention  
licence under this Act.  
\_(1)\_ A retention licence in force under the repealed Act  
immediately before the commencement day is, on that day, a

on  
and after that day, be determined as if it were an application  
for a  
retention licence under this Act.  
\_(2)\_ An application for a retention licence made under the  
repealed Act and not determined before the commencement day may,

#### 9. Mining leases

the  
repealed Act immediately before the commencement day are, on that  
day,  
mining leases under this Act:  
\_(1)\_ The following rights and entitlements in force under

- \_(a)\_ mining lease;
- \_(b)\_ mining easement;
- \_(c)\_ dam site easement;
- \_(d)\_ tailings easement;
- \_(e)\_ housing easement.

to in  
subclause (1) made under the repealed Act and not determined before  
the commencement day may, on and after that day, be determined  
as if  
it were an application for a mining lease under this Act.  
\_(2)\_ An application for a right or entitlement referred

#### 10. Subleases

under this Act.  
\_(1)\_ A tribute or sublease in force under the repealed Act  
immediately before the commencement day is, on that day, a sublease

the  
repealed Act and not determined before the commencement day may,  
on  
and after that day, be determined as if it were an application  
\_(2)\_ An application for a tribute or sublease made under

for a  
sublease under this Act.

11. Conditions

Any right or entitlement which is an exploration licence, a retention

licence, a mining lease or a sublease by virtue of this Schedule

-

(a) is subject to the same terms, conditions, covenants and exemptions as it was under the repealed Act; and

(b) continues in force for the remainder of the period for which

it was granted, issued or renewed.

Table Of Amendments

Act Number and year	Date of commencement
Mineral Resources Development Act 1995 No. 116 of 1995	1.7.1996
State Service (Consequential and Miscellaneous Amendments) Act 2000 No. 86 of 2000	1.5.2001
Mineral Resources Development Amendment Act 2001 No. 74 of 2001	30.10.2001
Legislation Publication Act 1996 No. 17 of 1996	10.4.2002
National Parks and Wildlife Separation (Consequential Amendments) Act 2002 No. 64 of 2002	31.12.2002
Mineral Resources Development Amendment (New Landslip Zoning Arrangements) Act 2003 No. 24 of 2003	4.6.2003
Justice (Delegated Legislation) Act 2003 No. 6 of 2003	1.7.2003
Mineral Resources Development Amendment Act 2006 No. 38 of 2006	18.12.2006
Legal Profession (Miscellaneous and Consequential Amendments) Act 2007 No. 66 of 2007	31.12.2008
Right to Information (Consequential and Transitional) Act 2009 No. 54 of 2009	1.7.2010
Personal Property Securities (National Uniform Legislation) Implementation Act 2011 No. 2 of 2011	30.1.2012

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CURRENT VIEW: 30 Jan 2012 -     

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VIEW THE SESSIONAL VERSION

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