



ANNO TRICESIMO SEPTIMO

ELIZABETHAE II REGINAE

A.D. 1988

No. 86 of 1988

An Act to amend the Mining Act, 1971

[Assented to 1 December 1988]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Mining Act Amendment Act, 1988*.
- (2) The *Mining Act, 1971*, is in this Act referred to as "the principal Act".

Commencement

2. This Act shall come into operation on a day to be fixed by proclamation.

Interpretation

3. Section 6 of the principal Act is amended—

(a) by inserting before the definition of "authorized person" the following definition:

"the appropriate court" means—

(a) the Land and Valuation Court;

or

(b) in relation to proceedings that do not involve a claim in excess of \$100 000—the Warden's Court;

and

(b) by striking out the definition of "owner" and substituting the following definition:

"owner" of land means—

(a) a person who holds a registered estate or interest in the land entitling that person to immediate possession of the land;

(b) a person who has, by virtue of statute, the care, control or management of the land;

or

(c) a person who is lawfully in occupation of the land.

Application of Act

4. Section 7 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) This Act does not regulate mining operations for the recovery of extractive minerals, or require payment of royalty in respect of extractive minerals recovered in the course of such operations, where the operations are authorized under some other Act.

Exempt land

5. Section 9 of the principal Act is amended—

(a) by striking out from subsection (1) “prospecting or mining upon that land” and substituting “prospecting, exploring or mining upon such land (but this section does not prevent the pegging out of a claim upon such land)”;

(b) by striking out from paragraph (b) of subsection (3) “the Land and Valuation Court” and substituting “the appropriate court”;

(c) by striking out from subsection (3a) “Court” and substituting “appropriate court”;
and

(d) by inserting after subsection (4) the following subsection:

(5) In this section—

“mining operations” include any operations or activity for which a miscellaneous purposes licence may be granted.

Private mine

6. Section 19 of the principal Act is amended by striking out from subsection (1) “this section, be exempt” and substituting “this section and any other section that explicitly applies to a private mine or the operator of such a mine, be exempt”.

Rights of holder of permit

7. Section 44 of the principal Act is amended by striking out subsections (3), (4) and (5) and substituting the following subsection:

(3) A person is not entitled to be the holder simultaneously of more than one precious stones claim.

Registration of claims

8. Section 46 of the principal Act is amended—

(a) by striking out subsection (6) and substituting the following subsection:

(6) The registration of a precious stones claim must be renewed as from—

(a) the date falling three months after it was first registered;

and

(b) each anniversary of that date;

and

(b) by inserting after subsection (9) the following subsection:

(10) A precious stones claim may, subject to this Act, be surrendered in accordance with the regulations.

Insertion of section 51a

9. The following section is inserted after section 51 of the principal Act:

Unlawful entry on precious stones claim

51a. (1) Subject to subsection (2), a person must not, without lawful authority or excuse, enter or remain on land comprising, or comprised in, a precious stones claim, without first obtaining the permission of the owner of the claim.

Penalty: \$1 000.

(2) This section does not apply to—

(a) a police officer acting in the course of carrying out official duties;

or

(b) any other officer appointed pursuant to statute acting in the course of carrying out official duties.

(3) This section does not affect any civil liability.

Grant of licence

10. Section 52 of the principal Act is amended—

(a) by striking out subsection (2);

and

(b) by inserting after subsection (4) the following subsections:

(5) A miscellaneous purposes licence cannot be granted over an area of land exceeding the maximum permissible area prescribed by the regulations.

(6) A miscellaneous purposes licence must provide for the payment, by way of rental, of such sums as may be prescribed.

(7) Where a miscellaneous purposes licence has been granted in respect of freehold land, the amount paid to the Minister by way of rental under the licence must, after deduction of 1/20 of that amount, be paid to the person who holds an estate of fee simple in the land.

Substitution of section 53

11. Section 53 of the principal Act is repealed and the following section is substituted:

Application for licence

53. (1) An application for a miscellaneous purposes licence must be in the prescribed form and—

(a) must include a statement of—

(i) the nature and extent of the operations or activity to be carried on in pursuance of the licence;

(ii) the measures (if any) that the applicant proposes to take to remedy damage to land that may result from the proposed operations or activity;

and

(iii) such information as is prescribed;

and

(b) must be accompanied by the prescribed fee.

