

Authorised Version No. 123
**Mineral Resources (Sustainable
Development) Act 1990**

No. 92 of 1990

Authorised Version incorporating amendments as at
15 December 2020

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Authorised Version No. 123
**Mineral Resources (Sustainable
Development) Act 1990**

No. 92 of 1990

Authorised Version incorporating amendments as at
15 December 2020

The Parliament of Victoria enacts as follows:

Part 1—Introduction

1 Purpose

The purpose of this Act is to encourage mineral exploration and economically viable mining and extractive industries which make the best use of, and extract the value from, resources in a way that is compatible with the economic, social and environmental objectives of the State.

**S. 1
substituted by
No. 6/2009
s. 4,
amended by
No. 59/2010
s. 31.**

2 Objectives

- (1) The objectives of this Act are—
- (a) to encourage and facilitate exploration for minerals and foster the establishment and continuation of mining operations by providing for—
 - (i) an efficient and effective system for the granting of licences and other approvals; and
 - (ii) a process for co-ordinating applications for related approvals; and
 - (iii) an effective administrative structure for making decisions concerning the allocation of mineral resources for the benefit of the general public; and

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- (iv) an economically efficient system of royalties, rentals, fees and charges; and
 - (b) to establish a legal framework aimed at ensuring that—
 - (i) risks posed to the environment, to members of the public, or to land, property or infrastructure by work being done under a licence or extractive industry work authority are identified and are eliminated or minimised as far as reasonably practicable; and
 - (ii) consultation mechanisms are effective and appropriate access to information is provided; and
 - (iii) land which has been mined or from which stone has been extracted or removed is rehabilitated; and
 - (iv) just compensation is paid for the use of private land for exploration or mining; and
 - (v) conditions in licences and approvals are enforced; and
 - (vi) dispute resolution procedures are effective; and
- S. 2(1)(b)(i) substituted by Nos 6/2009 s. 5(1)(a), 47/2015 s. 5(1).
- S. 2(1)(b)(iii) substituted by No. 6/2009 s. 5(1)(b).
- S. 2(1)(b)(iv) amended by No. 6/2009 s. 5(1)(c).
- S. 2(1)(b)(vi) amended by No. 86/1993 s. 4.
- S. 2(1)(b)(vii) inserted by No. 86/1993 s. 4, amended by Nos 82/2000 s. 3, 55/2010 s. 47, repealed by No. 47/2015 s. 5(2).
- * * * * *

(c) to recognise that the exploration for, and mining or extraction of, mineral resources and stone must be carried out in a way that is not inconsistent with the Native Title Act 1993 of the Commonwealth and the **Land Titles Validation Act 1994**.

S. 2(1)(c) inserted by No. 82/2000 s. 3, amended by No. 6/2009 s. 5(2).

* * * * *

S. 2(2) repealed by No. 6/2009 s. 5(3).

2A Principles of sustainable development

S. 2A inserted by No. 63/2006 s. 5.

- (1) It is the intention of Parliament that in the administration of this Act regard should be given to the principles of sustainable development.
- (2) For the purposes of this Act, the principles of sustainable development are—
 - (a) community wellbeing and welfare should be enhanced by following a path of economic development that safeguards the welfare of future generations;
 - (b) there should be equity within and between generations;
 - (c) biological diversity should be protected and ecological integrity maintained;
 - (d) there should be recognition of the need to develop a strong, growing, diversified and internationally competitive economy that can enhance the capacity for environment protection;
 - (e) measures to be adopted should be cost effective and flexible, not disproportionate to the issues being addressed, including improved valuation, pricing and incentive mechanisms;

- (f) both long and short term economic, environmental, social and equity considerations should be effectively integrated into decision-making;
- (g) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation and decision-making should be guided by—
 - (i) a careful evaluation to avoid serious or irreversible damage to the environment wherever practicable; and
 - (ii) an assessment of the risk-weighted consequences of various options;
- (h) development should make a positive contribution to regional development and respect the aspirations of the community and of Indigenous peoples;
- (i) decisions and actions should provide for community involvement in issues that affect them.

3 Commencement

- (1) Sections 1 to 125 and section 127 come into operation on a day to be proclaimed.
- (2) The remaining provisions of this Act, other than section 126(2) and item 18 of Schedule 1, come into operation on a day or days to be proclaimed.
- (3) Section 126(2) must be taken to have come into operation on 1 November 1990.
- (4) Item 18 of Schedule 1 must be taken to have come into operation on 1 December 1987.

4 Definitions

(1) In this Act—

*	*	*	*	*	S. 4(1) def. of <i>Aboriginal object</i> repealed by No. 16/2006 s. 198(Sch. 2 item 5(1)(a)).
*	*	*	*	*	S. 4(1) def. of <i>Aboriginal place</i> amended by No. 82/2000 s. 4(b), repealed by No. 16/2006 s. 198(Sch. 2 item 5(1)(a)).
*	*	*	*	*	S. 4(1) def. of <i>accident</i> amended by No. 82/2000 s. 4(c)(i)–(iii), repealed by No. 55/2010 s. 48.

agricultural land means private land that is used primarily for—

- (a) cultivation for the purpose of selling the produce of the cultivation; or
- (b) keeping animals or poultry for the purpose of selling them or produce derived from them; or
- (c) keeping bees for the purpose of selling their honey; or
- (d) commercial fishing; or
- (e) the cultivation or propagation for sale of plants;

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S. 4(1) def. of
*area work
plan schedule*
inserted by
No. 57/2009
s. 23.

area work plan schedule means an area work plan
schedule submitted under section 41AD;

S. 4(1) def. of
*authority to
commence
work*
repealed by
No. 82/2000
s. 4(d).

* * * * *

S. 4(1) def. of
*chief
administrator*
amended by
No. 86/1993
s. 5(1)(b),
repealed by
No. 76/1998
s. 31(a)(i).

* * * * *

S. 4(1) def. of
*Chief
Inspector*
inserted by
No. 6/2009
s. 6(1).

Chief Inspector means the Chief Inspector
employed under section 90(1)(a);

S. 4(1) def. of
*chief mining
inspector*
amended by
No. 46/1998
s. 7(Sch. 1),
repealed by
No. 82/2000
s. 4(d).

* * * * *

S. 4(1) def. of
*closure
criteria*
inserted by
No. 32/2019
s. 4(1).

closure criteria—see section 84AZU(3)(b);

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coal mine land means the land covered by any of the following licences (whether or not those licences are in force)—

- (a) mining licence No. 5003;
- (b) mining licence No. 5004;
- (c) mining licence No. 5189;
- (d) mining licence No. 5216;
- (e) mining licence No. 5304;

S. 4(1) def. of *coal mine land* inserted by No. 22/2017 s. 4.

coal seam gas means natural gas when it is contained in oil shale or coal, whether or not it is in a gaseous state;

S. 4(1) def. of *coal seam gas* inserted by No. 8/2017 s. 3.

Code of Practice means a Code of Practice made under Part 8A as amended and in force for the time being;

S. 4(1) def. of *Code of practice* repealed by No. 86/1993 s. 5(1)(a), new def. of *Code of Practice* inserted by No. 63/2006 s. 6(1)(c).

* * * * *

S. 4(1) def. of *Commissioner* inserted by No. 22/2017 s. 4, repealed by No. 32/2019 s. 4(2).

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S. 4(1) def. of
*community
engagement
plan*
inserted by
No. 63/2006
s. 6(1),
amended by
Nos 6/2009
s. 6(2)(a),
59/2010
s. 4(a),
10/2014
s. 4(2),
10/2014
s. 4(3).

community engagement plan has the meaning set
out in sections 40(3)(d) and 77G(3)(e);

S. 4(1) def. of
Crown land
amended by
No. 35/1998
s. 18(a).

Crown land means land that is, or that is by any
Act deemed to be, unalienated land of the
Crown, and includes—

- (a) land of the Crown that is reserved
permanently or temporarily by or under
any Act; and
- (b) land of the Crown occupied by a person
under a lease, licence or other right
under this or any other Act—

but does not include land which is the
subject of a licence granted under Part 3A of
the **Victorian Plantations Corporation
Act 1993**;

S. 4(1) def. of
*Crown land
Minister*
inserted by
No. 63/2006
s. 6(1)(c).

Crown land Minister in relation to Crown land,
means the Minister responsible for
administering the Act under which the land
is controlled or managed;

S. 4(1) def. of
declared mine
inserted by
No. 57/2009
s. 23.

declared mine means a mine specified in an Order
under section 7C;

Declared Mine Fund means the fund established under section 84AZZG;

S. 4(1) def. of *Declared Mine Fund* inserted by No. 32/2019 s. 4(1).

declared mine land means—

S. 4(1) def. of *declared mine land* inserted by No. 32/2019 s. 4(1).

- (a) the land covered by a mining licence that includes a declared mine (whether or not the licence is in force); or
- (b) the land covered by any of the following licences (whether or not the licence is in force)—
 - (i) the mining licence No. 5216;
 - (ii) the mining licence No. 5304;

declared mine land register means the register established under section 84AZZL;

S. 4(1) def. of *declared mine land register* inserted by No. 32/2019 s. 4(1).

declared mine licensee means the holder or the former holder of a licence that covers declared mine land;

S. 4(1) def. of *declared mine licensee* inserted by No. 32/2019 s. 4(1).

declared mine rehabilitation plan means a plan approved by the Department Head under section 84AZV(2)(a) and as varied under section 84AZW(3)(a);

S. 4(1) def. of *declared mine rehabilitation plan* inserted by No. 32/2019 s. 4(1).

declared quarry means a quarry specified in an Order under section 7C;

S. 4(1) def. of *declared quarry* inserted by No. 57/2009 s. 23.

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S. 4(1) def. of
Department
substituted by
No. 86/1993
s. 5(1)(c),
amended by
Nos 46/1998
s. 7(Sch. 1),
56/2003
s. 11(Sch.
item 12.1),
70/2013
s. 4(Sch. 2
item 32.1).

Department means the Department of State
Development, Business and Innovation;

S. 4(1) def. of
*Department
Head*
inserted by
No. 76/1998
s. 31(a)(iv),
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 134.1).

Department Head means the Department Head
(within the meaning of the **Public
Administration Act 2004**) of the
Department;

S. 4(1) def. of
*Director of
Mines*
inserted by
No. 82/2000
s. 4(a),
repealed by
No. 6/2009
s. 6(3)(a).

* * * * *

S. 4(1) def. of
dispute
amended by
Nos 46/1998
s. 7(Sch. 1),
76/1998
s. 31(a)(iii),
82/2000
s. 4(e)(i)(ii),
59/2010
s. 42(1)(a).

dispute means a dispute arising under this Act
between—

- (a) a licensee or an applicant and the
Department Head or an employee of the
Department; or
- (b) a licensee or an applicant and the
holder of a miner's right; or
- (c) a licensee or an applicant and the owner
or occupier of land; or

- (d) a licensee and another licensee or an applicant for a licence; or
- (e) an applicant and another applicant; or
- (ea) a member of the public and the Department Head (or an employee of the Department) in relation to work under a licence that directly and substantially affects, or is likely to affect, the member of the public—
and includes a dispute—
 - (f) about the existence of a licence, miner's right or tourist fossicking authority; or
 - (g) about the boundaries of land covered by a licence or an application—

but does not include a dispute for which recourse to a court, a tribunal or an expert (other than a mining warden) is expressly provided under this Act;

exploration means exploration for minerals and includes—

- (a) conducting geological, geophysical and geochemical surveys; and
- (b) drilling; and
- (c) taking samples for the purposes of chemical or other analysis; and
- (d) extracting minerals from land, other than for the purpose of producing them commercially; and
- (e) in relation to an exploration licence, anything else (except mining) that is specified in the licence;

S. 4(1) def. of
*extractive
industry*
inserted by
No. 6/2009
s. 6(1).

extractive industry means the extraction or removal of stone from land if a primary purpose of the extraction or removal is the sale or commercial use of the stone or the use of the stone in construction, building, road or manufacturing works and includes—

- (a) the treatment of stone or the manufacture of bricks, tiles, pottery or cement products on or adjacent to land from which the stone is extracted; and
- (b) any place, operation or class of operation involving the extraction or removal of stone from land, declared by the Minister, by notice published in the Government Gazette, to be an extractive industry for the purposes of this Act;

S. 4(1) def. of
*extractive
industry work
authority*
inserted by
No. 6/2009
s. 6(1).

extractive industry work authority means a work authority relating to an extractive industry granted under section 77I;

S. 4(1) def. of
*graticular
section*
substituted by
No. 82/2000
s. 4(f).

graticular section—

- (a) means the 1000 metre interval block based on the Australian Geodetic Datum 1966, as shown on the National Topographic Map Series published by the National Mapping Council; or
- (b) if a notice under section 7A applies, has the meaning it has as specified by, or under, that notice;

Head, Transport for Victoria has the same meaning as in section 3 of the **Transport Integration Act 2010**;

S. 4(1) def. of *Head, Transport for Victoria* inserted by No. 49/2019 s. 186(Sch. 4 item 29.1).

hydraulic fracturing means the injection of a substance or substances into a bore under pressure for the purposes of stimulating a geological formation;

S. 4(1) def. of *hydraulic fracturing* inserted by No. 8/2017 s. 3.

infrastructure mining licence means a mining licence solely for the construction of a facility or other infrastructure to be used for the purpose of mining under another mining licence;

S. 4(1) def. of *infrastructure mining licence* inserted by No. 59/2010 s. 4(c).

* * * * *

S. 4(1) def. of *infraction* repealed by No. 6/2009 s. 6(3)(b).

inspector means an inspector employed under section 90(1)(b);

S. 4(1) def. of *inspector* amended by No. 46/1998 s. 7(Sch. 1), substituted by No. 6/2009 s. 6(2)(b).

land affected, in relation to work under a licence, means land to which entry is required during the work and includes the surface of the land and the land to a depth of 100 metres;

S. 4(1) def. of *land affected* amended by No. 82/2000 s. 4(g).

Latrobe Valley region means the region constituted by the municipal districts of the Latrobe City Council, Baw Baw Shire Council and Wellington Shire Council;

S. 4(1) def. of *Latrobe Valley region* inserted by No. 22/2017 s. 4.

licence means an exploration licence, a mining licence, a prospecting licence or a retention licence under Part 2;

S. 4(1) def. of *licence* amended by No. 59/2010 s. 4(b).

S. 4(1) def. of
*low impact
exploration*
inserted by
No. 82/2000
s. 4(a),
amended by
No. 16/2006
s. 198(Sch. 2
item 5(1)(b)),
substituted by
No. 10/2014
s. 4(1).

licensee means the holder of a licence;

low impact exploration has the meaning set out in
Schedule 4A;

mine means any land on which mining is taking
place under a licence;

miner's right means a miner's right under Part 5;

S. 4(1) def. of
mineral
amended by
Nos 7/1994
s. 4, 71/2001
s. 3(1)(a).

mineral means any substance which occurs
naturally as part of the earth's crust—

(a) including—

(i) oil shale and coal; and

(ii) hydrocarbons and mineral oils
contained in oil shale or coal or
extracted from oil shale or coal by
chemical or industrial processes;
and

(iii) any substance specified in
Schedule 4;

(b) excluding water, stone, peat or
petroleum;

minerals exemption means an exemption that was
granted under section 293 or 293A of the
Mines Act 1958 and that was current
immediately before the commencement of
this section;

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mineral resource means a concentration of a mineral or minerals that is or may be economically viable to mine;

S. 4(1) def. of *mineral resource* inserted by No. 59/2010 s. 4(c).

mining means extracting minerals from land for the purpose of producing them commercially, and includes processing and treating ore;

* * * * *

S. 4(1) def. of *mining infringement* repealed by No. 6/2009 s. 6(3)(c).

mining register means the register kept under Part 6;

Ministerial direction means a direction made or varied under section 84AZT;

S. 4(1) def. of *Ministerial direction* inserted by No. 32/2019 s. 4(1).

occupier means—

- (a) in relation to private land, any person lawfully in possession of the land; and
- (b) in relation to Crown land, the Secretary (as defined in the **Conservation, Forests and Lands Act 1987**);

S. 4(1) def. of *occupier* amended by No. 76/1998 s. 31(a)(ii).

owner means—

- (a) in relation to Crown land, means the Crown land Minister; and

* * * * *

- (d) in relation to private land under the **Transfer of Land Act 1958** (other than land in an identified folio under that Act), the person who is registered or

S. 4(1) def. of *owner* amended by Nos 86/1993 s. 5(1)(d), 35/1998 s. 18(b), 85/1998 s. 24(Sch. item 42) (as amended by No. 74/2000 s. 3(Sch. 1 item 129.2)), 63/2006 s. 6(1)(a).

entitled to be registered as the proprietor of the land; and

- (e) in relation to other private land—
 - (i) if the land is mortgaged, the mortgagor; and
 - (ia) if the land is subject to a licence granted under Part 3A of the **Victorian Plantations Corporation Act 1993**, the licensee, under that Part, of the land; and
 - (ii) in any other case, the person who has the fee in the land;

petroleum means¹—

- (a) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state; or
- (b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
- (c) any naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid or solid state, and one or more of the following, that is to say, hydrocarbon sulphide, nitrogen, helium and carbon dioxide—

and includes any petroleum as defined by paragraph (a), (b) or (c) or any prescribed petroleum product that has been returned to a natural reservoir in Victoria, but excludes any naturally occurring hydrocarbon or mixture of hydrocarbons within a deposit of coal or oil shale;

planned improvement, in relation to land, means an improvement on the land in respect of which the owner or occupier had, before an application for a licence covering that land was made—

- (a) applied for or been granted a building permit or a planning permit; or
- (b) otherwise demonstrated a genuine intention to proceed;

S. 4(1) def. of *planned improvement* amended by No. 126/1993 s. 264(Sch. 5 item 16).

planning permit means a planning permit issued under the **Planning and Environment Act 1987**;

S. 4(1) def. of *planning permit* inserted by No. 6/2009 s. 6(1).

planning scheme means a planning scheme made under the **Planning and Environment Act 1987**;

S. 4(1) def. of *planning scheme* inserted by No. 6/2009 s. 6(1).

plant means buildings, structures, works or other machinery (whether fixed or mobile) and all other installations or equipment used in the doing of work under a licence or an extractive industry work authority;

S. 4(1) def. of *plant* substituted by No. 6/2009 s. 6(2)(c).

post-closure plan—see section 84AZU(3)(c);

S. 4(1) def. of *post-closure plan* inserted by No. 32/2019 s. 4(1).

private land means any land that is not Crown land;

quarry means—

- (a) a pit or excavation made in land below the natural surface for the purpose of extracting or removing stone if a primary purpose of the extraction or removal is the sale or commercial use

S. 4(1) def. of *quarry* inserted by No. 6/2009 s. 6(1).

of the stone or the use of the stone in construction, building, road or manufacturing works; or

- (b) any place or operation involving the removal of stone from land, declared by the Minister by notice published in the Government Gazette to be a quarry—

and includes access ways on private land and the works, machinery, plant, equipment, buildings and structures above or below ground used for or in connection with—

- (c) making, enlarging or deepening the pit or excavation; or
- (d) carrying on the operation; or
- (e) the extraction or removal of stone from the pit or excavation; or
- (f) the treatment on or adjacent to the land in which the pit or excavation is made of stone extracted or removed from the land or the manufacture on or adjacent to that land of bricks, tiles, pottery or cement products substantially from stone so extracted or removed;

S. 4(1) def. of
*regional
rehabilitation
strategy*
inserted by
No. 22/2017
s. 4.

regional rehabilitation strategy means the strategy prepared under section 84AZM;

register means the mining register kept under Part 6;

registered means registered in the mining register;

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<p><i>registered mine land</i> means declared mine land that is registered in the declared mine land register;</p>	<p>S. 4(1) def. of <i>registered mine land</i> inserted by No. 32/2019 s. 4(1).</p>
<p><i>registered post-closure plan</i> means a post-closure plan registered in the declared mine land register;</p>	<p>S. 4(1) def. of <i>registered post-closure plan</i> inserted by No. 32/2019 s. 4(1).</p>
<p>* * * * *</p>	<p>S. 4(1) def. of <i>registrar</i> amended by No. 46/1998 s. 7(Sch. 1), repealed by No. 82/2000 s. 4(h).</p>
<p><i>Rehabilitation Authority</i> means the Mine Land Rehabilitation Authority established under section 84AD;</p>	<p>S. 4(1) def. of <i>Rehabilitation Authority</i> inserted by No. 32/2019 s. 4(1).</p>
<p><i>rehabilitation bond</i> means a rehabilitation bond referred to in section 80;</p>	<p>S. 4(1) def. of <i>rehabilitation bond</i> inserted by No. 63/2006 s. 6(1)(c).</p>
<p><i>rehabilitation plan</i> means a rehabilitation plan referred to in section 79;</p>	<p>S. 4(1) def. of <i>rehabilitation plan</i> inserted by No. 63/2006 s. 6(1)(c).</p>
<p><i>responsible authority</i> in relation to a planning scheme has the same meaning as in the Planning and Environment Act 1987;</p>	<p>S. 4(1) def. of <i>responsible authority</i> inserted by No. 6/2009 s. 6(1).</p>

S. 4(1) def. of *restricted Crown land* inserted by No. 86/1993 s. 5(1)(e).

restricted Crown land means any land specified in Schedule 3;

S. 4(1) def. of *specified work plan* inserted by No. 59/2010 s. 32.

search means search for minerals using no equipment for the purposes of excavation other than non-mechanical hand tools;

specified work plan means a work plan for work in respect of which a planning permit under the **Planning and Environment Act 1987** is required;

S. 4(1) def. of *specified variation* inserted by No. 59/2010 s. 32.

specified variation, in relation to an approved work plan, means a variation to work—

- (a) that is being carried out in accordance with the approved work plan; and
- (b) in respect of which a planning permit under the **Planning and Environment Act 1987** is required;

S. 4(1) def. of *statutorily endorsed* inserted by No. 59/2010 s. 32.

statutorily endorsed, in relation to a work plan or a variation to an approved work plan, means endorsed in accordance with Part 6B;

S. 4(1) def. of *stone* amended by No. 71/2001 s. 3(1)(b).

stone means—

- (a) sandstone, freestone or other building stone; or
- (b) basalt, granite, limestone or rock of any kind ordinarily used for building, manufacturing or construction purposes; or
- (c) quartz (other than quartz crystals); or
- (d) slate or gravel; or

(e) clay (other than fine clay, bentonite or kaolin); or

(ea) peat; or

(f) sand, earth or soil; or

(g) other similar materials;

stratum of land means a part of land consisting of a space of any shape below, on or above the surface of the land or partly below and partly above the surface of the land, all of the dimensions of which are limited;

S. 4(1) def. of *stratum of land* inserted by No. 86/1993 s. 5(1)(f).

tailings means any waste mineral, stone or other material that was produced during the course of mining (whether before or after 6 November 1991), and includes any mineral, stone or material that is or was discarded from plant or machinery used for extracting minerals;

S. 4(1) def. of *tailings* amended by No. 86/1993 s. 5(1)(g)(i)(ii), substituted by No. 82/2000 s. 4(i).

* * * * *

S. 4(1) def. of *tourist mine* repealed by No. 59/2010 s. 42(1)(c).

Tribunal means Victorian Civil and Administrative Tribunal established by the **Victorian Civil and Administrative Tribunal Act 1998**;

S. 4(1) def. of *Tribunal* inserted by No. 52/1998 s. 311(Sch. 1 item 64.1).

unrestricted Crown land means any Crown land (whether reserved or not) other than—

(a) land to which paragraph (a) or (b) of section 6 applies; or

(b) restricted Crown land;

S. 4(1) def. of *unrestricted Crown land* inserted by No. 86/1993 s. 5(1)(h).

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S. 4(1) def. of *work* repealed by No. 82/2000 s. 4(j).

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S. 4(1) def. of
work authority
inserted by
No. 82/2000
s. 4(a),
repealed by
No. 10/2014
s. 4(4).

* * * * *

S. 4(1) def. of
work plan
substituted by
No. 6/2009
s. 6(2)(d),
amended by
No. 10/2014
s. 4(5).

work plan means a work plan lodged under section 40 or section 77G or varied under section 41AAB or 77HB;

S. 4(1) def. of
worksite
inserted by
No. 86/1993
s. 5(1)(i),
substituted by
No. 82/2000
s. 4(k),
amended by
Nos 63/2006
s. 6(1)(b),
6/2009
s. 6(2)(e),
59/2010
s. 42(1)(b).

worksite means any place where work is being done under a licence, an extractive industry work authority, a miner's right or tourist fossicking authority or where rehabilitation work is being done, or required to be done, under Part 7.

S. 4(2)
substituted by
No. 86/1993
s. 5(2),
amended by
Nos 46/1998
s. 7(Sch. 1),
56/2003
s. 11(Sch.
item 12.2),
108/2004
s. 117(1)
(Sch. 3
item 134.2),
70/2013
s. 4(Sch. 2
item 32.2).

- (2) If under the **Public Administration Act 2004** the name of the Department is changed, a reference in the definition of *Department* in subsection (1) to the "Department of State Development, Business and Innovation" must, from the date when the name is changed, be treated as a reference to the Department by its new name.

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S. 4(3)
inserted by
No. 86/1993
s. 5(2),
repealed by
No. 63/2006
s. 6(3).

5 Act to bind the Crown

- (1) This Act binds the Crown, not only in right of Victoria but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.
- (2) Nothing in this Act makes the Crown in any of its capacities liable to be prosecuted for an offence.

5AA Application of this Act

S. 5AA
inserted by
No. 6/2009
s. 8.

- (1) The provisions of this Act do not apply to or with respect to any extractive industry exempted by notice published in the Government Gazette by the Minister from compliance with any of those provisions of this Act relating to extractive industries whether unconditionally or on specified conditions and either wholly or to such an extent as is specified.
- (2) Despite any contrary provision in any other Act administered by the Minister administering the **Conservation, Forests and Lands Act 1987** if there is provision under any of those Acts to issue or grant a lease, licence, permit or authority allowing for the search for stone or the carrying out of an extractive industry, a person is not required to obtain such a lease, licence, permit or authority if the person has complied with the provisions of this Act relating to extractive industries with respect to the searching for stone or the carrying out of the extractive industry.

- (3) Subsection (1) does not affect any lease, licence, permit or authority issued or granted under an Act administered by the Minister referred to in subsection (2).
- (4) The provisions of this Act relating to extractive industries do not apply to or with respect to the extraction or removal of stone from land that is a farm if the stone is intended in good faith only to be used on that farm for the purposes of a dam or other farm works and not for sale or any other commercial use.
- (5) The provisions of this Act relating to extractive industries do not apply to or with respect to the carrying out of any *extractive activity* within the meaning of the **Catchment and Land Protection Act 1994**.

S. 5AB
inserted by
No. 6/2009
s. 8.

5AB Application of this Act to Alcoa land

- (1) For the purposes of the provisions of this Act relating to extractive industries, land in the leased area within the meaning of the definition of *leased area* in the agreement set out in the Schedule to the **Mines (Aluminium Agreement) Act 1961** is deemed to be private land of which Alcoa of Australia Proprietary Limited ACN 004 879 298 is the owner for any purpose other than the determination and payment of royalties to the Crown.
- (2) The Minister must not grant an extractive industry work authority over any part of the leased area referred to in subsection (1) without the consent of the Minister administering the **Conservation, Forests and Lands Act 1987**.

S. 5ABA
inserted by
No. 53/2017
s. 15.

5ABA Leased area

- (1) To avoid doubt, in this Act and in any other Act, the land within the meaning of the definition of *leased area* in the Agreement set out in the

Mines (Aluminium Agreement) Act 1961

does not include any land that Alcoa of Australia Limited ACN 004 879 298 has surrendered its rights to under clause 10(8) of that Agreement.

(2) In this section—

Agreement has the same meaning as

The Agreement has in section 2(a) of the

Mines (Aluminium Agreement) Act 1961.

5A Interaction of this Act with native title legislation

S. 5A
inserted by
No. 82/2000
s. 5.

(1) Any action taken under this Act must be taken in a way that is not inconsistent with the Native Title Act 1993 of the Commonwealth and the **Land Titles Validation Act 1994.**

(2) Subject to subsection (1), it is declared that if native title exists over land, the land may still be dealt with under this Act.

(3) In this section, *action* includes—

(a) the granting of a licence under Part 2, permit, right or an authority under Part 5;

S. 5A(3)(a)
substituted by
No. 6/2009
s. 7.

(b) undertaking any exploration, searching or mining.

6 Land not available for exploration, mining and searching

S. 6
amended by
No. 82/2000
s. 6(2) (ILA
s. 39B(1)).

(1) The following land is exempted from being subject to a licence or other authority under this Act—

(a) land that is a reference area under the **Reference Areas Act 1978;**

(b) land that is a national park, wilderness park or State park under the **National Parks Act 1975**, unless the land is covered by—

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- (i) a lease, licence, permit or authority under the **Mines Act 1958** that must, by virtue of this Act, be treated as a mining licence or an exploration licence (including such a lease, licence, permit or authority that is renewed under this Act); or
- (ii) a licence under this Act granted before the declaration of the national park, wilderness park or State park (including such a licence that is renewed after that declaration); or
- (iii) a mining licence that is granted over land that was, immediately before the granting of the mining licence, covered by an exploration licence that was granted before the declaration of the national park, wilderness park or State park (including such a mining licence that is renewed after that declaration);

S. 6(1)(ba)
inserted by
No. 40/2002
s. 29.

(ba) land that is a marine national park or a marine sanctuary under the **National Parks Act 1975**;

S. 6(1)(c)
substituted by
Nos 82/2000
s. 6(1),
16/2006
s. 198(Sch. 2
item 5(2)).

(c) land in respect of which an ongoing protection declaration is in force under the **Aboriginal Heritage Act 2006**;

S. 6(1)(d)
substituted by
No. 82/2000
s. 6(1),
repealed by
No. 16/2006
s. 198(Sch. 2
item 5(2)).

* * * * *

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- (e) land that is—
- (i) under section 7 exempted from being subject to a licence; or
 - (ii) by or under any other Act exempted from exploration or mining, or being subject to a licence;
- (f) land that is by or under any other Act exempted from—
- (i) search for minerals or stone; or
 - (ii) the carrying out of an extractive industry; or
 - (iii) being subject to an authority under this Act.
- (2) Despite subsection (1)(b), any area of a park that is the subject of a notice under section 32D(1) of the **National Parks Act 1975** is not exempted from being subject to a miner's right or a tourist fossicking authority to the extent that any activity permitted under such a right or authority is consistent with an authorisation under section 32D(2)(b) of that Act in the area designated by the notice.
- (3) Despite subsection (1), that part of the park described in Part 41 of Schedule Two to the **National Parks Act 1975** that is shown by hatching on the plans lodged in the Central Plan Office and numbered N.P. 105A/4 and N.P. 105B/4 is not exempt from being subject to a mining licence, to the extent of the entitlements set out in section 40(1D)(a) of that Act, or from being subject to an exploration licence.

S. 6(1)(e)
substituted by
No. 64/2012
s. 13.

S. 6(1)(f)
inserted by
No. 64/2012
s. 13.

S. 6(2)
inserted by
No. 82/2000
s. 6(2).

S. 6(3)
inserted by
No. 50/2002
s. 20,
amended by
Nos 44/2016
s. 30, 53/2017
s. 16, 40/2020
s. 60.

S. 6AA
inserted by
No. 6/2009
s. 9.

6AA Land not available for searching for stone

The Crown land Minister must not give consent under section 77A to search for stone on the following land—

- (a) land that is a reference area under the **Reference Areas Act 1978**;
- (b) except as provided for in section 40 of the **National Parks Act 1975**, land that is a national park, wilderness park, State park, marine national park or marine sanctuary under the **National Parks Act 1975**;
- (c) land in respect of which an ongoing protection declaration is in force under the **Aboriginal Heritage Act 2006**.

S. 6A
inserted by
No. 50/2002
s. 21.

6A Extent of application of licences and authorities under this Act to Deep Lead Nature Conservation Reserve (No. 2)

- (1) Despite section 14, a mining licence issued over the Deep Lead Nature Conservation Reserve (No. 2) does not entitle the holder to carry out mining on the land surface of the whole or any part of the Reserve.
- (2) Despite subsection (1), a mining licence granted over any part of the Deep Lead Nature Conservation Reserve (No. 2) may authorise the holder to construct and operate minor mining infrastructure on the land surface of the Reserve, if the Minister administering section 4 of the **Crown Land (Reserves) Act 1978** has consented to any such construction or operation. Consent under this subsection must not be unreasonably withheld.
- (3) A mining licence in respect of which a consent has been given under subsection (2) is subject to any terms and conditions imposed by the Minister administering section 4 of the **Crown Land**

(Reserves) Act 1978 as to the nature of the infrastructure and as to the effect the infrastructure may have on the Reserve.

(4) Deep Lead Nature Conservation Reserve (No. 2) is exempted from being subject to a miner's right or tourist fossicking authority under Part 5. **S. 6A(4) amended by No. 68/2014 s. 14.**

(5) In this section *Deep Lead Nature Conservation Reserve (No. 2)* means the land described in section 35 of the **Crown Land (Reserves) Act 1978**.

7 Minister may exempt land from being subject to a licence **S. 7 (Heading) inserted by No. 10/2014 s. 5(1).**

(1) The Minister may, by writing signed by him or her, exempt any land from being subject to a licence. **S. 7(1) amended by Nos 82/2000 s. 7(1)(a), 59/2010 s. 5.**

(2) The Minister may grant an exemption for any reason he or she decides to be appropriate, including but not limited to the following reasons—

(a) if, in the Minister's opinion, the exemption is required to protect land that is of significant environmental importance;

(b) if, in the Minister's opinion, the exemption is required for the implementation of a recommendation of the Land Conservation Council of which notice has been given under section 10(3) of the **Land Conservation Act 1970** as in force before its repeal; **S. 7(2)(b) amended by No. 68/2014 s. 15(a).**

(ba) if, in the Minister's opinion, the exemption is required for the implementation of a recommendation of the Victorian Environmental Assessment Council under **S. 7(2)(ba) inserted by No. 68/2014 s. 15(b).**

- the Victorian Environmental Assessment Council Act 2001** to the extent that it has been accepted by the Government;
- S. 7(2)(c)
inserted by
No. 82/2000
s. 7(1)(b).
- (c) if, in the Minister's opinion, the exemption is necessary to enable the orderly and optimal development of mineral resources in Victoria.
- S. 7(3)
substituted by
No. 10/2014
s. 5(2).
- (3) In deciding whether to grant an exemption, the Minister must take into account—
- (a) the known or potential value of the mineral resources and the impact that the proposed exemption may have on that value; and
 - (b) the social and economic implications of the decision.
- (4) The Minister must make sure that notice of an exemption is—
- (a) published in the Government Gazette; and
 - (b) recorded in the mining register.
- (5) The Minister may revoke an exemption by notice—
- (a) published in the Government Gazette; and
 - (b) recorded in the mining register.
- S. 7(6)
inserted by
No. 82/2000
s. 7(2).
- (6) The Minister may state in a notice revoking an exemption that the land that was the subject of the exemption is to become available for one or more licences on or after the date specified in the notice by the Minister.
- S. 7(7)
inserted by
No. 82/2000
s. 7(2).
- (7) The Minister must ensure that a copy of the revocation of an exemption is lodged in the mining register.

7A Minister may declare meaning of graticular section

- (1) The Minister may from time to time, by notice published in the Government Gazette, declare the meaning of a graticular section for the purposes of this Act.
- (2) In making a declaration, the Minister may apply, adopt or incorporate (with or without modification) any matter contained in any document as at the time the declaration is made or at any time before then.

S. 7A
inserted by
No. 82/2000
s. 8.

7B Ministers may declare low impact exploration activity

The Minister and the Minister administering the **Conservation, Forests and Lands Act 1987** may from time to time, by notice published in the Government Gazette, jointly declare an exploration activity to be low impact exploration for the purposes of this Act.

S. 7B
inserted by
No. 82/2000
s. 8.

7C Ministerial Order declaring specified mines and quarries

- (1) The Minister, by Order published in the Government Gazette, may declare that a specified mine or quarry is a declared mine or declared quarry.
- (2) The Minister must not make a declaration under subsection (1) in respect of a mine or quarry unless the Minister is satisfied that there are geotechnical, hydrogeological, water quality or hydrological factors within the mine or quarry that pose a significant risk to—
 - (a) public safety; or
 - (b) the environment; or
 - (c) infrastructure.

S. 7C
inserted by
No. 57/2009
s. 24.

S. 7C(2)
amended by
No. 32/2019
s. 5.

8 Offence to search for minerals or do work without authority

S. 8(1)
substituted by
No. 82/2000
s. 9.

(1) A person, other than the Crown, must not prospect, fossick or otherwise search for minerals, or carry out any exploration or mining, on any land unless—

S. 8(1)(a)
amended by
No. 59/2010
s. 42(2).

(a) the person does so in accordance with a licence, a miner's right or tourist fossicking authority; or

(b) the person benefits from a relevant minerals exemption.

Penalty: In the case of a corporation,
1000 penalty units.

In any other case, 200 penalty units.

Default penalty:

In the case of a corporation, 20 penalty units.

In any other case, 10 penalty units.

(2) The owner of minerals that are taken from land in contravention of subsection (1) may recover from the person taking them, as a debt due to the owner of the minerals and recoverable in a court of competent jurisdiction, the value of the minerals taken.

S. 8(3)
inserted by
No. 67/1995
s. 60(2),
substituted by
No. 67/1995
s. 60(3),
amended by
No. 6/2009
s. 10.

(3) Subsection (1) applies to the extraction or removal of stone under a work authority relating to an extractive industry which would necessarily involve the mining of a mineral.

8AA Offence to search for stone without consent

A person must not search for stone or carry out any survey or other operation for the purpose of searching for stone—

- (a) on Crown land without consent under section 77A(1) and any consent required under section 77A(2); or
- (b) on any private land without—
 - (i) the consent of the owner of the land and any consent required under section 77A(2), if the body whose consent is required under that section is not the owner; or
 - (ii) the authority of the Minister under section 112 and any consent required under section 77A(2).

Penalty: 50 penalty units.

S. 8AA
inserted by
No. 6/2009
s. 11,
substituted by
No. 68/2014
s. 16.

8AB Offence to carry on extractive industry without authority

- (1) A person must not carry out an extractive industry on any land without a current extractive industry work authority to carry out that extractive industry on that land.

Penalty: In the case of a corporation,
1000 penalty units.

In any other case, 200 penalty units.

- (2) The holder of an extractive industry work authority and the manager of the place where the extractive industry is being carried out under the work authority must not carry out extractive industry under the work authority otherwise than—
 - (a) in accordance with the work authority; and

S. 8AB
inserted by
No. 6/2009
s. 11.

S. 8AB(1)
amended by
No. 47/2015
s. 6(1).

S. 8AB(2)
substituted by
No. 47/2015
s. 6(2).

(b) in accordance with the approved work plan.

Penalty: In the case of a corporation,
1000 penalty units.

In any other case, 200 penalty units.

S. 8AB(3)
amended by
No. 55/2010
s. 49,
substituted by
No. 47/2015
s. 6(3).

(3) The holder of an extractive industry work authority and the manager of the place where the extractive industry is being carried out under the work authority must comply with this Act and the regulations in doing any work under the work authority.

Penalty: In the case of a corporation,
1000 penalty units.

In any other case, 200 penalty units.

S. 8AB(4)
inserted by
No. 47/2015
s. 6(4).

(4) A person who is convicted of an offence against this section is also liable to the following default penalty—

(a) in the case of a corporation, 20 penalty units;

(b) in any other case, 10 penalty units.

Note

For default penalties, see section 111A.

S. 8AC
inserted by
No. 8/2017
s. 4.

8AC Offence to carry out exploration or mining of coal seam gas

(1) A person must not carry out exploration for, or carry out mining of, coal seam gas on any land.

Penalty: In the case of a corporation,
1000 penalty units.

In any other case, 200 penalty units.

Default penalty:

In the case of a corporation, 20 penalty units.

In any other case, 10 penalty units.

- (2) Subsection (1) does not apply to a person who is the holder of an exploration licence, a mining licence or a retention licence and who—
- (a) in the course of carrying out exploration for, or mining of, a mineral other than coal seam gas in accordance with that licence, incidentally discovers or mines coal seam gas; and
 - (b) reports the discovery of coal seam gas in accordance with section 113A.

8AD Offence to carry out hydraulic fracturing

The holder of an exploration licence, a mining licence or a retention licence must not carry out any hydraulic fracturing on any land in the course of carrying out any exploration or mining under the licence.

Penalty: In the case of a corporation,
1000 penalty units.

In any other case, 200 penalty units.

Default penalty:

In the case of a corporation, 20 penalty units.

In any other case, 10 penalty units.

8A Aerial surveys permitted without licence

- (1) A person may undertake an aerial survey for the purpose of searching for minerals, or doing work preparatory to the search for minerals, without holding the authorisation required by section 8 if the person complies with subsection (2).
- (2) The person must supply any information acquired during the course of the survey as if section 116 applied to the person and as if the survey was work done under a licence.

S. 8AD
inserted by
No. 8/2017
s. 4.

S. 8A
inserted by
No. 82/2000
s. 10.

- (3) A person conducting an aerial survey in accordance with this section may survey land covered by licences held by other people.

9 Ownership of minerals

- (1) The Crown owns all minerals except—
- (a) those in respect of which a minerals exemption is current; and
 - (b) those in which the property has passed under section 11.
- (2) A minerals exemption continues in operation after the commencement of this section until the exemption expires or is revoked.
- (3) The Minister may, after giving 14 days' written notice to the person who benefits from a minerals exemption, transfer, vary or revoke that exemption.
- (4) The person who benefits from a minerals exemption may apply to the Minister for a transfer, variation or revocation of the exemption, and the Minister may grant or refuse the application.
- (5) Ownership of the minerals in respect of which a minerals exemption was granted reverts to the Crown when the exemption expires or is revoked.

10 Tailings

Tailings are to be treated as part of the land on which they are situated, and minerals in them are owned by the Crown unless the property in them passes under section 11, or unless a minerals exemption is current in respect of them.

11 Transfer of property in minerals

- (1) The property in minerals passes from the Crown to the holder of a licence or a person searching under a miner's right or tourist fossicking

authority when the minerals are separated from the land in accordance with the licence, miner's right or tourist fossicking authority.

- (2) The property in minerals which are separated from the land otherwise than in accordance with a licence, miner's right or tourist fossicking authority remains in the Crown.
- (3) Subsection (2) does not apply to minerals in respect of which a minerals exemption is current.

11A Ownership of stone

S. 11A
inserted by
No. 6/2009
s. 12.

- (1) All stone which is on or below the surface of any private land, despite any reservation in the Crown grant or in any Crown lease of the land, is not the property of the Crown but is the property of the owner of the land.
- (2) A person who—
 - (a) holds an extractive industry work authority;
or
 - (b) applies for an extractive industry work authority—

in respect of any stratum of private land immediately below which there is unalienated Crown land and who proposes to carry out an extractive industry on that unalienated Crown land is to be regarded as the owner of that Crown land for the purpose of obtaining a work authority for the carrying out of that extractive industry.

- (3) Despite subsection (2), the stone in any Crown land to which that subsection applies remains the property of the Crown and that person must pay royalties for the stone extracted or removed from the land and the extractive industry work authority may provide for the determination and payment of royalties accordingly.

12 Royalties

S. 12
amended by
No. 86/1993
s. 6(a).

S. 12(1)
amended by
Nos 89/2005
s. 3, 64/2012
s. 14(1).

- (1) Subject to section 12A, the holder of a mining licence or prospecting licence must pay royalties in accordance with the rate or method of assessment and at the times—
- (a) specified in the licence, after consultation by the Minister with the licensee; or
 - (b) prescribed, if not specified in the licence.

S. 12(2)
inserted by
No. 86/1993
s. 6(b),
amended by
Nos 82/2000
s. 11(a)(b),
64/2012
s. 14(2),
68/2014 s. 17.

- (2) Without limiting subsection (1), the holder of a mining licence or prospecting licence must, unless the Minister decides otherwise, pay royalties in respect of the disposal under section 14(2)(b) or 14B(2A) (as the case requires) of tailings resulting from work under a licence over Crown land in accordance with the rate or method of assessment and at the times prescribed.

S. 12(3)
inserted by
No. 6/2009
s. 13.

- (3) The holder of an extractive industry work authority to be carried out on Crown land must pay royalties in accordance with the rate or method of assessment and at the times—
- (a) specified in the work authority; or
 - (b) prescribed, if not specified in the work authority—

unless the Minister decides to waive or vary the royalties under subsection (4).

S. 12(4)
inserted by
No. 6/2009
s. 13.

- (4) The Minister may waive the requirement for any holder of an extractive industry work authority to pay royalties or vary the rate, method of assessment or times at which the royalty is to be paid by any holder of an extractive industry work authority if the Minister is satisfied that a royalty is being paid to the Crown or in any other

circumstances in which the Minister is satisfied that it is appropriate that there should be such a waiver or variation.

12A Royalties for lignite

S. 12A
inserted by
No. 89/2005
s. 4.

- (1) This section applies to the holder of a mining licence or prospecting licence if the holder mines lignite in accordance with the licence and has effect despite anything to the contrary specified in the licence or the regulations (other than regulations made for the purposes of subsection (2)).
- (2) The holder of the mining licence or prospecting licence must pay royalties for the lignite in accordance with the prescribed rate.
- (3) For the purposes of subsection (2), the *prescribed rate* is—
 - (a) the base amount per gigajoule unit of lignite produced; or
 - (b) if a different rate is prescribed in the regulations, that rate.
- (4) Without limiting subsection (2), the holder of a mining licence or prospecting licence must, unless the Minister decides otherwise, pay royalties in respect of the disposal under section 14(2)(b) or 14B(2A) (as the case requires) of tailings resulting from work under a licence over Crown land in accordance with the rate or method of assessment and at the times prescribed.

S. 12A(1)
amended by
No. 64/2012
s. 15(1).

S. 12A(2)
amended by
No. 64/2012
s. 15(2).

S. 12A(4)
amended by
Nos. 64/2012
s. 15(3),
68/2014, s. 17.

(5) In this section—

S. 12A(5)
def. of
base amount
amended by
No. 44/2014
s. 33(Sch.
item 16(1)),
substituted by
No. 40/2016
s. 31.

base amount means—

- (a) for the period commencing on 1 July 2016 and ending on 31 December 2016, the amount determined in accordance with the following formula—

$$\$0.0588 \times \left(\frac{A}{B} \right)$$

where—

A is the consumer price index number for the reference period ending on 30 June 2016;

B is the consumer price index number for the financial year ending on 30 June 2005; and

- (b) for the period commencing on 1 January 2017 and ending on 30 June 2017, the amount determined in accordance with the following formula—

$$\$0.0021402 \times C$$

where—

C is the consumer price index number for the financial year ending on 30 June 2016; and

- (c) for the financial year ending on 30 June 2018 and each subsequent financial year, the amount determined in accordance with the following formula—

$$D \times \left(\frac{E}{F} \right)$$

where—

D is the amount calculated under paragraph (b);

E is the consumer price index number for the reference period ending on 30 June immediately preceding the financial year for which the determined amount is being calculated;

F is the consumer price index number for the financial year ending on 30 June 2016;

consumer price index number means the all groups consumer price index number for Melbourne in original terms published by the Australian Bureau of Statistics;

S. 12A(5)
def. of
consumer price index number
substituted as
consumer price index
by No.
44/2014
s. 33(Sch.
item 16(2)),
substituted as
consumer price index number
by
No. 40/2016
s. 31.

gigajoule unit of lignite means a quantity of lignite which, when mined and measured at a prescribed time and in the prescribed manner, has a net wet specific energy content of 1 gigajoule.

S. 12A(5)
def. of
gigajoule unit of lignite
substituted by
No. 59/2010
s. 33.

Pt 2 (Heading)
amended by
No. 59/2010
s. 6.

Pt 2 Div. 1
(Heading)
inserted by
No. 63/2006
s. 7.

Part 2—Exploration licences, mining, prospecting and retention licences

Division 1—General licence provisions

13 Exploration licences

S. 13(3)(a)
substituted by
No. 82/2000
s. 12(1).

S. 13(4)
inserted by
No. 82/2000
s. 12(2).

S. 13(5)
inserted by
No. 74/2010
s. 28(1).

- (1) The holder of an exploration licence is, subject to section 43(1), entitled to carry out exploration on the land covered by the licence.
- (2) An exploration licence must describe the land by reference to graticular sections (whether whole or part), unless the Minister decides otherwise.
- (3) An exploration licence—
 - (a) is current for the time specified in the licence (unless it is surrendered or cancelled earlier or unless this Act otherwise provides); and
 - (b) may be renewed in accordance with the provisions of this Part; and
 - (c) applies to the area, not less than 1 nor more than 500 graticular sections, specified in the licence, unless the Minister decides otherwise.
- (4) In issuing an exploration licence, the Minister may specify on the licence that it is to remain current for a period of up to 5 years from the date on which it is registered.
- (5) For the purposes of section 8(1)(k) of the Personal Property Securities Act 2009 of the Commonwealth, an exploration licence is declared not to be personal property.

14 Mining licences

- (1) The holder of a mining licence is, subject to section 42(1), entitled to carry out mining on the land covered by the licence and—
- (a) to explore for minerals; and
 - (b) to construct any facilities specified in the licence, including drives, roads, water races, tailing dumps, tailing dams, drains, dams, reservoirs and pipe-lines; and
 - (c) to do anything else that is incidental to that mining.
- (2) The licensee may—
- (a) use, for any mining purpose, any tailings produced by the licensee during work under the licence or a former licence or a former title within the meaning of clause 2 of Schedule 2 (whether before or after 6 November 1991); or
 - (b) with the consent of the Minister and in accordance with any conditions imposed by the Minister on that consent, dispose of any tailings referred to in paragraph (a).
- (2A) A licensee must not dispose of any tailings referred to in subsection (2)(a) otherwise than with the consent of the Minister under subsection (2)(b) and in accordance with any conditions imposed by the Minister on that consent.

S. 14(1)
amended by
Nos 82/2000
s. 13(1),
10/2014 s. 6.

S. 14(2)(a)
amended by
No. 86/1993
s. 7(1)(a).

S. 14(2)(b)
amended by
No. 86/1993
s. 7(1)(b)(i)(ii).

S. 14(2A)
inserted by
No. 86/1993
s. 7(2).

Penalty applying to this subsection: 60 penalty units.

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990

Part 2—Exploration licences, mining, prospecting and retention licences

S. 14(3)(a)
amended by
No. 56/1995
s. 40.

- (3) A mining licence—
- (a) is current for the time specified in the licence, not exceeding 20 years from the date on which it is registered unless the Minister decides otherwise; and
 - (b) may be renewed in accordance with the provisions of this Part; and
 - (c) applies to the land described in the licence.

S. 14(4)
amended by
Nos 59/2010
s. 7(1),
43/2012
s. 3(Sch.
item 30).

- (4) The area of the land described in a licence must not exceed 260 hectares, unless the Minister decides a greater area may be required to mine a mineral resource.

S. 14(5)
inserted by
No. 82/2000
s. 13(2),
substituted by
No. 59/2010
s. 7(2).

- (5) A mining licence does not entitle the holder of the licence to only explore for a mineral resource during the currency of the licence.

S. 14(6)
inserted by
No. 82/2000
s. 13(2).

- (6) However, the Minister may, by notice in writing, authorise the holder of such a mining licence to only explore for minerals for a specified period of up to 2 years.

S. 14(7)
inserted by
No. 74/2010
s. 28(2).

- (7) For the purposes of section 8(1)(k) of the Personal Property Securities Act 2009 of the Commonwealth, a mining licence is declared not to be personal property.

S. 14A
inserted by
No. 86/1993
s. 8,
amended by
No. 64/2012
s. 16 (as
amended by
No. 70/2013
s. 3(Sch. 1
item 47.1)).

14A Licence may be limited to stratum of land

A licence may be granted—

- (a) for a stratum of land; or

(b) without being limited to a particular stratum—

and references in this Act to land must be construed accordingly.

14B Prospecting licences

S. 14B
inserted by
No. 59/2010
s. 8.

(1) The holder of a prospecting licence is entitled—

- (a) to prospect or explore for minerals; and
- (b) to carry out mining on the land covered by the licence; and
- (c) to do anything else that is incidental to that mining.

(2) To avoid doubt, the holder of a prospecting licence is entitled to apply for a mining licence or retention licence in respect of the land covered by the licence.

(2A) The holder of a prospecting licence may with the consent of the Minister, and in accordance with any conditions imposed by the Minister on that consent, dispose of any tailings produced by the holder during work under the licence.

S. 14B(2A)
inserted by
No. 64/2012
s. 17.

(3) A prospecting licence—

- (a) is current for the time specified in the licence, not exceeding 7 years from the date on which it is registered; and
- (b) cannot be renewed; and
- (c) applies to the land described in the licence.

S. 14B(3)(a)
amended by
No. 32/2019
s. 54.

(4) The area of the land described in a prospecting licence must not exceed 5 hectares.

(5) For the purposes of section 8(1)(k) of the Personal Property Securities Act 2009 of the Commonwealth, a prospecting licence is declared not to be personal property.

S. 14B(5)
inserted by
No. 68/2014
s. 18.

S. 14BA
inserted by
No. 64/2012
s. 18.

14BA Holder of prospecting licence must not dispose of tailings contrary to Minister's consent

A holder of a prospecting licence must not dispose of any tailings contrary to any consent of the Minister under section 14B(2A).

Penalty: 60 penalty units.

S. 14C
inserted by
No. 59/2010
s. 8.

14C Retention licences

- (1) The holder of a retention licence is entitled—
 - (a) to retain rights to a mineral resource in the land covered by the licence—
 - (i) that is not economically viable to mine but may become economically viable to mine in the future; or
 - (ii) for the purpose of sustaining the operations of an existing mine; and
 - (b) to explore and carry out other work to establish the economic viability of mining a mineral resource in the land covered by the licence.
- (2) To avoid doubt, the holder of a retention licence is entitled to—
 - (a) apply for a mining licence in respect of the land covered by the licence; or
 - (b) give consent to another person to apply for a mining licence in respect of the land covered by the licence.
- (3) A retention licence—
 - (a) is current for the time specified in the licence, not exceeding 10 years from the date on which it is registered; and

(b) may be renewed in accordance with the provisions of this Part; and

S. 14C(3)(b)
substituted by
No. 68/2014
s. 19(1).

(c) applies to the land described in the licence.

(4) The area of the land described in a licence is the area the Minister determines as the area that may be required for the purpose of mining a mineral resource in the future.

(5) For the purposes of section 8(1)(k) of the Personal Property Securities Act 2009 of the Commonwealth, a retention licence is declared not to be personal property.

S. 14C(5)
inserted by
No. 68/2014
s. 19(2).

Division 2—Licence process

Pt 2 Div. 2
(Heading and
s. 14AB)
inserted by
No. 63/2006
s. 8.

14AB Application of this Division

The provisions in this Division do not apply to a licence for which an application may be made under Division 3 unless specifically applied under Division 3.

S. 14AB
inserted by
No. 63/2006
s. 8.

15 Application for a licence

(1) A person may apply to the Minister in accordance with the regulations for an exploration licence, a mining licence, prospecting licence or retention licence.

S. 15(1)
amended by
No. 59/2010
s. 9(1).

(1A) An application for a licence is ineffective, and must not be accepted by the Minister, to the extent that it is for—

S. 15(1A)
inserted by
No. 86/1993
s. 9(1).

(a) a licence over land that is covered by a mining licence or that is the subject of an application for a mining licence; or

S. 15(1A)(a)
substituted by
No. 59/2010
s. 9(2).

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990

Part 2—Exploration licences, mining, prospecting and retention licences

S. 15(1A)(b)
substituted by
No. 59/2010
s. 9(2).

(b) an exploration licence over land that is covered by an exploration licence or that is the subject of an application for an exploration licence; or

S. 15(1A)(ba)
inserted by
No. 59/2010
s. 9(2).

(ba) a prospecting licence over land that is covered by a prospecting licence or that is the subject of an application for a prospecting licence; or

S. 15(1A)(bb)
inserted by
No. 59/2010
s. 9(2).

(bb) a retention licence over land that is covered by a retention licence or that is the subject of an application for a retention licence; or

S. 15(1A)(c)
amended by
No. 59/2010
s. 9(3)(a).

(c) a mining licence over land that is covered by an exploration licence or a prospecting licence or retention licence unless—

S. 15(1A)(c)(i)
amended by
No. 59/2010
s. 9(3)(b).

(i) the applicant is the holder of the exploration licence, prospecting licence or retention licence; or

S. 15(1A)(c)(ii)
substituted by
No. 82/2000
s. 14(1)(a),
amended by
No. 59/2010
s. 9(3)(b).

(ii) the application is accompanied by the written consent of the holder of the exploration licence, prospecting licence or retention licence to the granting of the licence; or

S. 15(1A)(c)(iii)
inserted by
No. 82/2000
s. 14(1)(a),
repealed by
No. 59/2010
s. 9(3)(c).

* * * * *

S. 15(1A)(ca)
inserted by
No. 59/2010
s. 9(4).

(ca) a prospecting licence over land that is covered by an exploration licence or that is the subject of an application for an exploration licence unless—

(i) the applicant is the holder of, or the applicant for, the exploration licence; or

- (ii) the application is accompanied by the written consent of the holder of, or the applicant for, the exploration licence to the granting of the licence; or
 - (iii) the exploration licence was first registered more than 2 years before the application for the prospecting licence was lodged; or
- (cb) a prospecting licence over land that is covered by a retention licence or that is the subject of an application for a retention licence unless—
 - (i) the applicant is the holder of, or the applicant for, the retention licence; or
 - (ii) the application is accompanied by the written consent of the holder of, or the applicant for, the retention licence to the granting of the licence; or
- (cc) a retention licence over land that is covered by an exploration licence or that is the subject of an application for an exploration licence unless—
 - (i) the applicant is the holder of, or the applicant for, the exploration licence; or
 - (ii) the application is accompanied by the written consent of the holder of, or the applicant for, the exploration licence to the granting of the licence; or
- (cd) a retention licence over land that is covered by a prospecting licence or that is the subject of an application for a prospecting licence unless—
 - (i) the applicant is the holder of, or the applicant for, the prospecting licence; or

S. 15(1A)(cb)
inserted by
No. 59/2010
s. 9(4).

S. 15(1A)(cc)
inserted by
No. 59/2010
s. 9(4).

S. 15(1A)(cd)
inserted by
No. 59/2010
s. 9(4).

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- (ii) the application is accompanied by the written consent of the holder of, or the applicant for, the prospecting licence to the granting of the licence; or
- S. 15(1A)(d)**
substituted by
No. 82/2000
s. 14(1)(b).
- (d) a licence over land in respect of which an application for a licence has already been made (unless the application is made on the same day as the other application); or
- S. 15(1A)(e)**
amended by
No. 82/2000
s. 14(1)(c).
- (e) a licence over land that is subject to the tender process under section 27; or
- S. 15(1A)(f)**
inserted by
No. 82/2000
s. 14(1)(c).
- (f) a licence over land that is the subject of an exemption under section 6 or 7; or
- S. 15(1A)(g)**
inserted by
No. 82/2000
s. 14(1)(c),
repealed by
No. 63/2006
s. 9(a), new
s. 15(1A)(g)
inserted by
No. 59/2010
s. 9(5).
- (g) a prospecting licence over land that abuts land covered by an adjoining prospecting licence and—
- S. 15(1A)(g)(i)**
amended by
No. 64/2012
s. 19(1).
- (i) that application has been made within 2 years after the registration of the adjoining prospecting licence; or
- (ii) the land to be covered by that application and land covered by other prospecting licences will form a contiguous area of land that exceeds 20 hectares; or
- S. 15(1A)(ga)**
inserted by
No. 64/2012
s. 19(2).
- (ga) a prospecting licence over land that abuts land that is the subject of an application for a prospecting licence; or

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- (h) a licence over land that was covered by a previous licence if the application is lodged less than 28 days after the previous licence ceased to apply to the land; or
- (i) a licence over land that was the subject of a previous application if the application is lodged less than 28 days after the previous application lapsed, or was withdrawn, rejected or not accepted.
- (1AB) Subsection (1A)(h) and (i) do not apply if—
- (a) the person who applied for the licence is the holder of an exploration licence, mining licence or retention licence covering land that surrounds the area of the application; and
- (b) the land was previously covered by—
- (i) a mining licence not exceeding 5 hectares; or
- (ii) a prospecting licence; or
- (iii) an application for a prospecting licence.
- (1B) An application of a kind described in paragraphs (a) to (e) of subsection (1A) must be taken to be an application for an exploration licence, mining licence, prospecting licence or retention licence (as the case requires) over any other land to which it relates.
- (1BA) An application for a licence must specify the mineral or minerals to which the licence will relate.
- (1BAA) An application for an exploration licence, a mining licence or a retention licence is ineffective, and must not be accepted by the Minister, to the extent that it specifies that the licence is to relate to coal seam gas.

S. 15(1A)(h)
inserted by
No. 82/2000
s. 14(1)(c).

S. 15(1A)(i)
inserted by
No. 82/2000
s. 14(1)(c).

S. 15(1AB)
inserted by
No. 10/2014
s. 7.

S. 15(1B)
inserted by
No. 86/1993
s. 9(1),
amended by
No. 59/2010
s. 9(6).

S. 15(1BA)
inserted by
No. 59/2010
s. 9(7).

S. 15(1BAA)
inserted by
No. 8/2017
s. 5.

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S 15(1BB)
inserted by
No. 59/2010
s. 9(7).

(1BB) An application for a mining licence (other than an infrastructure mining licence) or a retention licence must describe, in accordance with the guidelines issued by the Minister, a mineral resource.

S 15(1BC)
inserted by
No. 59/2010
s. 9(7).

(1BC) In addition, an application for a retention licence must specify the area of land that the licence will cover and the reasons for that coverage.

S 15(1BD)
inserted by
No. 59/2010
s. 9(7).

(1BD) To avoid doubt, an application for an exploration licence or a prospecting licence is not required to describe a mineral resource.

S 15(1BE)
inserted by
No. 59/2010
s. 9(7).

(1BE) If the mineral resource described in an application referred to in subsection (1BB) is not being mined from the land that will be covered by the licence being applied for, the application must include a report (a *mineralisation report*) prepared by a competent person that—

- (a) sets out the exploration results in relation to the described mineral resource; and
- (b) includes an analysis of whether the exploration results indicate that there is a reasonable prospect that the mining of the described mineral resource will be economically viable.

S 15(1BF)
inserted by
No. 59/2010
s. 9(7).

(1BF) The exploration results referred to in subsection (1BE) must—

- (a) specify the type of the mineral or minerals; and
- (b) specify the location, depth, quantity and extent of the mineral or minerals; and
- (c) specify the method by which the extent of the mineral or minerals have been determined; and
- (d) include analytical results obtained from samples of the mineral or minerals.

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- (1BG) In subsection (1BE), a *competent person* means a person prescribed for the purposes of that subsection as a competent person. S 15(1BG) inserted by No. 59/2010 s. 9(7).
- (1BH) Unless otherwise provided by the regulations, an application for a mining licence, prospecting licence or retention licence must include a survey of the boundaries of the land proposed to be covered by the licence in accordance with Division 3A. S 15(1BH) inserted by No. 68/2014 s. 20(1).
- (1C) An application for a licence is ineffective, and must not be accepted by the Minister, if it does not contain all of the details required by the regulations for an application for that type of licence. S. 15(1C) inserted by No. 82/2000 s. 14(2).
- (1D) For the purpose of determining whether an application falls within a category listed in subsection (1A), the Minister may ask the applicant to provide additional information about the application (but only if that information is not information that was required by the regulations). S. 15(1D) inserted by No. 82/2000 s. 14(2).
- (1E) The request for the additional information must be made in writing and may specify a time within which the information is to be given to the Minister. S. 15(1E) inserted by No. 82/2000 s. 14(2).
- (1F) If, in asking for additional information, the Minister specified a period within which the information was to be given, the application lapses if— S. 15(1F) inserted by No. 82/2000 s. 14(2).
- (a) the information is not given to the Minister within the time specified by the Minister in making the request (or within any later time subsequently allowed by the Minister in writing); and

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- (b) the Minister has not withdrawn the request for the information within the times referred to in paragraph (a).
- S. 15(1G) inserted by No. 82/2000 s. 14(2).**
- (1G) If, in asking for additional information, the Minister did not specify a period within which the information was to be given, the application lapses if the information is not given to the Minister within 6 months after the request was made (unless the Minister withdraws the request within that time).
- S. 15(2) substituted by No. 82/2000 s. 14(3).**
- (2) If the Minister does not accept an application, he or she must notify the applicant in writing that the application has not been accepted and must include in the notification details of the reasons why it was not accepted.
- S. 15(3) amended by No. 76/1998 s. 31(b), substituted by No. 82/2000 s. 14(3).**
- (3) If the Minister accepts an application, he or she must notify the applicant in writing that the application has been accepted, and must include in the notification—
- S. 15(3)(aa) inserted by No. 64/2012 s. 19(3).**
- (aa) if the application is not the only application that has been accepted, a statement that more than one application has been received and accepted and that the applications will be ranked in accordance with this Part; or
- S. 15(3)(a) amended by No. 64/2012 s. 19(4).**
- (a) if, because of section 23, the application has a lower ranking than another application, a statement that another application has a higher ranking; or
- S. 15(3)(b) amended by No. 64/2012 s. 19(5).**
- (b) in any other case, a statement that the application has the highest ranking.

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- (4) On an application ceasing to have a lower ranking than another application, the Department Head must notify the applicant that the application has the highest ranking.
- S. 15(4) amended by Nos 76/1998 s. 31(b), 64/2012 s. 19(6).
- (5) An applicant for a licence must, within 14 days after being notified under subsection (3)(b) or (4) that the application has the highest ranking, advertise the application in accordance with the regulations and, if the application is for a mining licence or a prospecting licence, give notice of it in accordance with the regulations to the owner and occupier of the land affected².
- S. 15(5) amended by Nos 53/2011 s. 3, 64/2012 s. 19(7).
- (5A) The Minister must, as soon as practicable after an applicant for a licence covering unrestricted Crown land is notified under subsection (3)(b) or (4) that the application has the highest ranking, consult with the Crown land Minister in relation to the carrying out of work on that land and the Crown land Minister may recommend to the Minister conditions to which the licence should be made subject.
- S. 15(5A) inserted by No. 86/1993 s. 9(2), amended by Nos 63/2006 s. 9(b), 64/2012 s. 19(8).
- (6) An applicant for a licence must satisfy the Minister that the applicant—
- (a) is a fit and proper person to hold the licence; and
- (b) intends to comply with this Act; and
- S. 15(6)(b) substituted by No. 86/1993 s. 9(3).
- (ba) subject to subsection (6A), genuinely intends to do work; and
- S. 15(6)(ba) inserted by No. 86/1993 s. 9(3), substituted by No. 59/2010 s. 9(8).

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S. 15(6)(c)
substituted by
No. 59/2010
s. 9(8).

(c) subject to subsection (6A), has an appropriate program of work; and

(d) is likely to be able to finance the proposed work and rehabilitation of the land.

S. 15(6A)
inserted by
No. 59/2010
s. 9(9).

(6A) An applicant for a retention licence is not required to satisfy the Minister that the applicant genuinely intends to do work and has an appropriate program of work if the Minister considers it unnecessary or inappropriate in the circumstances.

S. 15(6B)
inserted by
No. 59/2010
s. 9(9).

(6B) Without limiting subsection (6), an applicant for a mining licence (other than an infrastructure mining licence) or a retention licence must satisfy the Minister that there is a reasonable prospect that the mining of the mineral resource described in the application will be economically viable.

S. 15(6C)
inserted by
No. 59/2010
s. 9(9).

(6C) Without limiting subsection (6), in the case where the Minister accepts an application for a mining licence or a retention licence referred to in subsection (1BB), the Minister must, for the purpose of being satisfied whether to grant the mining licence or retention licence, consider the mineralisation report included in the application.

(7) An applicant for a licence must provide any additional information about the application that is requested in writing by the Minister, within 14 days after receipt of the request or any longer time allowed by the Minister.

S. 15(8)
substituted by
No. 82/2000
s. 14(4).

(8) If the Minister asks for additional information about an application, the application lapses if—
(a) the information is not given to the Minister within the time required by subsection (7); and
(b) the Minister has not withdrawn the request for the information within that time.

(9) In consenting to the granting of a mining licence, prospecting licence or retention licence over land that is covered by an exploration licence or that is the subject of an application for an exploration licence, the holder of, or the applicant for, the exploration licence may make the consent conditional on specified depth restrictions.

S. 15(9) substituted by No. 82/2000 s. 14(4), amended by No. 64/2012 s. 19(9), substituted by No. 68/2014 s. 20(2).

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S. 15(10)–(14) repealed by No. 82/2000 s. 14(5).

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S. 15(15) amended by No. 27/1991 s. 4(3), repealed by No. 82/2000 s. 14(5).

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S. 15(16)–(18) repealed by No. 82/2000 s. 14(5).

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S. 15(19) amended by No. 27/1991 s. 4(3), repealed by No. 82/2000 s. 14(5).

16 Applicant for licence—fit and proper person

(1) For the purpose of being satisfied under section 15(6)(a) that an applicant for a licence is a fit and proper person to hold the licence, the Minister must have regard to whether—

- (a) the Minister has taken action under section 83 to rehabilitate land because the applicant or an associate of the applicant has not complied with Part 7, including—

S. 16 amended by No. 76/1998 s. 31(b), repealed by No. 82/2000 s. 14(6), new s. 16 inserted by No. 59/2010 s. 10.

- (i) the circumstances which led to the taking of that action under that Part; and
 - (ii) when those circumstances arose;
 - (b) a licence held by the applicant or an associate of the applicant has been cancelled, including—
 - (i) the circumstances which led to that cancellation;
 - (ii) when those circumstances arose;
 - (c) the applicant or an associate of the applicant has been convicted of an offence against the Act, including—
 - (i) the nature of the offence;
 - (ii) when the offence was committed;
 - (iii) the penalty imposed;
 - (d) the applicant or an associate of the applicant has been convicted of an offence involving fraud or dishonesty including—
 - (i) the nature of the offence;
 - (ii) when the offence was committed;
 - (iii) the penalty imposed.
- (2) The Minister cannot be satisfied under section 15(6)(a) that an applicant for a licence is a fit and proper person to hold the licence if the applicant or an associate of the applicant is an insolvent under administration.
- (3) Subsections (1) and (2) do not limit what the Minister must be satisfied of under section 15(6)(a).

- (4) In this section *associate* means a director, partner, trustee, executive officer, secretary or any other officer or person associated or connected with the ownership, administration or management of the applicant's business.

16A Application for mining licence or retention licence where exploration licence or prospecting licence covers same land

S. 16A
inserted by
No. 59/2010
s. 10.

- (1) This section applies if—
- (a) an application is made for a mining licence or retention licence in relation to land covered by an exploration licence or prospecting licence; and
 - (b) the exploration licence or prospecting licence (as the case may be) will expire before the Minister grants or refuses to grant the mining licence or retention licence.
- (2) Despite anything to the contrary in this Act, the part of the exploration licence or prospecting licence that covers the land that is the subject of the application continues in effect after the date it would have otherwise expired until the Minister grants or refuses to grant the mining licence or retention licence (as the case may be).

16B Application for mining licence where retention licence covers same land

S. 16B
inserted by
No. 68/2014
s. 21.

- (1) This section applies if—
- (a) an application is made for a mining licence in relation to land covered by a retention licence; and
 - (b) the retention licence will expire before the Minister grants or refuses to grant the mining licence.

- (2) Despite anything to the contrary in this Act, the part of the retention licence that covers the land that is the subject of the application continues in effect after the date it would have otherwise expired until the Minister grants or refuses to grant the mining licence.

17 Application not transferable

An application for a licence is not transferable.

18 Notice of applications with the highest ranking

The Department Head must, within 14 days after an applicant for a licence is notified under section 15(3)(b) or (4) that the application has the highest ranking, give notice of the application to—

S. 18
(Heading)
inserted by
No. 63/2006
s. 10(1),
amended by
No. 64/2012
s. 20(1).
S. 18
amended by
Nos 76/1998
s. 31(b),
64/2012
s. 20(2).

S. 18(a)
amended by
No. 16/2006
s. 198(Sch. 2
item 5(3)).

S. 18(b)
amended by
Nos 82/2000
s. 15, 63/2006
s. 10(2)(a),
substituted by
No. 16/2006
s. 198(Sch. 2
item 5(4)) (as
amended by
No. 63/2006
s. 61(Sch.
item 1.4)).

- (a) any person or body nominated by the Minister administering the **Aboriginal Heritage Act 2006**; and
- (b) any registered Aboriginal party (within the meaning of the **Aboriginal Heritage Act 2006**) for an area to which the application relates; and

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(c) if the application is for a mining licence or prospecting licence, the Executive Director (within the meaning of the **Heritage Act 2017**).

S. 18(c)
inserted by
No. 63/2006
s. 10(2)(b),
amended by
Nos 68/2014
s. 22, 7/2017
s. 304.

19 Withdrawal of application

- (1) An applicant for a licence may withdraw the application, either in whole or in part, by delivering a signed notice of withdrawal to the Minister.
- (2) A withdrawal takes effect on the delivery of the notice to the principal office of the Department Head.

New s. 19
inserted by
No. 82/2000
s. 16.

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Ss 19, 20
amended by
No. 76/1998
s. 31(b),
repealed by
No. 82/2000
s. 17.

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S. 21
repealed by
No. 82/2000
s. 17.

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S. 22
amended by
Nos 86/1993
s. 10(a)(b),
76/1998
s. 31(b),
repealed by
No. 82/2000
s. 17.

23 Ranking of applications

S. 23
(Heading)
inserted by
No. 64/2012
s. 21(1).

S. 23
substituted by
No. 82/2000
s. 18.

S. 23(1)
amended by
No. 64/2012
s. 21(2).

(1) If more than one application for a licence in respect of the same land is received on the same day, the Minister must rank those applications in accordance with this section.

S. 23(2)
amended by
No. 64/2012
s. 21(3).

(2) The Minister must give the highest ranking to the application that he or she believes will best further the objectives of this Act after considering—

- (a) the relative merits of the applications; and
- (b) the likely ability of each applicant to meet the requirements specified in section 15(6).

S. 23(3)
amended by
No. 64/2012
s. 21(4).

(3) Once an application has been given the highest ranking, any further assessment of the application must be made without regard to anything contained in applications having a lower ranking.

24 Objections to licence

(1) Any person may object to a licence being granted.

(2) A person who objects must—

- (a) put the objection in writing; and
- (b) include the grounds on which it is made; and
- (c) send it to the Minister within 21 days after the latest date on which the application was advertised.

- (3) The Department Head must make sure that a copy of each objection received by the Minister is available to be inspected at the principal office of the Department by any person, on request and free of charge, during office hours until the application is granted or refused.

S. 24(3)
amended by
No. 76/1998
s. 31(b).

24A Comments on licence

- (1) Any person may comment on a licence being granted.
- (2) A person who comments must—
- (a) put the comments in writing; and
 - (b) include the basis on which the comments are made; and
 - (c) send the comments to the Minister within 21 days after the latest date on which the application was advertised.
- (3) The Department Head must make sure that a copy of each set of comments received by the Minister is available to be inspected at the principal office of the Department by any person, on request and free of charge, during office hours until the application is granted or refused.

S. 24A
inserted by
No. 32/2019
s. 55.

25 Grant or refusal of licence

- (1) The Minister must not grant a licence over land—
- (a) that is covered by a mining licence; or
 - (b) that is covered by an exploration licence, unless the application is for a mining licence or retention licence and, if the applicant is not the holder of the exploration licence, the holder of that licence consents in writing; or
 - (ba) that is covered by an exploration licence or that is the subject of an application for an exploration licence, unless the application is for a prospecting licence and, if the applicant

S. 25(1)(b)
amended by
No. 82/2000
s. 19(a),
substituted by
No. 59/2010
s. 11(1).

S. 25(1)(ba)
inserted by
No. 59/2010
s. 11(2).

is not the holder of the exploration licence or the applicant for the exploration licence—

- (i) the holder or applicant of the exploration licence consents in writing; or
- (ii) in the case of an exploration licence, both of the following conditions apply—
 - (A) the exploration licence was first registered more than 2 years before the application was lodged; and
 - (B) the Minister has waived the need for the exploration licence holder's consent under section 25A; or
- (c) that has been covered by an exploration licence for at least 2 years, if the granting of the licence would mean that—
 - (i) the number of—
 - (A) mining licences granted by virtue of section 25A before the commencement of section 12 of the **Mineral Resources Amendment (Sustainable Development) Act 2010**; or
 - (B) prospecting licences granted by virtue of that section on and after the commencement of section 12 of the **Mineral Resources Amendment (Sustainable Development) Act 2010**—over land covered by the exploration licence is more than the number of graticular sections covered by the exploration licence divided by 10; or

S. 25(1)(c)
amended by
No. 82/2000
s. 19(c),
substituted by
No. 59/2010
s. 11(3).

(ii) any 2 areas covered by—

(A) mining licences granted by virtue of section 25A before the commencement of section 12 of the **Mineral Resources Amendment (Sustainable Development) Act 2010**; or

(B) prospecting licences granted by virtue of that section on and after the commencement of section 12 of the **Mineral Resources Amendment (Sustainable Development) Act 2010**—

within the exploration licence would be 1 kilometre or less apart at the closest points; or

(d) that is the subject of any other application that—

(i) has not been determined; and

(ii) has, because of section 23, a higher ranking than the present application; or

S. 25(1)(d)(ii)
amended by
No. 64/2012
s. 22.

(e) that is exempted under this or any other Act from being subject to—

(i) an exploration licence, if the application is for an exploration licence; or

(ii) a mining licence, if the application is for a mining licence; or

(iii) a prospecting licence, if the application is for a prospecting licence; or

S. 25(1)(e)(iii)
inserted by
No. 68/2014
s. 23(a).

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S. 25(1)(e)(iv)
inserted by
No. 68/2014
s. 23(a).

(iv) a retention licence, if the application is
for a retention licence; or;

(f) that is subject to a current minerals
exemption; or

S. 25(1)(g)
amended by
No. 63/2006
s. 11(1).

(g) that is subject to the tender process under
section 27, unless the licence is granted to
the successful tenderer; or

S. 25(1)(h)
amended by
No. 86/1993
s. 11(1),
repealed by
No. 82/2000
s. 19(b).

* * * * *

S. 25(1)(i)
inserted by
No. 86/1993
s. 11(1).

(i) that is limited to a particular stratum unless
the Minister is satisfied that the applicant can
obtain reasonable access to and use of the
land.

S. 25(2)
substituted by
No. 10/2014
s. 8(1),
amended by
No. 32/2019
s. 56.

(2) Otherwise, the Minister may grant or refuse a
licence, after considering any objections made
under section 24 and any comments made
under section 24A—

(a) in the case of an exploration licence or a
prospecting licence, within 90 days of the
application being accepted in accordance
with section 15; or

(b) in the case of a retention licence or mining
licence, within 120 days of the application
being accepted in accordance with
section 15.

S. 25(2A)
inserted by
No. 10/2014
s. 8(2).

(2A) For the purposes of subsection (2), the calculation
of the number of days in which a licence may be
granted or refused does not include any day that
occurs within any of the following periods—

- (a) from the time that the Minister asks the applicant under section 15(7) to provide additional information until that information is provided;
 - (b) from the time that a matter relevant to the application is referred for investigation to the mining warden under section 25A, 97 or 98 until that investigation is completed;
 - (c) in the case of an application involving Crown land, any time taken by the applicant to comply with the requirements of the Native Title Act 1993 of the Commonwealth or the **Traditional Owner Settlement Act 2010**.
- (3) The Minister may grant a licence if the applicant has substantially complied with this Act and the regulations (provided that the applicant complies with section 15(6)(a), (b), (c) and (d)), and may refuse to grant a licence even though the applicant has complied with this Act and the regulations.
- * * * * *
- (4) Subsection (3) does not authorise the Minister to grant a licence if the applicant has not complied with this Act or the regulations unless the Minister is satisfied that the non-compliance is not likely to affect adversely any person's rights under this Act or the regulations or to result in any person being deprived of information necessary for the effectual exercise of those rights.
- (5) For the purposes of subsection (1)(c)(i), any part of a graticular section covered by the licence, and any fraction of a graticular section that remains

S. 25(3)
amended by
Nos. 86/1993
s. 11(2),
68/2014
s. 23(b)

S. 25(3A)
inserted by
No. 86/1993
s. 11(3),
repealed by
No. 82/2000
s. 19(b).

after dividing the number of graticular sections covered by the licence by 10, must be treated as a whole graticular section.

S. 25(6)
amended by
No. 68/2014
s. 23(c).

(6) In determining whether the limit imposed by subsection (1)(c)(i) or (ii) would be exceeded by the granting of a prospecting licence, regard must be had to the area covered by the exploration licence after excluding any area—

- (a) excluded on a renewal of the exploration licence; or
- (b) identified for exclusion in an application lodged for renewal of the exploration licence—

on account of section 38A.

(7) On granting a licence over land the Minister must refuse any other application for a similar type of licence that has been received to the extent that it relates to land covered by the licence being granted.

Note to s. 25
inserted by
No. 62/2010
s. 140(1),
repealed by
No. 10/2014
s. 8(3).

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S. 25A
inserted by
No. 82/2000
s. 20.

25A Waiver of exploration licence holder's consent

(1) This section applies if—

- (a) a person applies for a prospecting licence over land that is covered by an exploration licence; and

S. 25A(1)(a)
substituted by
No. 59/2010
s. 12(1).

S. 25A(1)(b)
repealed by
No. 59/2010
s. 12(2).

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- (c) the exploration licence was first registered more than 2 years before the application was lodged; and **S. 25A(1)(c) substituted by No. 59/2010 s. 12(3).**
- (d) the person is unable to obtain the written consent of the holder of the exploration licence to the granting of the licence. **S. 25A(1)(d) amended by No. 59/2010 s. 12(4).**
- (2) The person may apply to the Minister for the Minister to waive the need for the person to obtain the exploration licence holder's consent to the granting of the licence.
- (3) An application must be made in the form and manner required by the Minister.
- (4) On the receipt of an application for waiver, the Minister must assess whether the granting of the prospecting licence would mean that the limit imposed by section 25(1)(c)(i) or (ii) would be exceeded. **S. 25A(4) amended by No. 59/2010 s. 12(5).**
- (5) If the Minister determines that the limit would not be exceeded, the Minister must refer the application for waiver to the mining warden for a recommendation as to whether the Minister should grant the waiver.
- (6) The mining warden must, within 30 days after receiving a referral, make a recommendation to the Minister about whether or not the Minister should grant the waiver.
- (7) The mining warden must not recommend that the Minister grant a waiver unless the mining warden is satisfied that the granting of the application for the licence—
- (a) would not be likely to significantly interfere with any work being, or proposed to be, carried out by the exploration licence holder; and

- (b) would not be unfair to the exploration licence holder; and
- (c) would not otherwise be inappropriate.
- (8) In making a recommendation, the mining warden may propose specified depth restrictions that should be applied if the licence is granted.
- (9) Before granting a waiver, the Minister must consider the recommendation made by the mining warden.

26 Grant of licence

- (1) The Minister may grant a licence over an area that is smaller than the area in respect of which the application is made.
- (2) The Minister may impose conditions to which a licence is subject, including but not limited to conditions about—
 - (a) rehabilitation of the land;
 - (b) elimination and minimisation of the risks that the work may pose to the environment, to any member of the public, or to land, property or infrastructure in the vicinity of the work;
 - (c) protection of groundwater;
 - (d) providing and implementing environmental offsets on the land or any other land;
 - (da) work undertaken under a licence;
 - (e) expenditure;

S. 26(2)(b)
substituted by
No. 47/2015
s. 7(1).

S. 26(2)(d)
repealed by
No. 82/2000
s. 21(1), new
s. 26(2)(d)
inserted by
No. 63/2006
s. 11(2)(a).

S. 26(2)(da)
inserted by
No. 59/2010
s. 13(1).

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990

Part 2—Exploration licences, mining, prospecting and retention licences

- (f) reporting the discovery of minerals;
- (g) entering into a rehabilitation bond;
- (h) payment of fees;
- (ha) payment of an environmental levy; **S. 26(2)(ha)**
inserted by
No. 82/2000
s. 21(2).
- (i) payment of royalties, other than royalties in
respect of lignite; **S. 26(2)(i)**
substituted by
No. 89/2005
s. 5.
- (j) access to and use of the land by the holder of
another licence that is limited to a particular
stratum; **S. 26(2)(j)**
substituted by
No. 86/1993
s. 12(1),
amended by
No. 63/2006
s. 11(2)(b).
- (k) protection of community facilities. **S. 26(2)(k)**
repealed by
No. 86/1993
s. 12(1), new
s. 26(2)(k)
inserted by
No. 63/2006
s. 11(2)(c).
- (2A) If, because of section 40(2)(b) or (c), a person
holding a mining or prospecting licence is not
required to lodge a work plan, the Minister may
impose a condition requiring compliance with a
Code of Practice on that mining licence or
prospecting licence. **S. 26(2A)**
inserted by
No. 10/2014
s. 9.
- (3) The Minister must impose, as conditions to which
a licence is subject, any conditions subject to
which consent to the application for the licence
was obtained under section 15(9). **S. 26(3)**
substituted by
No. 82/2000
s. 21(3).
- (3A) If the Minister has granted a waiver under
section 25A, the Minister may impose, as
conditions to which the licence is subject, any
conditions relating to specified depth restrictions
that were recommended under section 25A(8)
with respect to the granting of the licence. **S. 26(3A)**
inserted by
No. 82/2000
s. 21(3).

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990

Part 2—Exploration licences, mining, prospecting and retention licences

S. 26(4)
amended by
Nos 86/1993
s. 12(2),
82/2000
s. 21(4),
59/2010 s. 14.

(4) It is a condition of a licence that the licensee pays rent from the date of registration of the grant of the licence, in accordance with the rate or method of assessment and at the times prescribed.

S. 26(4AA)
inserted by
No. 47/2015
s. 7(2).

(4AA) Following consultation with the licensee, the Minister may by notice in writing require, as a condition to which a licence is subject, that the licensee—

- (a) submit to the Minister a report on work undertaken under the licence; and
- (b) publish that report.

S. 26(4AB)
inserted by
No. 47/2015
s. 7(2).

(4AB) A notice under subsection (4AA) must specify—

- (a) the work undertaken under the licence on which the licensee must report; and
- (b) the manner in which the licensee must submit the report to the Minister; and
- (c) the manner in which the licensee must publish the report; and
- (d) the dates by which the report must be submitted and published.

S. 26(4A)
inserted by
No. 82/2000
s. 21(5),
amended by
No. 68/2014
s. 24.

(4A) It is a condition of a licence that, in providing a document to the Minister under section 116, the licensee must give the Crown a licence to reproduce the document and any information in the document.

S. 26(5)(6)
repealed by
No. 82/2000
s. 21(1).

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Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990

Part 2—Exploration licences, mining, prospecting and retention licences

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S. 26(7)
substituted by
No. 52/1998
s. 311(Sch. 1
item 64.2),
repealed by
No. 82/2000
s. 21(1).

(7) It is a condition of a licence that the licensee comply with any conditions specified in a land use activity agreement under section 31(3) or 31(3A) of the **Traditional Owner Settlement Act 2010** that were accepted by the applicant for the licence.

S. 26(7)
inserted by
68/2014 s. 26.

(8) A licence has no effect until registered.

(9) On the registration of the grant of a mining licence, any land covered by that licence that was, immediately before the registration, covered by an exploration licence ceases to be covered by that exploration licence.

S. 26(9)
inserted by
No. 63/2006
s. 11(3).

(10) On the registration of the grant of a mining licence, any land covered by that licence that was, immediately before the registration, covered by a prospecting licence or retention licence ceases to be covered by that prospecting licence or retention licence.

S. 26(10)
inserted by
No. 59/2010
s. 13(2).

(11) On the registration of the grant of a retention licence, any land covered by that licence that was, immediately before the registration, covered by an exploration licence or prospecting licence ceases to be covered by that exploration licence or prospecting licence.

S. 26(11)
inserted by
No. 59/2010
s. 13(2).

26AAA Transfer of consents and approvals to undertake work

S. 26AAA
inserted by
No. 10/2014
s. 10.

The Department Head may approve the transfer of an approved work plan, rehabilitation bond or any other consent or approval in relation to a licence under this Act to any other licence held by the same licensee.

Pt 2 Div. 3
(Heading and
ss 26AA–
26AQ)
inserted by
No. 63/2006
s. 12.

Division 3—Licence process for direct allocation of licences relating to coal

Subdivision 1—General

S. 26AA
inserted by
No. 63/2006
s. 12.

26AA Definition

In this Division, *exempted land* means land—

- (a) that has been exempted under section 7 from being subject to a licence; and
- (b) that is not subject to an exemption under section 6.

S. 26AA(a)
substituted by
68/2014 s. 27.

S. 26AB
inserted by
No. 63/2006
s. 12.

26AB Licence applications under Division to be in respect of exempted land

An application for a licence under this Division may only be made in respect of exempted land.

Subdivision 2—Licences granted by the Minister

S. 26AC
inserted by
No. 63/2006
s. 12.

26AC Who may apply for a licence under this Subdivision?

A person may apply for a licence under this Subdivision only if the Minister is satisfied that—

- (a) the person was a successful tenderer under a prior competitive process equivalent to the tender process under section 27; and
- (b) in order to implement the requirements of the tender, the person requires access to coal.

S. 26AD
inserted by
No. 63/2006
s. 12.

26AD Application procedure

- (1) A person may apply to the Minister in accordance with the regulations for a licence to carry out the exploration or mining of coal on exempted land.

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Part 2—Exploration licences, mining, prospecting and retention licences

- (2) Sections 15(1BC) to (1BG), 15(1BH), 15(1C), 15(2), 15(6), 15(6A) to (6C), 15(7), 15(8), 16 and 16A apply to an application under this Subdivision as if the application were made under Division 2.
- (3) If the Minister accepts an application, he or she must notify the applicant in writing that the application has been accepted.
- (4) An applicant for a licence must, within 14 days after being notified under subsection (3) that the application has been accepted—
 - (a) advertise the application in accordance with the regulations; and
 - (b) if the application is for a mining licence, give notice of it in accordance with the regulations to the owner and occupier of the land affected.
- (5) The Minister must, as soon as practicable after an applicant for a licence covering unrestricted Crown land is notified under subsection (3) that the application has been accepted, consult with the Crown land Minister in relation to the carrying out of work on that land and the Crown land Minister may recommend to the Minister conditions to which the licence should be made subject.
- (6) Until regulations are made for the purposes of subsections (1) and (4), the relevant regulations relating to applications for licences under Division 2 will apply (with any necessary modifications).

S. 26AD(2)
amended by
Nos 59/2010
s. 15, 64/2012
s. 23, 68/2014
s. 28(1).

S. 26AE
inserted by
No. 63/2006
s. 12.

26AE Application of Act to licence application

S. 26AE(1)
amended by
No. 32/2019
s. 57.

- (1) Sections 17, 19, 24 and 24A apply to an application under this Subdivision as if the application were made under Division 2.
- (2) The Department Head must, within 14 days after an applicant for a licence is notified under section 26AD(3) that the application has been accepted, give notice of the application to the persons and bodies referred to in section 18.

S. 26AF
inserted by
No. 63/2006
s. 12.

26AF Grant or refusal of licence

S.
26AF(1)(a)(iii)
inserted by
No. 68/2014
s. 28(2).

S.
26AF(1)(a)(iv)
inserted by
No. 68/2014
s. 28(2).

- (1) The Minister must not grant a licence over land—
 - (a) that is exempted under section 6 of this Act or under any other Act from being subject to—
 - (i) an exploration licence, if the application is for an exploration licence; or
 - (ii) a mining licence, if the application is for a mining licence; or
 - (iii) a prospecting licence, if the application is for a prospecting licence; or
 - (iv) a retention licence, if the application is for a retention licence; or
 - (b) that is subject to a current minerals exemption; or

(c) that is limited to a particular stratum unless the Minister is satisfied that the applicant can obtain reasonable access to and use of the land.

(2) Otherwise, the Minister may grant or refuse a licence after considering any objections made under section 24 and any comments made under section 24A as applied by section 26AE.

S. 26AF(2)
amended by
No. 32/2019
s. 58.

(3) Sections 25(3), 25(4) and 25(7) apply to the granting of a licence under this Subdivision as if the decision to grant or refuse to grant the licence were made under Division 2.

(4) Sections 26(1), 26(2), 26(4), 26(4A), 26(5), 26(7) and 26(8) apply to a licence granted under this Subdivision as if the licence were granted under Division 2.

S. 26AF(4)
amended by
No. 68/2014
s. 28(3)(4).

(5) For the purposes of section 8(1)(k) of the Personal Property Securities Act 2009 of the Commonwealth, a licence granted under this section is declared not to be personal property.

S. 26AF(5)
inserted by
No. 74/2010
s. 28(3).

26AG Revocation of exemption over licence land

On the granting of a licence under this Subdivision the exemption to which the area of land covered by the licence is subject under section 7(1) is revoked to the extent that it relates to that land.

S. 26AG
inserted by
No. 63/2006
s. 12.

26AH Minister must publish notice

The Minister must cause a notice to be published in the Government Gazette—

- (a) stating that a licence under this Subdivision has been granted; and
- (b) describing the area of land covered by the licence; and

S. 26AH
inserted by
No. 63/2006
s. 12.

- (c) stating that the exemption relating to the area of land covered by the licence is revoked to the extent that it relates to that land.

S. 26AI
inserted by
No. 63/2006
s. 12.

26AI Application of Act to licence

- (1) On the granting of a licence under this Subdivision, this Act (except Divisions 2 and 5 of this Part) applies to the licence as if it were granted by the Minister under Division 2.
- (2) Without limiting subsection (1), the following things may be done under this Part in relation to the licence—
 - (a) the licence may be renewed, transferred, varied, surrendered, cancelled or amalgamated with another licence;
 - (b) a condition of the licence may be varied, suspended, revoked or added;
 - (c) the area of land covered by the licence may be excised, transferred or cancelled in part.

Subdivision 3—Licences granted by the Governor in Council

S. 26AJ
inserted by
No. 63/2006
s. 12.

26AJ Application procedure

- (1) A person may apply in accordance with the regulations for the Governor in Council to grant a licence to carry out the exploration or mining of coal on exempted land on the basis that the application is of State interest.
- (2) The application must be made to the Minister and be accompanied by evidence setting out the grounds for the application to be considered as one of State interest.

- (3) An application for a licence is ineffective, and must not be accepted by the Minister unless it is made in accordance with the regulations and subsection (2).
- (4) Sections 15(1BH), 15(2), 15(6), 15(7) and 15(8) apply to an application under this Subdivision as if the application were made under Division 2.

S. 26AJ(4)
amended by
No. 68/2014
s. 29(1).

26AK Notification and advertising requirements

S. 26AK
inserted by
No. 63/2006
s. 12.

- (1) If the Minister is not satisfied that the application is of State interest he or she must notify the applicant in writing of that fact setting out the reasons for not being so satisfied.
- (2) If the Minister is satisfied that the application is of State interest, he or she must notify the applicant in writing that the application is of State interest.
- (3) An applicant for a licence must, within 14 days after being notified under subsection (2) that the application is of State interest—
 - (a) advertise the application in accordance with the regulations; and
 - (b) if the application is for a mining licence, give notice of it in accordance with the regulations to the owner and occupier of the land affected.
- (4) The Minister must, as soon as practicable after an applicant for a licence covering unrestricted Crown land is notified under subsection (2) that the application is of State interest, consult with the Crown land Minister in relation to the carrying out of work on that land and the Crown land Minister may recommend to the Minister conditions to which the licence should be made subject.
- (5) Until regulations are made for the purposes of section 26AJ(1) and subsection (3), the relevant regulations relating to applications for licences

under Division 2 will apply (with any necessary modifications).

S. 26AL
inserted by
No. 63/2006
s. 12.

26AL Application of Act to licence application

- (1) Sections 17, 19 and 24 apply to an application under this Subdivision as if the application were made under Division 2.
- (2) The Department Head must, within 14 days after an applicant for a licence is notified under section 26AK(2) that the application is of State interest, give notice of the application to the persons and bodies referred to in section 18.

S. 26AM
inserted by
No. 63/2006
s. 12.

26AM Grant or refusal of licence

- (1) The Governor in Council must not grant a licence over land—
 - (a) that is exempted under section 6 of this Act or under any other Act from being subject to—
 - (i) an exploration licence, if the application is for an exploration licence; or
 - (ii) a mining licence, if the application is for a mining licence; or
 - (iii) a prospecting licence, if the application is for a prospecting licence; or
 - (iv) a retention licence, if the application is for a retention licence; or
 - (b) that is subject to a current minerals exemption; or
 - (c) that is limited to a particular stratum unless the Governor in Council, on the recommendation of the Minister, is satisfied

S.
26AM(1)(a)(iii)
inserted by
No. 68/2014
s. 29(2).

S.
26AM(1)(a)(iv)
inserted by
No. 68/2014
s. 29(2).

that the applicant can obtain reasonable access to and use of the land.

- (2) Otherwise, the Governor in Council on the recommendation of the Minister may—
- (a) grant a licence under this section to an applicant to carry out the exploration or mining of coal on exempted land; or
 - (b) refuse to grant that licence.
- (3) The Minister must not make a recommendation under subsection (2) unless the Minister has first considered any objections made under section 24 and any comments made under section 24A as applied by section 26AL(1). S. 26AM(3) amended by No. 32/2019 s. 59.
- (4) Sections 25(3), 25(4) and 25(7) apply to the granting or refusal of the granting of a licence under this Subdivision as if—
- (a) the decision to grant or refuse to grant the licence were made under Division 2; and
 - (b) any reference to the Minister were a reference to the Governor in Council on the recommendation of the Minister.
- (5) Sections 26(1), 26(2), 26(4), 26(4A), 26(5), 26(7) and 26(8) apply to a licence granted under this Subdivision as if— S. 26AM(5) amended by No. 68/2014 s. 29(3)(4).
- (a) the licence were granted under Division 2; and
 - (b) any reference to the Minister were a reference to the Governor in Council on the recommendation of the Minister.
- (5A) In addition, section 26(2) applies to an exploration licence or a mining licence or retention licence granted under this Subdivision (an *initial licence*), and any other mining licence or retention licence granted under the Act covering some or all of the S. 26AM(5A) inserted by No. 59/2010 s. 16.

land covered by the initial licence, as if after paragraph (d) there were inserted—

"(da) technology and project development milestones."

S. 26AM(6)
inserted by
No. 74/2010
s. 28(4).

- (6) For the purposes of section 8(1)(k) of the Personal Property Securities Act 2009 of the Commonwealth, a licence granted under this section is declared not to be personal property.

S. 26AN
inserted by
No. 63/2006
s. 12.

26AN Minister must publish reasons for refusal to grant licence

If the Governor in Council, on the recommendation of the Minister, refuses to grant a licence under this Subdivision, the Minister must publish a notice setting out the reasons for the refusal in—

- (a) the Government Gazette; and
- (b) a newspaper circulating generally throughout the State.

S. 26AO
inserted by
No. 63/2006
s. 12.

26AO Revocation of exemption over licence land

On the granting of a licence under this Subdivision the exemption to which the area of land covered by the licence is subject under section 7(1) is revoked to the extent that it relates to that land.

S. 26AP
inserted by
No. 63/2006
s. 12.

26AP Minister must publish notice

- (1) The Minister must cause a notice to be published in the Government Gazette—
- (a) stating that a licence under this Subdivision has been granted; and
 - (b) stating the reasons for granting the licence; and

- (c) describing the area of land covered by the licence; and
 - (d) stating that the exemption relating to the area of land covered by the licence is revoked to the extent that it relates to that land.
- (2) The Minister must also cause a notice setting out the reasons for granting the licence to be published in a newspaper circulating generally throughout the State.

26AQ Application of Act to licence

S. 26AQ
inserted by
No. 63/2006
s. 12.

- (1) On the granting of a licence under this Subdivision, this Act (except Divisions 2 and 5 of this Part) applies to the licence as if it were granted by the Minister under Division 2.
- (2) Without limiting subsection (1), the following things may be done under this Part in relation to the licence—
- (a) the licence may be renewed, transferred, varied, surrendered, cancelled or amalgamated with another licence;
 - (b) a condition of the licence may be varied, suspended, revoked or added;
 - (c) the area of land covered by the licence may be excised, transferred or cancelled in part.

Pt 2 Div. 3A
(Heading and
ss 26AR–
26AV)
inserted by
No. 68/2014
s. 30.

Division 3A—Survey of land proposed to be covered by mining licence, prospecting licence or retention licence

S. 26AR
inserted by
No. 68/2014
s. 30.

26AR Applicant to survey boundary of land

- (1) A person who intends to apply for a mining licence, prospecting licence or retention licence must survey the boundaries of the land proposed

to be covered by the licence in the manner required by the regulations.

Note

The survey must be included in the licence application—see section 15(1BH).

- (2) A person is not entitled to enter land for the purpose of surveying boundaries as required by subsection (1), unless—
- (a) the person—
 - (i) has, in the case of private land, the written consent of the owner or occupier of the land to the entry; or
 - (ii) has, in the case of occupied Crown land, the written consent of the occupier of the land to the entry; or
 - (iii) has, in the case of any other Crown land, given the person responsible for the management of the land written notice of the intended entry; or
 - (b) the Department Head grants an authority in writing to the person under section 26AS.
- (3) For the purposes of subsection (2), ***occupied Crown land*** means any Crown land on which a person is undertaking an activity that is authorised by a lease, licence, permit or other authority granted in respect of that land by, or under, an Act.

26AS Authority to enter land

- (1) The Department Head may grant to a person an authority to enter land for the purposes of section 26AR if the Department Head is satisfied that the person has made reasonable attempts to obtain the consent of the owner or occupier and—

**S. 26AS
inserted by
No. 68/2014
s. 30.**

- (a) the person has been unable to contact the owner or occupier; or
 - (b) the owner or occupier has refused or failed to consent.
- (2) A person does not trespass on land only because the person exercises reasonable access to the land—
- (a) in accordance with an authority to enter the land; and
 - (b) for the purpose of surveying the boundaries of the land proposed to be covered by the licence.
- (3) An authority to enter land expires—
- (a) 12 months after the date on which the authority was granted; or
 - (b) when the licence application in relation to which the authority was granted is determined—
- whichever is the earlier.
- (4) The Department Head must serve on the owner and occupier of land a copy of an authority that is granted under this section to enter the land as soon as is practicable after the authority is granted.

S. 26AT
inserted by
No. 68/2014
s. 30.

26AT Offence not to show authority

A person who enters land under an authority to enter land granted under section 26AS must comply with any request made by the owner or occupier of the land to be shown a copy of the authority.

Penalty: 10 penalty units.

26AU Security

- (1) Before granting an authority to enter land under section 26AS, the Department Head must require the person to provide a security, of an amount and kind specified by the Department Head, against the risk of damage to the property of the owner or occupier of the land as a result of the person's entry on to, or activities on, the land.
- (2) The Department Head—
 - (a) may use the security, or part of it, to compensate the owner or occupier for any damage resulting from that entry or those activities; and
 - (b) must return the balance of the security to the applicant no later than 30 days after the day on which the authority expires or is withdrawn.

**S. 26AU
inserted by
No. 68/2014
s. 30.**

26AV Insurance

A person must not enter any land or carry out any surveying for the purposes of section 26AR unless the person is insured for an amount determined by the Department Head against any risk that might arise if the owner or occupier of the land were to sustain a personal injury as a result of the person's entry on to, or activities on, the land.

Penalty: In the case of a corporation,
1000 penalty units.

In any other case, 200 penalty units.

Default Penalty:

In the case of a corporation, 20 penalty
units.

In any other case, 10 penalty units.

**S. 26AV
inserted by
No. 68/2014
s. 30.**

Division 4—Requirements if agricultural land covered by mining licence or prospecting licence

Pt 2 Div. 4
(Heading)
inserted by
No. 63/2006
s. 13,
amended by
No. 64/2012
s. 24.

26A Statement of economic significance if agricultural land covered by licence

S. 26A
inserted by
No. 82/2000
s. 22.

- (1) This section applies if a licensee holding a mining licence or prospecting licence that covers agricultural land that is not owned by the licensee proposes to carry out mining on that land.
- (2) The licensee must prepare a statement of the economic significance of the mining—
 - (a) that contains an assessment of the benefits to Victoria of the proposed mining, including employment and revenue considerations; and
 - (b) that contains an assessment of those benefits if it was not possible to carry out the mining on the agricultural land.
- (3) The assessment required by subsection (2)(b) must be made with respect to each separately owned or occupied property that comprises the agricultural land.
- (4) The licensee must give the statement of economic significance to the owners and occupiers of the agricultural land—
 - (a) if the proposed mining forms part of the work proposed to be carried out under the licensee's initial work plan, no later than—
 - (i) 6 months after the date the licensee was notified that the licence had been granted; or

S. 26A(1)
amended by
No. 64/2012
s. 25, No.
68/2014
s. 31(a).

S. 26A(2)
amended by
No. 68/2014
s. 31(b).

S. 26A(4)
amended by
No. 68/2014
s. 31(c).

- (ii) the date the licensee lodges the work plan under section 40(1)—
whichever is the earlier;
- (b) in any other case, no later than the date the licensee lodges the relevant application for approval of variation of the work plan under section 41.

S. 26B
inserted by
No. 82/2000
s. 22.

26B Excision of agricultural land from a licence

S. 26B(1)
amended by
No. 64/2012
s. 26.

- (1) On the application of an owner or occupier of agricultural land, the Minister must excise the land from the area covered by a mining licence or prospecting licence if—
 - (a) the licensee consents to the excision; or
 - (b) the Minister decides, in accordance with section 26D, that there would be greater economic benefit to Victoria in continuing the use of the land as agricultural land than in carrying out the work proposed to be carried out on that land under the licence.
- (2) An application for excision must be made to the Minister in writing within 30 days after the owner or occupier receives a copy of the statement of economic significance provided in relation to the land.
- (3) The application must include—
 - (a) an assessment of the benefits to Victoria in continuing the use of the land as agricultural land; and
 - (b) if the owner disputes anything contained in the statement of economic significance, details of the matters the owner disputes, including the reasons why the owner disputes those matters.

- (4) The owner must also give a copy of the application to the licensee within the 30 days referred to in subsection (2).

26C Notice of excision dispute

- (1) If the licensee wishes to dispute an application for excision, the licensee must give a notice of dispute to—
- (a) the Minister; and
 - (b) the person applying for the excision; and
 - (c) the President of the Australian Property Institute—

S. 26C
inserted by
No. 82/2000
s. 22.

S. 26C(1)(c)
amended by
No. 63/2006
s. 14.

within 30 days after receiving the copy of the application.

- (2) The notice of dispute must include details of the matters in the application that the licensee disputes, including the reasons why the licensee disputes those matters.
- (3) The licensee is deemed to consent to the excision of the land that is the subject of the application if the licensee does not give a notice of dispute to the people specified in subsection (1) within the time required by that subsection.

26D Resolution of excision disputes

- (1) As soon as possible after receiving notice of a dispute under section 26C, the President of the Australian Property Institute must appoint a person who is appropriately qualified, in the President's opinion, to act as an independent expert to consider the application.

S. 26D
inserted by
No. 82/2000
s. 22.

S. 26D(1)
amended by
No. 63/2006
s. 14.

- (2) The independent expert must consider the application, the statement of economic significance, the notice of dispute and any other material submitted to the expert within any time specified by the expert.
- (3) Within 60 days after her or his appointment, the independent expert must make a recommendation to the Minister, supported by reasons, in relation to the dispute.
- (4) The Minister must consider the recommendation and decide whether there would be greater economic benefit to Victoria in continuing the use of the land as agricultural land than in carrying out the work proposed to be carried out on that land under the licence.
- (5) The President of the Australian Property Institute, after considering the advice of the independent expert, may direct the licensee or the person who applied for the excision to pay the whole or any part of the reasonable fees and expenses of the independent expert.
- (6) A direction under subsection (5) creates a debt due to the independent expert.

S. 26D(5)
amended by
No. 63/2006
s. 14.

26E Offence to divulge details of a statement of economic significance

- (1) A person who is given a copy of—
 - (a) a statement of economic significance prepared under section 26A; or
 - (b) an assessment prepared under section 26B—must not divulge or communicate to any person (other than a professional advisor retained by the person) or publish any information contained in the statement or assessment unless the divulgence, communication or publication is made with the

S. 26E
inserted by
No. 82/2000
s. 22.

written consent of the person on whose behalf the statement or assessment was prepared.

Penalty: 100 penalty units.

- (2) A professional advisor to whom any information is divulged or communicated under subsection (1) must not divulge or communicate that information to any other person, or publish it.

Penalty: 100 penalty units.

Division 5—Tenders for licences

Pt 2 Div. 5
(Heading)
inserted by
No. 63/2006
s. 15.

27 Tendering process

S. 27
substituted by
Nos 82/2000
s. 23, 63/2006
s. 15.

- (1) The Minister may invite tenders for a licence over land that is not the subject of a licence or an application for a licence.
- (2) A tender for a licence is ineffective if it does not contain the information required by the regulations for the purposes of this section.
- (3) A tender for a licence may be over land that has been exempted under section 7 from being subject to a licence.

S. 27(3)
substituted by
No. 68/2014
s. 32.

27A Acceptance of tender

S. 27A
inserted by
No. 63/2006
s. 15.

- (1) If the Minister accepts a tender, he or she must notify the successful tenderer in writing that the tender has been accepted.
- (2) On the Minister accepting a tender for a licence that covers an area of land all or part of which is subject to an exemption under section 7(1)—
- (a) the exemption is revoked to the extent that it relates to the area of land; and

- (b) the Minister must cause a notice to be published in the Government Gazette—
 - (i) stating that the tender has been accepted; and
 - (ii) describing the area of land subject to the exemption; and
 - (iii) stating that the exemption relating to the area of land is revoked to the extent that it relates to that land.

S. 27B
inserted by
No. 63/2006
s. 15.

27B Advertising and notice requirements

- (1) A successful tenderer, within 14 days after being notified under section 27A(1) that the tender has been accepted, must—
 - (a) advertise the acceptance of the tender in accordance with the regulations; and
 - (b) if the tender is for a mining licence, give notice of the acceptance of the tender in accordance with the regulations to the owner and occupier of the land to be affected by the licence.
- (2) Until regulations are made for the purposes of subsection (1) the relevant regulations relating to applications for licences under Division 2 will apply (with any necessary modifications).

S. 27C
inserted by
No. 63/2006
s. 15.

27C Consultation and notification requirements

- (1) The Minister must, as soon as practicable after a successful tenderer for a licence covering unrestricted Crown land is notified under section 27A(1) that the tender has been accepted, consult with the Crown land Minister in relation to the carrying out of work on that land and that Minister may recommend to the Minister conditions to which the licence should be made subject.

- (2) The Department Head must, within 14 days after a successful tenderer is notified under section 27A(1) that the tender has been accepted, give notice of the acceptance of the tender to the persons and bodies referred to in section 18.

27D Application of provisions to tenders

- (1) The application process under Division 2 does not apply to a tender under this Division except as provided in this section.
- (2) Sections 24, 25, 25A and 26 apply to a tender for a licence as if the successful tenderer were an applicant for the licence.

S. 27D
inserted by
No. 63/2006
s. 15.

- (2A) In addition, section 26(2) applies to an exploration licence or a mining licence or retention licence granted to a successful tenderer under this Division (an *initial licence*), and any other mining licence or retention licence granted under the Act covering some or all of the land covered by the initial licence, as if after paragraph (d) there were inserted—

S. 27D(2A)
inserted by
No. 59/2010
s. 17(1).

"(da) technology and project development milestones."

- (3) Without limiting subsection (2), the Minister must not grant a licence to a person who has submitted a tender unless the Minister is satisfied that the person meets the requirements listed in section 15(6) and (6A).

S. 27D(3)
amended by
Nos 59/2010
s. 17(2),
68/2014 s. 33.

- (4) In addition, without limiting subsection (2), the Minister must not grant an exploration licence or a mining licence or retention licence to a person who has submitted a tender unless the Minister is satisfied that the person meets the requirements in section 16.

S. 27D(4)
inserted by
No. 59/2010
s. 17(3).

S. 27E
inserted by
No. 63/2006
s. 15.

27E Minister may not accept any tenders

- (1) The Minister may decide not to accept any tenders for a licence over land that are submitted in response to an invitation under this Division.
- (2) If the Minister decides not to accept any tender, he or she may invite further tenders or decide not to call for any more tenders in relation to that land.
- (3) If the Minister decides not to call for any more tenders in relation to that land, he or she must—
 - (a) notify the unsuccessful tenderers that further tenders will not be invited; and
 - (b) unless the land has been exempted under section 7 from being subject to a licence, declare by notice published in the Government Gazette that the land is available for applications for licences.

S. 27E(3)(b)
amended by
No. 68/2014
s. 34.

S. 28
substituted by
No. 82/2000
s. 24,
repealed by
No. 63/2006
s. 16.

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Pt 2 Div. 6
(Heading)
inserted by
No. 63/2006
s. 17.

Division 6—Renewals of licences

29 Application for renewal of licence

S. 29(1)
amended by
No. 82/2000
s. 25,
substituted by
No. 63/2006
s. 18(1),
amended by
No. 59/2010
s. 18.

- (1) A licensee (other than a licensee who is a holder of a prospecting licence) may, before a licence expires, apply in accordance with the regulations to the Minister for renewal of the licence.

(2) If an application for renewal of a licence is lodged before the licence expires, the licence continues in operation until the application is granted and registered or refused.

S. 29(2)
amended by
No. 63/2006
s. 18(2).

* * * * *

S. 30
repealed by
No. 82/2000
s. 26.

31 Renewals of licences

(1) The Minister must refuse to renew a licence if the applicant does not satisfy the Minister as to the matter specified in section 15(6)(ba) unless the applicant satisfies the Minister that the applicant has identified minerals in the land covered by the licence and that—

S. 31
amended by
No. 86/1993
s. 13,
substituted by
No. 59/2010
s. 19.

- (a) additional time is necessary to assess the economic viability of mining those minerals;
or
- (b) it is not at present economically viable to mine those minerals but it may become so in the future.

(2) The Minister may refuse to renew a licence if the Minister is satisfied as to any one or more of the following matters—

- (a) the applicant as a licensee has not substantially complied with—
 - (i) subject to subsection (3), this Act or the regulations; or
 - (ii) any condition to which—
 - (A) the licence that is the subject of the application for renewal is subject; or
 - (B) a work plan is subject; or

- (iii) any condition specified under section 44; or
- (iv) any relevant planning scheme or permit; or
- (b) the applicant as a licensee has unreasonably delayed in trying to obtain any necessary consent or other authority;
- (c) the applicant as a licensee has not commenced work within the time specified in or allowed under section 42(5);
- (d) the applicant as a licensee has endangered the public or an employee on or near the land covered by the licence that is the subject of the application for renewal;
- (e) the applicant as a licensee has undertaken work on land otherwise than in accordance with a work plan;
- (f) the applicant as a licensee no longer complies with section 15(6)(a), (b), (ba), (c) or (d);
- (g) in the case of an application for the renewal of a mining licence, the area covered by the licence is depleted of minerals to the extent that it is no longer feasible to mine that area;
- (h) in the case of an application for the renewal of a mining licence or retention licence, it is not feasible to mine minerals in the area covered by the licence and will not be feasible to do so in the foreseeable future;
- (i) in the case of an application for the renewal of a retention licence, the applicant as a licensee has failed to comply with a requirement under section 112A.

S. 31(2)(f)
amended by
No. 64/2012
s. 27.

- (3) Subsection (2)(a)(i) does not authorise the Minister to refuse to renew a licence if the Minister is satisfied that the non-compliance is not likely to affect adversely any person's rights under this Act or the regulations or to result in any person being deprived of information necessary for the effectual exercise of those rights.
- (4) Otherwise, subject to subsections (5) to (9), the Minister may, by instrument served on the applicant, renew or refuse to renew a licence.
- (5) The Minister may only renew an exploration or retention licence twice.
- (6) In the case of the application for the second renewal of an exploration licence, the Minister may only renew the licence if the Minister—
 - (a) considers there are exceptional circumstances to warrant that second renewal; and
 - (b) is satisfied that there is a likelihood of the licensee identifying minerals in the land covered by the licence during the period for which the licence may be renewed.

Note

See also section 32(2) and (2A).

- (7) In the case of a renewal of a retention licence, the Minister may only renew the licence—
 - (a) in the case of either the first or second renewal, if the Minister is satisfied that the mining of a mineral resource would be economically viable in the future; and
 - (b) in addition, in the case of the second renewal, only if the licensee has demonstrated to the Minister that there are exceptional circumstances to warrant that second renewal.

S. 31(8)
substituted by
No. 68/2014
s. 35

- (8) In the case of an application for the renewal of a mining licence (including an infrastructure mining licence), the Minister may renew the licence if—
- (a) mining is taking place under the licence at the time of the application and the Minister is satisfied that there is a reasonable prospect that mining will continue after that renewal; or
 - (b) mining had taken place under the licence before the date of the application and the Minister is satisfied that there is a reasonable prospect that mining will recommence within 2 years after renewal of the licence.
- (9) The Minister may renew a licence—
- (a) subject to any conditions specified in the renewal; or
 - (b) to cover a smaller area than that covered by the application for renewal.
- (10) A renewal or refusal to renew has no effect until the instrument of renewal or refusal to renew is registered.

32 Period of renewal

S. 32(1)
amended by
No. 56/1995
s. 41.

- (1) A mining licence that has been renewed has effect for the period, not exceeding 20 years unless the Minister decides otherwise, that is specified in the notice of renewal.

S. 32(1A)
inserted by
No. 68/2014
s. 36.

- (1A) A retention licence that has been renewed has effect for the period not exceeding 10 years that is specified in the notice of renewal.

- (2) In the case of an application for the first renewal of an exploration licence, the Minister may renew the exploration licence for a period of up to 5 years—
- (a) if he or she is satisfied that the licensee has identified minerals in the land covered by the licence and that—
- (i) additional time is necessary to assess the economic viability of mining those minerals; or
- (ii) it is not at present economically viable to mine those minerals but it may become so in the future; or
- (b) for any other reason.
- (2A) In the case of an application for the second renewal of an exploration licence, the Minister may only renew the exploration licence for a period of up to 5 years.
- (3) The renewal of a licence takes effect on the anniversary of the registration under this Act of the initial licence.

S. 32(2)
amended by
No. 86/1993
s. 14,
substituted by
No. 82/2000
s. 27,
amended by
No. 59/2010
s. 20(1).

S. 32(2A)
inserted by
No. 59/2010
s. 20(2).

Division 7—Changes to licences

Pt 2 Div. 7
(Heading)
inserted by
No. 63/2006
s. 19.

33 Transfer of licence

- (1) An exploration licence must not be transferred during its first year, and a purported transfer during that time has no effect.
- (2) A licence (other than an exploration licence during its first year) may be transferred by an instrument approved by the Minister and not otherwise.

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No. 92 of 1990

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S. 33(3)
amended by
No. 86/1993
s. 15(1),
substituted by
68/2014
s. 37(1).

- (3) Before approving an instrument of transfer, the Minister must be satisfied that—
- (a) the proposed transferee complies with section 15(6)(a), (b), (ba), (c) and (d); and
 - (b) subject to subsection (3B), the existing licensee has paid all outstanding fees, bonds, royalties and rents in respect of the licence; and
 - (c) subject to subsection (3C), in the case of an existing licensee who has a work plan, the work plan is adequate.

S. 33(3A)
inserted by
No. 86/1993
s. 15(2).

- (3A) The Minister may approve an instrument of transfer even if he or she is not satisfied as to the matter specified in section 15(6)(ba) if the Minister is satisfied that minerals have been identified in the land covered by the licence and that—
- (a) additional time is necessary to assess the economic viability of mining those minerals; or
 - (b) it is not at present economically viable to mine those minerals but it may become so in the future.

S. 33(3B)
inserted by
No. 68/2014
s. 37(2).

- (3B) If the existing licensee has not paid all outstanding fees, bonds, royalties and rents in respect of the licence, the Minister may approve the instrument of transfer subject to the proposed transferee agreeing to pay the amounts outstanding.

S. 33(3C)
inserted by
No. 68/2014
s. 37(2).

- (3C) If the existing licensee has a work plan and the Minister is not satisfied that the work plan relating to the licence is adequate, the Minister may approve the instrument of transfer subject to the proposed transferee being required to submit a new work plan for approval by the Department Head within the time specified by the Minister.

(4) A transfer—

- (a) has no effect until the instrument of transfer is approved by the Minister and registered; and
- (b) once approved and registered, attaches to the transferee all rights and obligations under the licence.

- (5) The transferee of a mining licence or prospecting licence must give written notice of the transfer to the owner of any land covered by the licence.

S. 33(5)
amended by
No. 64/2012
s. 28.

33A Transfer of land from one mining licence to another

S. 33A
inserted by
No. 82/2000
s. 28.

- (1) The holder of a mining licence may transfer an area of land covered by the holder's licence to the holder of another mining licence.
- (2) Such a transfer may only be made—
 - (a) with the approval of the Minister; and
 - (b) in the manner and form specified by the Minister; and
 - (c) if the land to be transferred adjoins the land covered by the licence to which the land is to be transferred; and
 - (d) if the conditions applying to, and the remaining currency of, the 2 licences are substantially the same; and
 - (e) if the Minister is satisfied that adequate arrangements have been made to continue or replace any rehabilitation bond that applies to the land.
- (3) The Minister must not approve a transfer under this section unless the Minister is satisfied that the transfer is necessary to ensure that work can be undertaken on the land.

- (4) A transfer has no effect until evidence of the transfer and the Minister's approval is registered.
- (5) The holder of the licence to which land has been transferred must give written notice of the transfer to the owners of the land.
- (6) On a transfer taking effect—
 - (a) any licence conditions that applied to the transferred land cease to apply; and
 - (b) the transferred land is subject to the licence conditions that apply to the licence to which the land has been transferred; and
 - (c) the transferred land becomes part of the land covered by that licence.

S. 33B
inserted by
No. 82/2000
s. 28.

33B Mining licence may be split and transferred

- (1) This section applies if the holder of a mining licence wishes to transfer an area of land covered by the holder's licence to another person (*the transferee*), but is not able to do so under section 33A.
- (2) The holder may apply to the Minister to have the land severed from the holder's licence and made the subject of a separate licence that is subject to the same conditions, and that will have the same currency, as the holder's licence.
- (3) The application must be made in the manner and form specified by the Minister.
- (4) The Minister must not approve an application under this section unless the Minister is satisfied—
 - (a) that the severance is necessary to ensure that work can be undertaken on the land; and
 - (b) that the transferee satisfies the requirements listed in section 15(6); and

- (c) that adequate arrangements have been made to continue or replace any rehabilitation bond that applies to the land.
- (5) In approving an application, the Minister is to be taken as granting the licence in relation to the severed land to the transferee.
- (6) On registration of the licence in relation to the severed land—
 - (a) the transferee becomes the holder of the licence; and
 - (b) the licence is subject to the same conditions, and has the same currency, as the licence that applied to the land that was severed before the severance; and
 - (c) the transferee has all the rights, and is subject to the same obligations, applying under the licence.
- (7) The transferee must give written notice of the change of licensee to the owners of the land.

34 Variation of licence

- (1) The Minister may after consultation with the licensee, by instrument served on the licensee, vary a licence, or vary, suspend or revoke a condition of a licence or add a new condition but the Minister cannot vary the period for which a mining licence has effect.

S. 34(1)
amended by
Nos 86/1993
s. 16(1),
82/2000
s. 29(1).

* * * * *

S. 34(1A)
inserted by
No. 82/2000
s. 29(2),
repealed by
No. 63/2006
s. 20(1).

- (2) The Minister may act under subsection (1)—
 - (a) at the request of the licensee; or

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S. 34(2)(ab)
inserted by
No. 47/2015
s. 8(1).

(ab) if the Minister decides it is necessary to eliminate or minimise the risks that the work may pose to the environment, to any member of the public, or to land, property or infrastructure in the vicinity of the work; or

S. 34(2)(b)
amended by
No. 47/2015
s. 8(2).

(b) if the Minister decides it is necessary for the rehabilitation or stabilisation of the land to which the licence applies; or

S. 34(2)(ba)
inserted by
No. 63/2006
s. 20(2)(a).

(ba) if the Minister decides it is necessary to ensure that appropriate environmental offsets are provided for or implemented; or

S. 34(2)(c)
substituted by
No. 63/2006
s. 20(2)(b).

(c) if the Minister decides it is necessary for the protection of a community facility; or

S. 34(2)(ca)
inserted by
No. 86/1993
s. 16(2).

(ca) if the Minister decides it is necessary for the purpose of allowing access to and use of the land to which the licence applies by the holder of another licence that is limited to a particular stratum; or

S. 34(2)(cb)
inserted by
No. 86/1993
s. 16(2),
amended by
Nos 63/2006
s. 20(2)(c),
10/2014
s. 11(1).

(cb) if the Minister decides it is necessary because of any condition imposed on the approval of a work plan or of a variation of a work plan under section 40A or 41AAB; or

(d) in any other circumstances that are prescribed.

S. 34(2A)
inserted by
No. 82/2000
s. 29(3),
repealed by
No. 63/2006
s. 20(3),
new s. 34(2A)
inserted by
No. 10/2014
s. 11(2).

(2A) The Minister may also act under subsection (1) to make compliance with the Code of Practice a condition of—

(a) a mining licence that—

(i) covers an area of 5 hectares or less; and

- (ii) does not involve underground operations, blasting, clearing of native vegetation or the use of chemical treatments; or
- (b) a prospecting licence that does not involve underground operations, blasting, clearing of native vegetation or the use of chemical treatments.
- (3) A variation of a licence or a variation, suspension, revocation or addition of a licence condition has no effect until the instrument by which it was done is registered.

S. 34(3)
amended by
No. 86/1993
s. 16(3).

35 Combined conditions

S. 35
substituted by
No. 82/2000
s. 30.

- (1) The Minister may treat 2 or more licences of the same type held by the same person as a single licence over the combined areas covered by the licences for the purpose of determining whether conditions of any of those licences about expenditure have been complied with.
- (2) The Minister may do this—
 - (a) at the request of the licensee; or
 - (b) on the Minister's own initiative, after consultation with the licensee.
- (3) It is not necessary that areas combined for the purposes of this section adjoin each other.

36 Amalgamation of licences

- (1) The Minister may, by instrument served on the licensee, determine that one of two or more licences of the same type held by the same person over adjoining areas applies to the combined areas.
- (2) The Minister may nominate which licence covers the combined areas and must cancel the other licence or licences.

S. 36(1)
amended by
No. 82/2000
s. 31(1).

S. 36(2A)
inserted by
No. 82/2000
s. 31(2).

- (2A) The Minister may act under this section—
- (a) at the request of the licensee; or
 - (b) on the Minister's own initiative, after consultation with the licensee.
- (3) An amalgamation has no effect until the instrument of amalgamation is registered.
- (4) A cancellation has no effect until the instrument of cancellation is registered.

S. 36(4A)
inserted by
No. 63/2006
s. 21.

- (4A) On an amalgamation of licences coming into effect the term of the licence nominated under subsection (2) is to be the term of whichever of the amalgamated licences is to expire first.

S. 36(5)
inserted by
No. 82/2000
s. 31(3).

- (5) If one of the licences amalgamated under this section was a mining lease under the **Mines Act 1958** that became a mining licence as a result of section 129, for the remainder of the term for which the licence remains current the rental payable for the amalgamated licence is the sum of the amounts that would have been payable for each of the amalgamated licences had they not been amalgamated.

S. 36A
inserted by
No. 82/2000
s. 32.

36A Expedited procedure for replacement of invalidated title

- (1) This section applies if—
- (a) a court or tribunal finds a licence to be wholly or partly invalid and the invalidity stems from circumstances that were beyond the control of the holder of the licence; and
 - (b) the person who held the licence applies within 60 days after the finding to the Minister for the grant of a licence of the same type for all or part of the land covered by the former licence.

- (2) The Minister may grant the licence to the person without the need to comply with any procedural requirement that would usually apply to the grant of such a licence.
- (3) In granting a licence under this section, the Minister may impose any conditions the Minister considers to be appropriate on the licence.

Division 8—Surrender and cancellation of licences

Pt 2 Div. 8
(Heading)
inserted by
No. 63/2006
s. 22.

37 Surrender of licence

- (1) A licensee may, with the consent of the Minister, surrender the licence, in whole or in part, by notice in writing in a form approved by the Registrar.
- (2) If a licence is surrendered in part, the licensee must include in the notice details of any part of the land in respect of which the licence is surrendered.
- (3) A surrender has no effect until the notice of surrender is registered.

38 Cancellation of licence

- (1) The Minister may cancel a licence, by instrument served on the licensee, if—
 - (a) the Minister has given the licensee 28 days' written notice of his or her intention to cancel the licence and has, in that notice, requested the licensee to provide reasons why the licence should not be cancelled; and

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S. 38(1)(b)
amended by
No. 82/2000
s. 33(1)(a).

(b) at the end of the 28 days the Minister is
satisfied that—

S. 38(1)(b)(i)
amended by
Nos 86/1993
s. 17(1)(a),
82/2000
s. 33(1)(b).

(i) the licensee has not substantially
complied with—

(A) this Act or the regulations; or

S. 38(1)
(b)(i)(B)
amended by
No. 63/2006
s. 23(1).

(B) any condition to which the licence
or the work plan is subject or any
condition specified under
section 44; or

(C) any relevant planning scheme or
permit; or

S. 38(1)(b)(ii)
amended by
No. 82/2000
s. 33(1)(b).

(ii) the licensee has unreasonably delayed
in trying to obtain any necessary
consent or other authority; or

S. 38(1)(b)(iii)
amended by
No. 82/2000
s. 33(1)(b).

(iii) the licensee has not commenced work
within the time specified in or allowed
under section 42(5); or

S. 38(1)(b)(iiia)
inserted by
No. 59/2010
s. 22(1).

(iiia) subject to subsection (1AA), in the case
of a licensee who is a holder of a
mining licence, the licensee has stopped
mining on land covered by the licence
and has not carried out any mining on
that land for a continuous period of
2 years; or

S. 38(1)(b)(iv)
amended by
No. 82/2000
s. 33(1)(b).

(iv) the licensee has endangered the public
or an employee on or near the land
covered by the licence; or

S. 38(1)(b)(v)
amended by
No. 82/2000
s. 33(1)(b).

(v) the licensee has undertaken work on
land otherwise than in accordance with
the work plan; or

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990

Part 2—Exploration licences, mining, prospecting and retention licences

- | | |
|--|---|
| (vi) subject to subsection (1A), the licensee no longer complies with section 15(6)(a), (b), (ba), (c) or (d); or | S. 38(1)(b)(vi) amended by Nos 86/1993 s. 17(1)(b), 82/2000 s. 33(1)(c)(d), substituted by No. 68/2014 s. 38. |
| (vii) the area covered by the licence is depleted of minerals to the extent that it is no longer feasible to mine that area; or | S. 38(1)(b)(vii) inserted by No. 82/2000 s. 33(1)(d). |
| (viia) in the case of a retention licence, that the mining of a mineral resource to which the retention licence relates would not be economically viable in the future; or | S. 38 (1)(b)(viia) inserted by No. 59/2010 s. 22(2). |
| (viib) in the case of a retention licence, the licensee is unlikely to undertake economically viable mining of a mineral resource to which the retention licence relates in the future; or | S. 38 (1)(b)(viib) inserted by No. 59/2010 s. 22(2). |
| (viic) in the case of a retention licence, the licensee has failed to comply with a requirement under section 112A; or | S. 38 (1)(b)(viic) inserted by No. 59/2010 s. 22(2). |
| (viii) it is not feasible to mine minerals in the area covered by the licence and will not be feasible to do so in the foreseeable future. | S. 38(1)(b)(viii) inserted by No. 82/2000 s. 33(1)(d). |
| (1AA) Subsection (1)(b)(iiia) applies only to a period referred to in that subparagraph that commences on or after the day on which section 22(1) of the Mineral Resources Amendment (Sustainable Development) Act 2010 comes into operation. | S. 38(1AA) inserted by No. 59/2010 s. 22(3). |

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990

Part 2—Exploration licences, mining, prospecting and retention licences

S. 38(1A)
inserted by
No. 86/1993
s. 17(2),
amended by
Nos 82/2000
s. 33(2),
53/2011 s. 5.

(1A) The Minister must not cancel a licence under subsection (1) because of non-compliance with section 15(6)(ba) if the Minister waived compliance by the licensee with that section under section 31(1) or 33(3A) (as the case requires).

S. 38(1B)
inserted by
No. 86/1993
s. 17(2).

(1B) The Minister may cancel a licence, by instrument served on the licensee—

S. 38(1B)(a)
amended by
No. 82/2000
s. 33(3),
substituted by
No. 10/2014
s. 12(1).

(a) in the case of a mining licence, if the licensee has not lodged a work plan within 12 months (or any longer period allowed by the Minister) after the licence was granted; or

S. 38(1B)(ab)
inserted by
No. 32/2019
s. 6.

(ab) in the case of a mining licence relating to declared mine land, if the declared mine licensee has not complied with a declared mine rehabilitation plan; or

S. 38(1B)(b)
amended by
Nos 82/2000
s. 61(b),
6/2009 s. 14.

(b) in the case of an exploration licence if the licensee has not commenced work within 3 months (or any longer period allowed by the Minister) after notifying the Chief Inspector under section 43(1)(d)(i) of the licensee's intention to commence work.

S. 38(2)
repealed by
No. 63/2006
s. 23(2).

* * * * *

S. 38(2A)
inserted by
No. 82/2000
s. 33(4),
amended by
No. 10/2014
s. 12(2).

(2A) The Minister must, by instrument served on the licensee, cancel a mining licence if a work plan is not approved for that licence within 18 months after the date the approval of the licence is registered, unless the Minister is satisfied that—

(a) the licensee has been unable to obtain the consents and authorities needed to enable the approval of the work plan, despite genuine attempts to do so; or

S. 38(2A)(a)
amended by
No. 10/2014
s. 12(2)(a)(c).

(b) exceptional circumstances exist that have been instrumental in precluding the approval of the work plan.

S. 38(2A)(b)
amended by
No. 10/2014
s. 12(2)(a)(c).

(3) A cancellation has no effect until the instrument of cancellation is registered.

38A Decrease in area under exploration licence

S. 38A
inserted by
No. 82/2000
s. 34.

(1) On the second anniversary of the initial registration of an exploration licence, the Minister must, unless he or she decides otherwise, cancel the licence in relation to at least 25% of the total number of graticular sections (in one or more areas each comprising whole graticular sections only) covered by the licence.

(2) On the fourth anniversary of the initial registration of an exploration licence, the Minister must, unless he or she decides otherwise, cancel the licence in relation to at least a further 35% of the total number of graticular sections (in one or more areas each comprising whole graticular sections only) covered by the licence.

S. 38A(2)
amended by
No. 68/2014
s. 39(1)(a).

(2A) On the seventh anniversary of the initial registration of an exploration licence, the Minister must, unless he or she decides otherwise, cancel the licence in relation to at least a further 20% of the total number of graticular sections (in one or more areas each comprising whole graticular sections only) covered by the licence.

S. 38A(2A)
inserted by
No. 59/2010
s. 21,
amended by
No. 68/2014
s. 39(1)(a).

(2B) On the tenth anniversary of the initial registration of an exploration licence, the Minister must, unless he or she decides otherwise, cancel the licence in relation to at least a further 10% of the total number of graticular sections (in one or more

S. 38A(2B)
inserted by
No. 59/2010
s. 21,
amended by
No. 68/2014
s. 39(1)(a).

areas each comprising whole graticular sections only) covered by the licence.

- (3) The areas in relation to which a licence is to be cancelled under this section—
- (a) are to be those identified by the licensee in a notice given to the Minister at least 30 days before the relevant anniversary; or
 - (b) in the absence of such a notice, are to be chosen by the Minister.
- (4) At least 60 days before the relevant anniversary, the Minister must give the licensee a written notice inviting the licensee to nominate the areas to be cancelled under this section (unless the Minister does not intend to cancel any area in relation to the licence).
- (5) In calculating the area to be cancelled—
- (a) any part of a graticular section covered by the licence, and any fraction of a graticular section that remains after calculating the area to be cancelled, must be treated as a whole graticular section; and
 - (b) if the licensee holds 2 or more exploration licences, the combined areas covered by the licences may, at the Minister's discretion, be treated as a single area.
- (6) In this section, a reference to the total number of graticular sections covered by a licence is a reference to—
- (a) if the licence has not been amalgamated with another licence, the number of graticular sections covered by the licence as originally granted; or

S. 38A(5)(b)
amended by
No. 68/2014
s. 39(1)(b).

S. 38A(6)
inserted by
No. 68/2014
s. 39(2).

- (b) if the licence has been amalgamated with another licence, the total of—
 - (i) the number of graticular sections covered by the licence as originally granted; and
 - (ii) the number of graticular sections covered by the licence with which the licence was amalgamated, as originally granted.

Division 9—Mine stability levy for Latrobe Valley

Pt 2 Div. 9
(Heading and
ss 38AAA–
38AAE)
inserted by
No. 57/2009
s. 25.

38AAA Definitions

In this Division—

Latrobe Valley region means the region constituted by the municipal boundaries of the Latrobe City Council and Wellington Shire Council;

Latrobe Valley region coal mine means a coal mine that—

- (a) is prescribed for the purposes of the mine stability levy; and
- (b) is situated within the Latrobe Valley region;

mine stability levy means the levy referred to in section 38AAB.

S. 38AAA
inserted by
No. 57/2009
s. 25.

38AAB Mine stability levy imposed

This Division imposes a levy (the ***mine stability levy***) for the purpose of providing measures designed to decrease geotechnical and hydrogeological risks to mine stability in the Latrobe Valley region coal mines.

S. 38AAB
inserted by
No. 57/2009
s. 25.

S. 38AAC
inserted by
No. 57/2009
s. 25.

38AAC Who is liable for mine stability levy?

A holder of a mining licence in respect of a Latrobe Valley region coal mine is liable to pay the Minister the mine stability levy.

S. 38AAD
inserted by
No. 57/2009
s. 25.

38AAD Amount of the mine stability levy

The mine stability levy is the amount determined in accordance with the regulations.

S. 38AAE
inserted by
No. 57/2009
s. 25.

38AAE When and how is the mine stability levy to be paid?

A holder of a mining licence in respect of a Latrobe Valley region coal mine must pay the mine stability levy to the Minister by the date or dates and in the manner and in respect of the period specified under the regulations.

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990
Part 3—Work under a licence

Part 3—Work under a licence

*	*	*	*	*	S. 38AA inserted by No. 82/2000 s. 35, amended by Nos 53/2011 s. 4, 71/2001 s. 4, repealed by No. 68/2014 s. 40.
*	*	*	*	*	S. 38AB inserted by No. 82/2000 s. 35, amended by Nos 64/2012 s. 29, 10/2014 s. 13, repealed by No. 68/2014 s. 40.
*	*	*	*	*	S. 38AC inserted by No. 82/2000 s. 35, repealed by No. 68/2014 s. 40.
*	*	*	*	*	S. 38AD inserted by No. 82/2000 s. 35, repealed by No. 68/2014 s. 40.
*	*	*	*	*	S. 38AE inserted by No. 82/2000 s. 35, repealed by No. 68/2014 s. 40.

39 Work must be approved

S. 39
amended by
Nos 86/1993
s. 18(a)(b),
76/1998
s. 31(b),
substituted by
No. 82/2000
s. 36.

(1) A person, other than the Crown, must not do any work under a licence otherwise than—

(a) in accordance with the licence; or

S. 39(1)(ab)
inserted by
No. 63/2006
s. 24(1).

(ab) in accordance with the approved work plan;
or

(b) as authorised by a minerals exemption.

Penalty: In the case of a corporation,
1000 penalty units.

In any other case, 200 penalty units.

(2) A licensee and the manager of a worksite must comply with this Act and the regulations in doing any work under the licence.

Penalty: In the case of a corporation,
1000 penalty units.

In any other case, 200 penalty units.

S. 39(3)
amended by
No. 64/2012
s. 30,
repealed by
No. 10/2014
s. 14.

* * * * *

S. 39(4)
amended by
Nos 63/2006
s. 24(2),
59/2010
s. 36(1),
repealed by
No. 10/2014
s. 14.

* * * * *

(5) A licensee must not do work under the licence unless the licensee is insured under a policy of public liability insurance in respect of the doing of

that work for an amount determined by the Department Head.

Penalty: In the case of a corporation,
1000 penalty units.

In any other case, 200 penalty units.

(6) A person who is convicted of an offence against this section is also liable to the following default penalty—

(a) in the case of a corporation, 20 penalty units;

(b) in any other case, 10 penalty units.

39A Licensee's duty to consult with community

A licensee has a duty to consult with the community throughout the period of the licence by—

(a) sharing with the community information about any activities authorised by the licence that may affect the community; and

(b) giving members of the community a reasonable opportunity to express their views about those activities.

S. 39A
inserted by
No. 63/2006
s. 25.

40 Work plan

(1) A licensee who proposes to do work under the licence must lodge a work plan with the Department Head.

S. 40
(Heading)
amended by
No. 32/2019
s. 60.

S. 40
amended by
Nos 86/1993
s. 19, 76/1998
s. 31(b),
82/2000 s. 37,
63/2006 s. 26,
57/2009 s. 26,
59/2010 ss 23,
34,
substituted by
No. 10/2014
s. 15.

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990
Part 3—Work under a licence

S. 40(2)
amended by
No. 47/2015
s. 9.

- (2) Subsection (1) does not apply to—
- (a) a licensee who proposes to carry out only low impact exploration work; or
 - (b) a licensee who holds a mining licence that—
 - (i) covers an area of 5 hectares or less; and
 - (ii) does not involve underground operations, blasting, clearing of native vegetation or the use of chemical treatments; or
 - (c) a licensee who holds a prospecting licence that does not involve underground operations, blasting, clearing of native vegetation or the use of chemical treatments—

unless the Department Head declares, in writing, that the licensee must lodge a work plan.

S. 40(3)
substituted by
No. 10/2014
s. 16 (as
amended by
No. 47/2015
s. 3).

- (3) A work plan must—
- (a) be appropriate in relation to the nature and scale of the work proposed to be carried out; and
 - (b) identify the risks that the work may pose to the environment, to any member of the public, or to land, property or infrastructure in the vicinity of the work; and
 - (c) specify what the licensee will do to eliminate or minimise those risks as far as reasonably practicable; and
 - (d) if the licence is a mining licence or prospecting licence, in relation to the mining activities proposed to be carried out under the licence, include a plan for consulting with the community that demonstrates that the licence holder will use appropriate and effective measures to consult with the

community throughout the period of the licence and is prepared in accordance with the regulations and any guidelines issued by the Minister relating to such plans (a *community engagement plan*); and

- (e) if the licence is a mining licence or a prospecting licence under which mining activities are proposed to be carried out, include a rehabilitation plan for the land proposed to be covered by the licence; and
 - (f) if the licence is a mining licence relating to a declared mine, contain the prescribed mine stability requirements and processes; and
 - (g) contain any other matters required by the regulations.
- (4) A specified work plan that is lodged under subsection (1) must be statutorily endorsed.
- (5) In the case of a mining licence or prospecting licence, if any part of the land relating to the work plan is Crown land, the Department Head must without delay lodge a copy of the work plan with the Crown land Minister.
- (6) Subsection (5) does not apply if the only work set out in the work plan that is proposed to be done on the Crown land is exploration work.
- (7) Within 28 days after a copy of the work plan is lodged with the Crown land Minister, or any longer period allowed by the Minister, the Crown land Minister—
- (a) must give comments to the Minister on the rehabilitation plan included in the work plan; and

S. 40(5)
amended by
No. 68/2014
s. 41.

- (b) may recommend changes to be made to the work plan before it is approved or conditions to which an approval should be made subject.

S. 40A
inserted by
No. 10/2014
s. 17.

40A Work plan—approval

- (1) The Department Head must—
 - (a) approve the work plan with or without conditions; or
 - (b) require the changes to the rehabilitation plan or the work plan specified in a notice to the licensee to be made before the plan will be approved; or
 - (c) refuse to approve the work plan.
- (2) The Department Head must approve the work plan, require changes to the rehabilitation plan or work plan, or refuse to approve the work plan under subsection (1), within 28 days after the last of any of the following events that are applicable occurs—
 - (a) the licensee notifying the Department Head that all required planning approvals have been granted;
 - (b) the Minister administering the **Environment Effects Act 1978** submitting an assessment to the Minister under section 42(7);
 - (c) the granting or refusal of any application under section 26B relating to the licence;
 - (d) the Minister notifying the Department Head that he or she has considered any comments received under section 41A(2);
 - (e) the Crown land Minister giving the Minister comments under section 40(7);
 - (f) the lodging of the work plan.

- (3) If the Minister administering the **Environment Effects Act 1978** submits an assessment under section 42(7), the Department Head must give a copy of the work plan to that Minister at least 10 days before approving the plan.
- (4) The Department Head must—
 - (a) notify the licensee of his or her decision on the work plan; and
 - (b) give the licensee a statement of reasons for the decision.

41 Application for variation of work plan

- (1) The holder of a licence who—
 - (a) proposes to vary an approved work plan; or
 - (b) is directed by the Department Head under section 41AA or clause 3 of Schedule 9 to lodge an application for approval of a variation of a work plan—

must lodge an application for approval of the variation with the Department Head.

- (2) An application for approval of a variation must contain the prescribed information.
- (3) A proposed specified variation that is the subject of an application must be statutorily endorsed.
- (4) In the case of a mining licence or prospecting licence, if any part of the land relating to the proposed variation of the work plan is Crown land, the Department Head must without delay

S. 41
amended by
Nos 86/1993
s. 20, 76/1998
s. 31(c)(i)(ii),
substituted by
No. 82/2000
s. 38,
amended by
Nos 63/2006
s. 27, 25/2008
s. 12, 59/2010
s. 35,
substituted by
No. 10/2014
s. 18.

S. 41(1)(b)
amended by
No. 47/2015
s. 10.

S. 41(4)
amended by
No. 68/2014
s. 41.

lodge a copy of the application with the Crown land Minister.

S. 41(4A)
inserted by
No. 22/2017
s. 9(1),
amended by
No. 32/2019
s. 7(1).

- (4A) In the case of a mining licence, if any part of the land relating to the proposed variation of the work plan is land that forms part of declared mine land, the Department Head must without delay lodge a copy of the application with the Rehabilitation Authority.
- (5) Subsection (4) does not apply if the only work set out in the work plan that is proposed to be done on the Crown land is exploration work.
- (6) Within 28 days after the application is lodged with the Crown land Minister under subsection (4), or any longer period allowed by the Minister, the Crown land Minister—
- (a) must give comments to the Minister on the rehabilitation plan included in the work plan if affected by the proposed variation; and
 - (b) may recommend changes to be made to the proposed variation before it is approved or conditions to which an approval should be made subject.

S. 41(7)
inserted by
No. 22/2017
s. 9(2),
amended by
No. 32/2019
s. 7(2).

- (7) Within 28 days after the application is lodged with the Rehabilitation Authority under subsection (4A), or any longer period allowed by the Minister, the Rehabilitation Authority—
- (a) must give comments to the Minister on the following if affected by the proposed variation—
 - (i) the rehabilitation plan included in the work plan;
 - (ii) the community engagement plan included in the work plan in respect of rehabilitation;

- | | |
|--|--|
| (iii) in respect of the work plan, the identification of mining hazards on declared mine land in relation to the ending of mining and the rehabilitation of that land; | S. 41(7)(a)(iii) amended by No. 32/2019 s. 7(3). |
| (iv) in respect of the work plan, the identification and assessment of risk on declared mine land in relation to the ending of mining and the rehabilitation of that land; | S. 41(7)(a)(iv) amended by No. 32/2019 s. 7(3). |
| (v) in respect of the work plan, the risk management plan for declared mine land in relation to the ending of mining and the rehabilitation of that land; and | S. 41(7)(a)(v) amended by No. 32/2019 s. 7(3). |
- (b) may recommend changes to be made to the proposed variation before it is approved or conditions to which an approval should be made subject.

41AA Department Head may direct licensee to lodge application for variation of work plan

- (1) The Department Head may, on his or her own initiative, determine that an approved work plan be varied.
- (2) On making a determination, the Department Head must give the licensee written notice of the proposed variation, and the reasons for it, and give the licensee an opportunity to comment on the proposal.
- (3) After considering any comments made by the licensee, the Department Head may direct the licensee to lodge an application for approval of the variation.

S. 41AA inserted by No. 82/2000 s. 38, amended by No. 63/2006 s. 28, substituted by No. 10/2014 s. 18.

S. 41AAB
inserted by
No. 10/2014
s. 18.

41AAB Approval of variation of work plan

- (1) On application by a licensee under section 41(1) or 41AE for approval of the variation of a work plan, the Department Head must—
 - (a) approve the variation with or without conditions; or
 - (b) require the changes specified in a notice to the licensee to be made before the variation will be approved; or
 - (c) refuse to approve the variation.
 - (2) The Department Head must approve, require changes, or refuse to approve a variation under subsection (1), within 28 days after the last of any of the following events that are applicable occurs—
 - (a) the licensee notifying the Department Head that all required planning approvals have been granted;
 - (b) the Minister administering the **Environment Effects Act 1978** submitting an assessment to the Minister under section 42(7) or section 42A;
 - (c) the granting or refusal of any application under section 26B relating to the licence;
 - (d) the Minister notifying the Department Head that he or she has considered any comments received under section 41A(2);
 - (e) the Crown land Minister giving the Minister comments under section 41(6);
- (ea) the Rehabilitation Authority giving the Minister comments under section 41(7);

S.
41AAB(2)(ea)
inserted by
No. 22/2017
s. 10,
amended by
No. 32/2019
s. 8.

- (f) the lodging of the application for approval.
- (3) Once the Department Head has decided to approve a variation, the approved work plan for the licence is the work plan as amended by that variation.
- (4) If the Minister administering the **Environment Effects Act 1978** submits an assessment under section 42(7) or 42A, the Department Head must give a copy of the proposed variation to that Minister at least 10 days before approving the variation.
- (5) The Department Head must—
- (a) notify the licensee of his or her decision on the application; and
 - (b) give the licensee a statement of reasons for the decision.

41A Minister may require impact statement

S. 41A
inserted by
No. 86/1993
s. 21.

- (1) If the Minister is of the opinion that the proposed exploration work under a work plan or an application to vary an approved work plan lodged with the Department Head by a licensee will have a material impact on the environment, he or she may, in writing, require the licensee to submit a statement, in the form specified by the Minister, assessing the impact of the proposed work on the environment.
- (2) The Minister must, on receipt of the statement, forward a copy to—
- (a) the Minister administering the **Planning and Environment Act 1987**; and

S. 41A(1)
amended by
Nos 76/1998
s. 31(d),
82/2000
s. 39(a),
substituted by
No. 63/2006
s. 29(1).

S. 41A(2)
substituted by
No. 63/2006
s. 29(2).

(b) if the proposed work relates to Crown land,
the Crown land Minister—

and request comments on it by the date specified
by the Minister.

S. 41A(3)
amended by
No. 82/2000
s. 39(b).

(3) The Minister must consider any comments
received under subsection (2) by the specified
date.

S. 41A(4)
inserted by
No. 63/2006
s. 29(3).

(4) The Minister may seek public comments on the
statement by a specified date and must consider
any comments received by that date.

S. 41AB
inserted by
No. 57/2009
s. 27.

41AB Reporting requirements for declared mines

A holder of a licence in respect of a declared mine
must provide a report containing the prescribed
particulars to the Department Head in accordance
with the regulations.

S. 41AC
(Heading)
amended by
No. 64/2012
s. 31(1).

41AC Chief Inspector to be notified of reportable events in relation to exploration or mining

S. 41AC
inserted by
No. 57/2009
s. 27.

S. 41AC(1)
amended by
No. 64/2012
s. 31(2).

(1) A licensee must report to the Chief Inspector in
accordance with the regulations a reportable event
as soon as practicable after the reportable event
occurs.

S. 41AC(2)
amended by
No. 64/2012
s. 31(3).

(2) In this section, *reportable event* means an event
arising out of exploration or mining prescribed as
a reportable event for the purposes of this section.

S. 41AD
(Heading)
amended by
No. 68/2014
s. 42.

41AD Licensee to submit area work plan schedule

S. 41AD
inserted by
No. 57/2009
s. 27.

(1) A licensee who has lodged an area work plan must
not carry out any work on the land to which the
area work plan relates unless the licensee has
submitted to the Department Head, not less than
21 days before carrying out that work, an area

work plan schedule containing the prescribed information in relation to that work plan.

- (2) If an approved cultural heritage management plan (within the meaning of the **Aboriginal Heritage Act 2006**) is required under that Act or regulations made under that Act in respect of work on land to which an area work plan relates, an area work plan schedule is taken not to have been submitted under subsection (1) unless the area work plan schedule is accompanied by a copy of the approved cultural heritage management plan.
- (3) An area work plan schedule that is required to be submitted with a copy of an approved cultural heritage management plan under subsection (2) must be consistent with the approved cultural heritage management plan.
- (4) In this section, *area work plan* means a work plan that has been—

* * * * *

S. 41AD(4)(a)
repealed by
No. 10/2014
s. 19.

(b) approved under section 40.

41AE Variation application must be made if mine is declared

S. 41AE
inserted by
No. 57/2009
s. 27.

- (1) If the Minister declares by Order under section 7C that a specified mine is a declared mine, the licensee in respect of the declared mine, within 60 days after the declaration, must make an application to vary the approved work plan in respect of the declared mine.
- (2) The application must contain the prescribed mine stability requirements and processes.

S. 41AE(3)
amended by
No. 10/2014
s. 20.

- (3) Section 41(2) to (6) apply to an application lodged under this section.

S. 42
(Heading)
inserted by
No. 59/2010
s. 24(1).

42 Commencement of work under mining licence or prospecting licence

S. 42(1)
amended by
No. 76/1998
s. 31(d),
substituted by
No. 82/2000
s. 40(1),
amended by
No. 59/2010
s. 24(2),
substituted by
No. 10/2014
s. 21(1).

- (1) The holder of a mining licence or prospecting licence must not carry out any work on the land covered by the licence unless—

- (a) the licensee has an approved work plan if required under this Act; and

Note

Section 40 contains the requirements for a work plan.

- (b) the licensee has entered into a rehabilitation bond in accordance with section 80; and
- (c) the licensee has obtained all the necessary consents and other authorities required by or under this or any other Act; and
- (d) the licensee has complied with any condition imposed by the Minister under section 26(2)(d) to provide an environmental offset; and
- (e) the licensee has obtained the insurance required under section 39(5); and
- (f) any consent under section 45 or authorisation under section 46 has been registered; and
- (g) the licensee has given 7 days notice to—
- (i) the Chief Inspector; and
 - (ii) the owners and occupiers of the land affected—

of the licensee's intention to commence work; and

- (h) if the land affected is private land—
- (i) the licensee has obtained the written consent of the owners and occupiers of the land affected; or
 - (ii) the licensee has made and registered compensation agreements with those owners and occupiers; or
 - (iii) the amount of compensation payable to those owners and occupiers has been determined under Part 8; or
 - (iv) the licensee has purchased the land affected.

Penalty: In the case of a corporation,
1000 penalty units;
In any other case, 200 penalty units.

Default Penalty:
In the case of a corporation, 20 penalty
units;
In any other case, 10 penalty units.

- (2) Subsection (1)(h) does not apply if it is waived by the Department Head under subsection (3).

S. 42(2)
amended by
Nos 76/1998
s. 31(d),
82/2000
ss 40(2), 61(b),
63/2006
s. 30(1)(2),
6/2009 s. 15,
substituted by
No. 10/2014
s. 21(1).

* * * * *

S. 42(2A)
inserted by
No. 82/2000
s. 40(3),
repealed by
No. 10/2014
s. 21(1).

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S. 42(3)
substituted by
Nos 82/2000
s. 40(4),
10/2014
s. 21(1).

(3) If the land affected is private land and the licensee has been unable to determine the name and address of the owners and occupiers of the land, the licensee may apply to the Department Head to have the requirement specified by subsection (1)(h) waived.

S. 42(4)
amended by
No. 82/2000
s. 40(5),
substituted by
No. 10/2014
s. 21(1).

(4) The Department Head may grant such an application if, in his or her opinion, the licensee has made all reasonable efforts to determine the name and address of the owners and occupiers of the land.

S. 42(5)
substituted by
No. 82/2000
s. 40(6),
amended by
No. 63/2006
s. 30(3),
substituted by
No. 10/2014
s. 21(1).

(5) Before waiving the requirement, the Department Head may require the licensee—

(a) to advertise the licensee's intention to start work on the land affected in a specified edition of a newspaper circulating generally in the area in which the land is situated;

(b) to post a notice on the land affected stating that the licensee intends to start work on that land.

S. 42(6)
inserted by
No. 86/1993
s. 22,
amended by
No. 64/2012
s. 32.

(6) Despite anything in any planning scheme approved under the **Planning and Environment Act 1987**, the holder of a mining licence or prospecting licence may be granted a permit under the scheme for carrying out mining on the land covered by the licence even if the scheme prohibits that use or development of the land (whether absolutely or unless specified conditions are complied with) and does not provide for the granting of a permit for that use or development.

S. 42(7)
inserted by
No. 86/1993
s. 22,
amended by
No. 64/2012
s. 32.

(7) If under subsection (6) or any planning scheme a permit is required to be obtained for carrying out mining on the land covered by a mining licence or prospecting licence in accordance with that licence, the licensee is not required to obtain a permit for that work if—

(a) an Environment Effects Statement has been prepared under the **Environment Effects Act 1978** on the work proposed to be done under the licence; and

(b) an assessment of that Statement by the Minister administering the **Environment Effects Act 1978** has been submitted to the Minister.

S. 42(7)(b)
amended by
No. 10/2014
s. 21(2)(a).

* * * * *

S. 42(7)(c)
amended by
No. 76/1998
s. 31(d),
substituted by
No. 82/2000
s. 40(7),
amended by
No. 63/2006
s. 30(3),
repealed by
No. 10/2014
s. 21(2)(b).

(8) In addition to any other power to prepare, adopt or approve amendments to planning schemes, the Minister administering the **Planning and Environment Act 1987** may—

S. 42(8)
inserted by
No. 86/1993
s. 22,
amended by
No. 64/2012
s. 32.

(a) on the recommendation of the Minister prepare; and

(b) adopt and approve—

amendments to any planning scheme to facilitate the carrying out of mining on land covered by a mining licence or prospecting licence in accordance with that licence.

(9) Without limiting what an amendment may include, an amendment prepared under subsection (8) may provide that, in the circumstances set out in subsection (7), no permit is required to carry out mining on land covered by a mining licence or prospecting licence in accordance with that licence.

S. 42(9)
inserted by
No. 86/1993
s. 22,
amended by
No. 64/2012
s. 32.

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S. 42(10)
inserted by
No. 86/1993
s. 22.

(10) The **Planning and Environment Act 1987** (except section 12(2), Divisions 1 and 2 of Part 3 and section 39(1) to (6) and any regulations made for the purposes of those provisions) applies to the preparation, adoption and approval of an amendment under subsection (8).

S. 42(11)
inserted by
No. 86/1993
s. 22.

(11) Section 39(7) of the **Planning and Environment Act 1987** applies to an amendment prepared, adopted or approved under subsection (8) as if before "Division 1" there were inserted "section 12(1) or".

S. 42(12)
inserted by
No. 86/1993
s. 22.

(12) Section 39(8) of the **Planning and Environment Act 1987** applies to an amendment prepared or adopted under subsection (8) as if—

(a) the expression "Except for an application under this section," were deleted; and

(b) before "Division 1" there were inserted "section 12(1) or".

S. 42(13)
inserted by
No. 86/1993
s. 22.

(13) Section 46 of the **Planning and Environment Act 1987** does not apply to a planning scheme to the extent to which, because of an amendment prepared, adopted or approved under subsection (8), it is expressed or purports to deal with any land that has been permanently reserved for any purpose set out in section 4 of the **Crown Land (Reserves) Act 1978** in any manner inconsistent with that reservation.

S. 42(14)
inserted by
No. 86/1993
s. 22.

(14) Nothing in this section prevents either House of Parliament exercising its power under section 38 of the **Planning and Environment Act 1987**.

42A Planning permits not required for some work variations

S. 42A
inserted by
No. 82/2000
s. 41.

- (1) This section applies if—
- (a) a licensee proposes to vary an approved work plan that was approved in respect of work for which an Environment Effects Statement was prepared and assessed under section 42(7); and
 - (b) a permit is required to be obtained under a planning scheme for the new work that it is proposed to do.
- (2) The licensee is not required to obtain a permit for that work only if—
- (a) the Minister, after consultation with the Minister administering the **Environment Effects Act 1978**, is satisfied that the new work will not cause any significant additional environmental impacts; and
 - (b) the Department Head approves the variation.
- (3) If the Minister is not so satisfied, the licensee is still not required to obtain a permit for that work if—
- (a) the Minister administering the **Environment Effects Act 1978** directs that a report be prepared on the additional environmental impacts that the new work may have; and
 - (b) the report is made available for public inspection and comment for at least 28 days; and
 - (c) after considering any comments made during that period, that Minister submits an assessment of the report to the Minister; and

S. 42A(2)
amended by
No. 57/2009
s. 28(1).

S. 42A(2)(b)
amended by
No. 57/2009
s. 28(2).

S. 42A(3)(d)
amended by
No. 57/2009
s. 28(3).

(d) the variation, in the form that it is approved by the Department Head, substantially complies with any requirements recommended by that assessment.

S. 43
(Heading)
inserted by
No. 59/2010
s. 25(1).

43 Commencement of work under exploration licence or retention licence

S. 43(1)
amended by
Nos 86/1993
s. 23(a)(i)(iii),
82/2000
s. 42(1)(a)(d),
63/2006
s. 31(1)(a),
59/2010
s. 25(2).

(1) The holder of an exploration licence or retention licence must not carry out any work on the land covered by the licence unless—

S. 43(1)(ab)
inserted by
No. 57/2009
s. 29.

(a) the licensee has an approved work plan; and

(ab) in the case of an area work plan within the meaning of section 41AD(4), the licensee has submitted the relevant area work plan schedule containing the prescribed information to the Department Head not less than 21 days before carrying out any work on the land affected; and

(b) the licensee has entered into a rehabilitation bond in accordance with section 80; and

S. 43(1)(ba)
inserted by
No. 63/2006
s. 31(1)(b).

(ba) the licensee has complied with any condition imposed by the Minister under section 26(2)(d) to provide an environmental offset; and

(c) the licensee has obtained all the necessary consents and other authorities relating to the land affected³ required by or under this or any other Act; and

S. 43(1)(ca)
inserted by
No. 63/2006
s. 31(1)(c).

(ca) any consent under section 45 or authorisation under section 46 has been registered; and

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- (cb) the licensee has obtained the insurance required under section 39(5); and **S. 43(1)(cb) inserted by No. 63/2006 s. 31(1)(c).**
- (d) the licensee has given—
- (i) 7 days' notice to the Chief Inspector; and **S. 43(1)(d)(i) amended by Nos 82/2000 ss 42(1)(b), 61(b), 6/2009 s. 16.**
- (ii) 7 days' notice (or any shorter period agreed between the licensee and the owners and occupiers of the land affected) to the owners and occupiers of the land affected⁴— **S. 43(1)(d)(ii) amended by No. 82/2000 s. 42(1)(b).**
- of the licensee's intention to commence work; and
- (e) if the land affected⁵ is private land— **S. 43(1)(e) substituted by No. 82/2000 s. 42(1)(c), amended by No. 59/2010 s. 36(2).**
- (i) the licensee has obtained the written consent of the owners and occupiers of the land affected⁶; or
- (ii) the licensee has made and registered compensation agreements with those owners and occupiers; or
- (iii) the amount of compensation payable to those owners and occupiers has been determined under Part 8 and the licensee has been advised in writing of the result by the person or body making the determination; or
- (iv) the licensee has purchased the land affected⁷—
- unless this requirement has been waived by the Department Head under subsection (2); and

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S. 43(1)(ea)
inserted by
No. 59/2010
s. 36(3),
substituted by
No. 10/2014
s. 22(1).

- (ea) the licensee has obtained the written consent or informed verbal consent of the owners and occupiers of the land affected, if the land affected is private land and the work being carried out involves exploring for minerals on land but does not involve—
- (i) the use of equipment (other than non-mechanical hand tools) to excavate on the land; or
 - (ii) the use of explosives on the land; or
 - (iii) removing or damaging any tree or shrub on the land.

S. 43(1)(f)
repealed by
No. 86/1993
s. 23(a)(ii).

* * * * *

Penalty: In the case of a corporation,
1000 penalty units.
In any other case, 200 penalty units.

Default penalty:
In the case of a corporation, 20 penalty units.
In any other case, 10 penalty units.

S. 43(1A)
inserted by
No. 63/2006
s. 31(2),
amended by
No. 10/2014
s. 22(2).

(1A) Subsections (1)(a) and (1)(ba) do not apply to low impact exploration.

S. 43(1B)
inserted by
No. 10/2014
s. 22(3).

(1B) Subsection (1)(a), (ab), (b), (ba), (ca) and (d) do not apply to a licensee if the work being carried out involves exploring for minerals on land but does not involve—

- (a) the use of equipment (other than non-mechanical hand tools) to excavate on the land; or

- (b) the use of explosives on the land; or
- (c) removing or damaging any tree or shrub on the land.
- (2) If the land affected is private land and the licensee has been unable to determine the name and address of the owners and occupiers of the land, the licensee may apply to the Department Head to have the requirement specified by subsection (1)(e) waived.
- (2A) The Department Head may grant such an application if, in her or his opinion, the licensee has made all reasonable efforts to determine the name and address of the owners and occupiers of the land.
- (2B) Before waiving the requirement, the Department Head may require the licensee—
- (a) to advertise the licensee's intention to start work on the land affected in a specified edition of a newspaper circulating generally in the area in which the land is situated;
- (b) to post a notice on the land affected stating that the licensee intends to start work on that land.
- (3) Despite anything in any planning scheme approved under the **Planning and Environment Act 1987** which—
- (a) prohibits the use or development of the land covered by the licence for exploration (whether absolutely or unless specified conditions are complied with) and does not provide for the granting of a permit for that use or development; or

S. 43(2)
repealed by
No. 86/1993
s. 23(b),
new s. 43(2)
inserted by
No. 82/2000
s. 42(2).

S. 43(2A)
inserted by
No. 82/2000
s. 42(2).

S. 43(2B)
inserted by
No. 82/2000
s. 42(2).

S. 43(3)
substituted by
No. 86/1993
s. 23(c),
amended by
Nos 7/1994
s. 6(a),
64/2012 s. 33.

(b) requires a permit to be obtained for that use or development—

the holder of a licence is not prohibited from carrying out exploration on the land covered by the licence in accordance with that licence and is not required to comply with any conditions specified in the planning scheme relating to, or to obtain a permit for, the carrying out of that exploration.

S. 43(4)
substituted by
No. 86/1993
s. 23(c),
amended by
Nos 7/1994
s. 6(b),
64/2012 s. 33.

(4) In addition to any other power to prepare, adopt or approve amendments to planning schemes, the Minister administering the **Planning and Environment Act 1987** may—

(a) on the recommendation of the Minister prepare; and

(b) adopt and approve—

amendments to any planning scheme to facilitate the carrying out of exploration on land covered by a licence in accordance with that licence.

S. 43(5)
inserted by
No. 86/1993
s. 23(c),
amended by
Nos 7/1994
s. 6(c),
64/2012 s. 33.

(5) Without limiting what an amendment may include, an amendment prepared under subsection (4) may provide that no permit is required to carry out exploration on land covered by a licence in accordance with that licence.

S. 43(6)
inserted by
No. 86/1993
s. 23(c).

(6) The **Planning and Environment Act 1987** (except section 12(2), Divisions 1 and 2 of Part 3 and section 39(1) to (6) and any regulations made for the purposes of those provisions) applies to the preparation, adoption and approval of an amendment under subsection (4).

S. 43(7)
inserted by
No. 86/1993
s. 23(c).

(7) Section 39(7) of the **Planning and Environment Act 1987** applies to an amendment prepared, adopted or approved under subsection (4) as if before "Division 1" there were inserted "section 12(1) or".

(8) Section 39(8) of the **Planning and Environment Act 1987** applies to an amendment prepared or adopted under subsection (4) as if—

S. 43(8)
inserted by
No. 86/1993
s. 23(c).

(a) the expression "Except for an application under this section," were deleted; and

(b) before "Division 1" there were inserted "section 12(1) or".

(9) Section 46 of the **Planning and Environment Act 1987** does not apply to a planning scheme to the extent to which, because of an amendment prepared, adopted or approved under subsection (4), it is expressed or purports to deal with any land that has been permanently reserved for any purpose set out in section 4 of the **Crown Land (Reserves) Act 1978** in any manner inconsistent with that reservation.

S. 43(9)
inserted by
No. 86/1993
s. 23(c).

(10) Nothing in this section prevents either House of Parliament exercising its power under section 38 of the **Planning and Environment Act 1987**.

S. 43(10)
inserted by
No. 86/1993
s. 23(c).

43A Effect of contraventions

A failure by a licensee in carrying out exploration or mining on the land covered by the licence to comply with this Act or the regulations or with any condition to which the licence is subject or any condition specified under section 44 or with the approved work plan for the licence does not constitute a contravention of the **Planning and Environment Act 1987** or any planning scheme, despite anything in that Act or scheme.

S. 43A
inserted by
No. 86/1993
s. 24.

43B Certain consents etc. not required in case of unrestricted Crown land

(1) Despite any provision to the contrary made by or under any Act (being an Act that relates to access to, or the doing of work under a licence on, unrestricted Crown land) other than this Act that

S. 43B
inserted by
No. 86/1993
s. 24.

S. 43B(1)
amended by
Nos 82/2000
s. 43(a),
64/2012 s. 34.

requires a person to obtain any consent or other authority under that provision before carrying out exploration or mining on unrestricted Crown land but subject to any conditions imposed by the Minister on the licence (as the case requires), it is not necessary for a licensee to obtain any such consent or other authority before carrying out exploration or mining on unrestricted Crown land.

S. 43B(2)
amended by
Nos 82/2000
s. 43(b),
25/2008 s. 13.

- (2) Subsection (1) does not apply to the **Planning and Environment Act 1987**, the **Environment Protection Act 1970**, the **Flora and Fauna Guarantee Act 1988** or the Forests (Fire Protection) Regulations 2004.

44 Particular consents etc. required

S. 44(1)
amended by
Nos 86/1993
s. 25(a)(b),
82/2000
s. 44(1),
63/2006 s. 32.

- (1) A licensee who proposes to do work under the licence on restricted Crown land must obtain the consent of the Crown land Minister.

S. 44(2)
amended by
No. 82/2000
s. 44(1).

- (2) A licensee who proposes to do work under the licence on land—

S. 44(2)(a)
repealed by
No. 86/1993
s. 25(c).

* * * * *

S. 44(2)(b)
amended by
No. 74/2000
s. 3(Sch. 1
item 83.1).

- (b) that is owned by, vested in or managed or controlled by the Melbourne Water Corporation or an Authority under the **Water Act 1989** must obtain the consent of that Board or Authority; and

S. 44(2)(c)
amended by
No. 86/1993
s. 25(d).

- (c) on which there is a public highway, road or street must give 21 days' notice of the proposed work to the person or body having the care or management of the public highway, road or street.

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| * | * | * | * | * | |
| | | | | | S. 44(3)
repealed by
No. 86/1993
s. 25(e). |
| (4) | A consent under subsection (1) or (2)— | | | | S. 44(4)
amended by
No. 86/1993
s. 25(f). |
| | (a) must not be unreasonably withheld; and | | | | |
| | (b) may be granted subject to conditions. | | | | |
| (5) | A person or body whose consent is sought under subsection (1) or (2) must, within 28 days (or any longer period allowed by the Minister) after the consent being sought, grant that consent (whether subject to conditions or not) or refuse to consent. | | | | S. 44(5)
amended by
No. 86/1993
s. 25(f)(g). |
| (6) | A person or body that does not comply with subsection (5) in relation to any land is deemed to have given the consent sought. | | | | S. 44(6)
substituted by
No. 82/2000
s. 44(2). |
| (7) | A person or body that refuses to consent under subsection (1) or (2) must, within 7 days after the decision to refuse, give the licensee a statement in writing of the reasons for the decision. | | | | S. 44(7)
amended by
No. 86/1993
s. 25(f). |
| (8) | A licensee may only do work under the licence at a depth of more than 0.75 metres below any land that is within 100 metres of— | | | | S. 44(8)
amended by
No. 82/2000
s. 44(1). |
| | (a) a waterway that is owned by, vested in or managed or controlled by the Melbourne and Metropolitan Board of Works or an Authority under the Water Act 1989 ; or | | | | |
| | (b) any main drains, sewers, aqueducts, channels or pipelines of that Board or such an Authority— | | | | |
| | after consultation with the Board or Authority and in compliance with any conditions specified by the Board or Authority. | | | | |

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S. 44(9)
amended by
No. 52/1998
s. 311(Sch. 1
item 64.3).

(9) A licensee may apply to the Tribunal for review of a decision—

S. 44(9)(a)
amended by
No. 86/1993
s. 25(f).

- (a) by a person or body under subsection (1) or (2)—
 - (i) to refuse to consent; or
 - (ii) to consent subject to conditions; or
- (b) under subsection (8) by the Board or an Authority to specify a condition with which the licensee must comply in doing work.

S. 44(10)
inserted by
No. 52/1998
s. 311(Sch. 1
item 64.4).

(10) An application for review must be made within 28 days after the later of—

- (a) the day on which the decision is made;
- (b) either—
 - (i) in the case of a decision under subsection (1) or (2), the day on which the statement of reasons for the decision is given to the licensee under subsection (7); or
 - (ii) in the case of a decision under subsection (8), if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the licensee requests a statement of reasons for the decision, the day on which the statement of reasons is given to the licensee or the licensee is informed under section 46(5) of that Act that a statement of reasons will not be given.

45 Prohibition of work near dwellings and certain places and sites

(1) A licensee must not, except as provided by subsection (2), (4), (4A) or (4B) do any work under the licence—

(a) within 100 metres laterally of—

(i) a dwelling house that existed before an approved work plan was registered in respect of the licence; or

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S. 45
 (Heading)
 inserted by
 No. 63/2006
 s. 33(1).

S. 45(1)
 amended by
 Nos 18/1997
 s. 3(1)(a),
 82/2000
 s. 45(1)(a)
 (b)(d).

S. 45(1)(a)(i)
 amended by
 No. 63/2006
 s. 33(2)(a).

S. 45(1)
 (a)(ii)–(x)
 repealed by
 No. 63/2006
 s. 33(2)(b).

S. 45(1)(a)(xi)
 amended by
 Nos 93/1995
 s. 218(1)
 (Sch. 2
 item 5.1),
 18/1997
 s. 3(1)(b),
 93/1995
 s. 218(2)
 (Sch. 2
 item 9.1),
 substituted by
 Nos 82/2000
 s. 45(1)(c),
 16/2006
 s. 198(Sch. 2
 item 5(5)),
 repealed by
 No. 10/2014
 s. 23(1).

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S. 45(1)(a)(xii)
substituted by
Nos 82/2000
s. 45(1)(c),
63/2006
s. 33(2)(c),
16/2006
s. 198(Sch. 2
item 5(5)),
repealed by
No. 10/2014
s. 23(1).

* * * * *

S. 45(1)(a)(xiii)
inserted by
No. 93/1995
s. 218(1)
(Sch. 2
item 5.2),
repealed by
No. 10/2014
s. 23(1).

* * * * *

(b) within 100 metres below any area prohibited
by paragraph (a).

Penalty: In the case of a corporation,
1000 penalty units.

In any other case, 200 penalty units.

Default penalty:

In the case of a corporation, 20 penalty
units.

In any other case, 10 penalty units.

S. 45(1A)
inserted by
No. 82/2000
s. 45(2).

(1A) Despite subsection (1), a licensee may do any
work prohibited by subsection (1) (except work
within the prohibited distances of the area relating
to a site described in subsection (1)(a)(xiii)) if the
licensee is not required to obtain a permit for that
work under section 42(7) or 42A.

S. 45(1B)
inserted by
No. 82/2000
s. 45(2).

(1B) Subsection (1A) applies regardless of whether the
licensee has any of the consents referred to in
subsections (2) and (4).

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| <p>(2) A licensee may, with the consent of the owners of the land on which a dwelling house is situated, do work within the area prohibited by subsection (1)(a)(i) in relation to that dwelling house or within 100 metres below that area.</p> | <p>S. 45(2)
 substituted by
 No. 63/2006
 s. 33(3).</p> |
| <p>(3) A consent given by any owner of land under subsection (2)—</p> <p style="padding-left: 40px;">(a) must be in writing and in the prescribed form (if any); and</p> <p style="padding-left: 40px;">(b) cannot be withdrawn by that owner or by any subsequent owner of the land; and</p> <p style="padding-left: 40px;">(c) binds all subsequent owners and occupiers of the land.</p> | <p>S. 45(3)
 amended by
 Nos 93/1995
 s. 218(1)(2)
 (Sch. 2
 items 5.3, 9.2)
 (as amended
 by No.
 66/1997 s. 10),
 18/1997
 s. 3(2),
 repealed by
 No. 82/2000
 s. 45(3),
 new s. 45(3)
 inserted by
 No. 63/2006
 s. 33(3).</p> |
| <p>* * * * *</p> | <p>S. 45(4)
 repealed by
 No. 10/2014
 s. 23(1).</p> |
| <p>* * * * *</p> | <p>S. 45(4A)
 inserted by
 No. 18/1997
 s. 3(3),
 amended by
 No. 63/2006
 s. 33(4),
 repealed by
 No. 10/2014
 s. 23(1).</p> |
| <p>* * * * *</p> | <p>S. 45(4B)
 inserted by
 No. 18/1997
 s. 3(3),
 repealed by
 No. 10/2014
 s. 23(1).</p> |

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990
Part 3—Work under a licence

S. 45(5)
amended by
Nos 18/1997
s. 3(4),
82/2000
s. 45(4),
substituted by
No. 63/2006
s. 33(5),
amended by
No. 10/2014
s. 23(2).

(5) An owner who consents under subsection (2) may make the consent conditional on the following matters only—

- (a) specified distance restrictions;
- (b) specified depth restrictions.

S. 45(6)
substituted by
No. 82/2000
s. 45(5),
repealed by
No. 16/2006
s. 198(Sch. 2
item 5(6)).

* * * * *

S. 45(7)
inserted by
No. 63/2006
s. 33(6).

(7) In this section—

dwelling house means a building that is used primarily, or is intended, adapted or designed to be used primarily, as a residence, (including kitchen, bathroom and sanitary facilities) for an occupier who has a right to the exclusive use of it and includes a building that may, in addition to its primary residential use, be used for small-scale commercial activities;

S. 45(7) def. of
work
amended by
No. 10/2014
s. 23(3).

work means any of the following activities—

- (a) any excavation for the purposes of mining or bulk sampling of ore;
- (b) any excavation for the purposes of exploration using mechanised equipment;
- (c) any construction or use of any opening, excavation, structure or equipment for access to, or ventilation of, underground workings;

- (d) any treatment, extraction, handling or processing of minerals using plant or equipment (other than hand-operated equipment);
- (e) any construction or use of roads for the haulage of ore, waste rock or overburden;
- (f) the bulk storage of ore, waste rock or overburden;
- (g) any construction or use of dams for the storage of tailings, process water or groundwater;
- (h) any construction or use of other facilities for the treatment, handling or storage of tailings or other wastes;
- (i) any drilling (unless carried out with hand-held equipment);
- (j) any other activity specified in the regulations—

but does not include exploring for minerals on land—

- (k) without using equipment (other than non-mechanical hand tools) to excavate on the land; and
 - (l) without using explosives on the land; and
 - (m) without removing or damaging any tree or shrub on the land.
- (8) For the purposes of subsection (1)(a)(i) the distance of 100 metres is to be measured from—
- (a) the boundary of the allotment on which the dwelling house is situated if the area of the allotment is 0.4 hectares or less; or

S. 45(8)
inserted by
No. 63/2006
s. 33(6).

- (b) in any other case, a distance of 25 metres from the outer edge of any eave forming part of the dwelling house.

S. 45A
inserted by
No. 63/2006
s. 34.

45A Certain exploration and mining work complies with section 45

- (1) A licensee who does any work under the licence within an area of land prohibited by section 45(1)(a)(i) or within 100 metres below that area complies with section 45 in respect of that work if—

- (a) at the commencement date—

- (i) an approved work plan was registered in respect of the licence; and
(ii) the approved work plan provided for that work to be done under the licence; and

S. 45A(1)(a)(i)
amended by
No. 10/2014
s. 24(a).

- (b) the approved work plan is still registered at the time that work is done; and

S. 45A(1)(b)
amended by
No. 10/2014
s. 24(b).

- (c) that work is done in accordance with the approved work plan as in effect at the commencement date.

- (2) In this section—

commencement date means the date of commencement of section 34 of the **Mineral Resources Development (Sustainable Development) Act 2006**;

work has the same meaning as it has in section 45(7).

46 Minister may authorise work near dwelling house

- (1) The Minister may authorise a licensee to do work within the area prohibited by section 45(1)(a)(i) or within 100 metres below that area after consultation with—
- (a) the municipal council in whose municipal district an area is situated; and
 - (b) any community group or member of the community whom the Minister considers should be consulted about the proposed work.
- (2) A licensee who does work in accordance with an authority under subsection (1) is not guilty of an offence under section 45(1).
- (3) A licensee who does work in accordance with an authority under subsection (1) must repair any damage caused to the protected building or site by the work.
- (4) In this section *work* has the same meaning as it has in section 45(7).

S. 46
(Heading)
inserted by
No. 63/2006
s. 35(1).

S. 46(1)
amended by
No. 74/2000
s. 3(Sch. 1
item 83.2),
substituted by
No. 82/2000
s. 46(1),
amended by
No. 63/2006
s. 35(2),
substituted by
No. 59/2010
s. 40.

S. 46(3)
amended by
Nos 82/2000
s. 46(2),
10/2014 s. 25.

S. 46(4)
inserted by
No. 63/2006
s. 35(3).

47 New consent or authorisation for certain work plan variations

- (1) A licensee must obtain a consent under section 45 (*a new consent*) to do mining work (*the new work*) that is proposed by a variation to an approved work plan under section 41 if—

S. 47
repealed by
No. 82/2000
s. 47,
new s. 47
inserted by
No. 63/2006
s. 36.

S. 47(1)
amended by
No. 10/2014
s. 26(1).

S. 47(1)(b)
amended by
No. 10/2014
s. 26(2).

- (a) the new work affects all or part of any mining work within an area of land prohibited by section 45(1), being mining work—
 - (i) for which a consent under section 45 or an authorisation under section 46 is held by the licensee; or
 - (ii) that is permitted to be done under section 45A; and
- (b) if the mining work affected by the new work is within an area of land prohibited by section 45(1)(a)(i) or within 100 metres below that area, a permit is required to be obtained under a planning scheme for the new work.

S. 47(1)(c)
repealed by
No. 10/2014
s. 26(3).

* * * * *

S. 47(2)
amended by
No. 10/2014
s. 26(1).

- (2) The Department Head must direct a licensee to obtain consent under section 45 (a *new consent*) to do exploration work (*the new work*) that is proposed by a variation to an approved work plan under section 41 if—
 - (a) the new work affects all or part of any exploration work within an area of land prohibited by section 45(1) being exploration work—
 - (i) for which a consent under section 45 or an authorisation under section 46 is held by the licensee; or
 - (ii) that is permitted to be done under section 45A; and
 - (b) the Department Head considers that the new work will result in significant changes to that exploration work.

(3) In this section *work* has the same meaning as it has in section 45(7).

(4) This section applies despite section 45A.

47A Management of worksites

(1) A licensee holding a mining licence must appoint a manager to control and manage the licence worksites.

S. 47A
inserted by
No. 86/1993
s. 26,
substituted by
No. 82/2000
s. 48.

* * * * *

S. 47A(2)
repealed by
No. 6/2009
s. 17(1).

* * * * *

S. 47A(3)
repealed by
No. 6/2009
s. 17(1).

(4) The licensee must provide the manager with sufficient means to enable the manager to ensure that all obligations placed on the licensee by or under this Act with respect to the licence worksites are met.

Penalty: In the case of a corporation,
1000 penalty units.

In any other case, 200 penalty units.

(5) The licensee may appoint himself or herself to be the manager of the licence worksites.

S. 47A(5)
amended by
No. 6/2009
s. 17(2).

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990

Pt 4 (Heading
and ss 48–54)
amended by
Nos 86/1993
s. 27, 46/1998
s. 7(Sch. 1),
76/1998
s. 31(e),
108/2004
s. 117(1)
(Sch. 3
items 134.2,
134.3),
80/2006
s. 26(Sch.
item 71.1),
repealed by
No. 59/2010
s. 39.

* * * * *

Part 4A—Advisory panels

Division 1—Appointment of panels

Pt 4A
(Heading and
ss 54A–54M)
inserted by
No. 63/2006
s. 37.

54A Appointment of advisory panels

The Minister may appoint a panel to consider and advise on any matter relating to exploration, mining, extractive industries, or the administration of this Act, referred to the panel by the Minister.

S. 54A
inserted by
No. 63/2006
s. 37,
amended by
No. 6/2009
s. 18.

54B Composition of panel

- (1) A panel may consist of one or more persons.
- (2) In appointing a person to be a member of a panel, the Minister must be satisfied that the person has appropriate knowledge, skills or experience.

S. 54B
inserted by
No. 63/2006
s. 37.

54C Chairperson

If a panel consists of more than one member, the Minister must appoint one of the members to be the chairperson.

S. 54C
inserted by
No. 63/2006
s. 37.

54D Terms of reference

On appointing a panel, the Minister must specify the terms of reference of the panel.

S. 54D
inserted by
No. 63/2006
s. 37.

54E Terms and conditions of appointment

- (1) A member of a panel is appointed for the term that is specified in the instrument of his or her appointment.
- (2) A member of a panel, other than a member who is employed by or on behalf of the Crown, is entitled to receive any fees and allowances fixed by the Minister in the instrument of his or her appointment.

S. 54E
inserted by
No. 63/2006
s. 37.

Division 2—Procedure of panels

S. 54F
inserted by
No. 63/2006
s. 37.

54F Procedure of panel

- (1) A panel may call for and consider written submissions from any persons having an interest in the matter referred to it.
- (2) A panel may hold a public hearing.
- (3) If a panel holds a public hearing, it must give a reasonable opportunity to be heard by it to any person who has stated in a written submission that the person wishes to be heard with respect to that submission.

S. 54G
inserted by
No. 63/2006
s. 37.

54G Directions about hearings

- (1) A panel may give directions about—
 - (a) the times and places of hearings; and
 - (b) matters preliminary to hearings; and
 - (c) the conduct of hearings.
- (2) A panel may refuse to hear any person who fails to comply with a direction of the panel.

S. 54H
inserted by
No. 63/2006
s. 37.

54H Hearings to be in public

A panel must conduct its hearings in public unless any person making a submission objects to making the submission in public and the panel is satisfied that the submission is confidential in nature.

S. 54I
inserted by
No. 63/2006
s. 37.

54I Procedure for hearing submissions

- (1) A person who has a right to be heard by a panel may—
 - (a) appear and be heard in person or be represented by any other person; and
 - (b) give submissions to a panel orally or in writing or partly orally and partly in writing.

- (2) A panel may report and make recommendations on a submission without hearing the person who made the submission if the person is not present or represented at the time and place appointed for the hearing of the submission.
- (3) A panel may consider 2 or more submissions together if the submissions concern the same or a related matter.

54J Adjournment of hearings

A panel may from time to time adjourn a hearing to any times and places and for any purposes it thinks necessary or just in the circumstances.

S. 54J
inserted by
No. 63/2006
s. 37.

54K Panel may regulate its own proceedings

A panel may regulate its own proceedings.

S. 54K
inserted by
No. 63/2006
s. 37.

54L Panel may take into account any relevant matter

A panel may take into account any matter it thinks relevant in making its report and recommendations.

S. 54L
inserted by
No. 63/2006
s. 37.

54M Report of panel

- (1) After considering a matter, including conducting hearings and considering submissions under this Part, the panel—
 - (a) must report to the Minister on the matter; and
 - (b) may make recommendations in relation to the matter.

S. 54M
inserted by
No. 63/2006
s. 37.

- (2) The report of the panel and any recommendations must be forwarded to the Minister—
- (a) if a period is specified in the instrument of appointment for the forwarding of the report and any recommendations, within that period; or
 - (b) in any other case, within 60 days after the appointment of the panel.

Part 5—Other authorities

Division 1—Miner's rights

55 Miner's right

- (1) A miner's right entitles the holder to search for minerals on any of the following land, unless the land is covered by a mining licence, prospecting licence or retention licence—
- (a) private land, but only with the consent of the owner or occupier; and
 - (b) Crown land (other than land exempted under section 6, 6A or 7 of this Act or nominated under section 7(1) of the **Crown Land (Reserves) Act 1978**).
- (1A) If the land is covered by a mining licence, prospecting licence or retention licence, the holder of a miner's right is entitled to search for minerals on the land if he or she has, in addition to any consent required under subsection (1), the consent of the licensee.
- (2) A consent granted under subsection (1) or (1A)—
- (a) may be granted subject to conditions; and
 - (b) may be withdrawn at any time by the person who granted it.
- (2A) If the holder of a miner's right is validly on any land under this section, he or she may remove from the land any minerals discovered by him or her on the land.
- (3) A miner's right is current for the time, not exceeding 10 years, specified in the miner's right.

S. 55(1) substituted by No. 82/2000 s. 49(1), amended by No. 59/2010 s. 26(1).

S. 55(1)(b) amended by No. 50/2002 s. 22.

S. 55(1A) inserted by No. 82/2000 s. 49(1), amended by No. 59/2010 s. 26(2).

S. 55(2) substituted by No. 82/2000 s. 49(1).

S. 55(2A) inserted by No. 82/2000 s. 49(1).

S. 55(3) amended by No. 59/2010 s. 37.

S. 56
amended by
No. 76/1998
s. 31(f),
substituted by
No. 69/2004
s. 55.

56 Who may grant a miner's right

- (1) The Department Head may grant a miner's right.
- (2) The Department Head may authorise in writing—
 - (a) a person or body; or
 - (b) all people or bodies falling within a specified class—

to grant miner's rights.

S. 57
amended by
Nos 27/1991
s. 4(4),
76/1998
s. 31(f),
82/2000
s. 49(2),
substituted by
No. 69/2004
s. 55.

57 Grant of miner's right

On receiving an application for a miner's right, a person who is authorised to grant miner's rights must grant the miner's right to the applicant if the application has been made in accordance with the regulations.

S. 58(1)
amended by
No. 82/2000
s. 50(1)(a).

58 Obligations of holder

- (1) The holder of a miner's right acting under that right must not—
 - (a) use any equipment for the purposes of excavation on the land, other than non-mechanical hand tools; or
 - (b) use explosives on the land; or
 - (c) remove or damage any tree or shrub on the land; or
 - (d) disturb any Aboriginal cultural heritage (within the meaning of the **Aboriginal Heritage Act 2006**) on the land.

Penalty: 100 penalty units.

S. 58(1)(d)
substituted by
No. 16/2006
s. 198(Sch. 2
item 5(7)).

S. 58(2)
amended by
No. 82/2000
s. 50(1)(b).

- (2) The holder of a miner's right must repair any damage to the land arising out of the search.

Penalty: 50 penalty units.

- (3) The holder of a miner's right must produce the miner's right for inspection if asked to do so by an inspector or any person acting under a delegation conferred under section 91(b).

S. 58(3)
inserted by
No. 82/2000
s. 50(2).

Division 2—Tourist fossicking authorities

59 Tourist fossicking authority

- (1) A tourist fossicking authority entitles the holder, or any employee or agent of the holder if the holder is not a natural person, and any person accompanied by the holder to search for minerals at the times, and subject to the conditions, specified in the authority on any of the following land that is specified in the authority, unless the land is covered by a mining licence, prospecting licence or retention licence—

S. 59(1)
substituted by
No. 82/2000
s. 51(1),
amended by
Nos 25/2008
s. 14(1),
64/2012
s. 35(1).

- (a) private land, but only with the consent of the owner or occupier; and
- (b) Crown land (other than land exempted under section 6, 6A or 7 of this Act).

S. 59(1)(b)
amended by
No. 50/2002
s. 23.

- (1A) If the land is covered by a mining licence, prospecting licence or retention licence, the holder of the authority and any person accompanied by the holder, or any employee or agent of the holder if the holder is not a natural person, are entitled to search for minerals on the land under a tourist fossicking authority if—

S. 59(1A)
inserted by
No. 82/2000
s. 51(1),
amended by
Nos 25/2008
s. 14(2),
64/2012
s. 35(2).

- (a) the land is specified in the authority; and
- (b) the holder of the authority has, in addition to any consent required under subsection (1), the consent of the licensee.

- (2) A tourist fossicking authority is current for the time, not exceeding 10 years, specified in the authority.

S. 59(2)
amended by
No. 59/2010
s. 38.

S. 59(3)
substituted by
No. 82/2000
s. 51(2).

- (3) A consent granted under subsection (1) or (1A)—
- (a) may be granted subject to conditions; and
 - (b) may be withdrawn at any time by the person who granted it.

S. 59(4)
inserted by
No. 82/2000
s. 51(2).

- (4) If a person is validly on any land under this section, he or she may remove from the land any minerals discovered by him or her on the land.

S. 60
amended by
No. 76/1998
s. 31(f).

60 Application for tourist fossicking authority

A person may apply to the Department Head in accordance with the regulations for a tourist fossicking authority.

S. 61(1)
amended by
No. 76/1998
s. 31(g)(i