(2) The Minister, must on receipt of an application for a miscellaneous purposes licence (and at least 28 days before the licence is granted) cause notice to be published in the *Gazette* specifying—

(a) the area in respect of which the licence is sought;

and

(b) the purpose for which the licence is sought.

(3) The Minister may require the applicant to furnish further information and surveys.

(4) The Minister must within 14 days after receiving an application for a miscellaneous purposes licence send a copy of the application—

(a) to the owner of the land over which the licence is sought;

and

(b) if the land is within the area of a council—to the council,

together with an invitation to submit written representations on the application within a specified time.

(5) In determining whether to grant or refuse an application for a miscellaneous purposes licence and, if so, the terms and conditions on which it should be granted, the Minister must have regard to any representations made in response to an invitation under subsection (4).

(6) Where the Minister approves an application for a miscellaneous purposes licence, the licence will, subject to any contrary provision in the licence, take effect from the date on which the applicant is notified of the Minister's approval.

Substitution of section 57

12. Section 57 of the principal Act is repealed and the following section is substituted:

Entry on land

57. Subject to this Part, a person authorized to prospect, explore or mine for minerals under this Act—

(a) may enter any mineral land (except exempt land) for the purpose of prospecting, exploring or mining for minerals in accordance with the authorization;

and

(b) may enter exempt land for the purpose of pegging out a claim.

Compensation

13. Section 61 of the principal Act is amended by striking out from subsections (3), (4) and (5) "Land and Valuation Court" wherever it occurs and substituting, in each case, "appropriate court".

Bond and security

14. Section 62 of the principal Act is amended—

(a) by striking out from subsection (1) "on the holder of a mining tenement" and substituting "on an applicant for, or the holder of, a mining tenement";

(b) by striking out from subsection (2) "the holder of a mining tenement to give";

(c) by striking out subsection (3) and substituting the following subsection:

(3) If the holder of a mining tenement fails to comply with a requirement under this section—

(a) the Minister may, if the requirement has not been complied with at the expiration of one month from the end of the time allowed for compliance, prohibit mining operations in the area of the tenement;

and

(b) the Minister may, if the requirement has not been complied with at the expiration of three months from the end of the time allowed for compliance, cancel the tenement.

Insertion of section 66a

15. The following section is inserted after section 66 of the principal Act:

Removal of cases to Land and Valuation Court.

66a. (1) A case of unusual difficulty or importance in the Warden's Court may be removed by order of the Warden's Court or the Land and Valuation Court into the Land and Valuation Court.

(2) The Land and Valuation Court may exercise (in addition to its ordinary jurisdiction and powers) any of the powers of the Warden's Court in relation to a case removed into the Land and Valuation Court under this section.

Forfeiture of claim

16. Section 69 of the principal Act is amended by striking out subsection (3a) and substituting the following subsection:

(3a) After an application has been made under this section, the mineral claim or precious stones claim to which the application relates cannot be surrendered, nor will it lapse, until the application has been determined.

Forfeiture and transfer of leases

17. Section 70 of the principal Act is amended by striking out subsections (3) and (4) and substituting the following subsections:

(3) Where the Warden's Court has recommended the forfeiture of a lease—

(a) the Minister may, by notice in the *Gazette*, forfeit the lease to the Crown;

and

(b) the person on whose application the Court recommended forfeiture is then entitled to a transfer of the lease from the Crown for the balance of its term.

(4) A transfer of a lease under subsection (3) (b) takes effect on publication of a notice of transfer in the *Gazette*.

Returns

18. Section 76 of the principal Act is amended by inserting after subsection (3) the following subsection:

(3a) This section extends to the operator of a private mine as if the operator were the holder of a mining tenement.

Conditions under which land may be simultaneously subject to more than one tenement**19. Section 80 of the principal Act is amended—**

(a) by striking out from subsection (2) “claim or lease” and substituting “claim, lease or miscellaneous purposes licence”;

and

(b) by inserting in subsection (3) after “lease” “or miscellaneous purposes licence”.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor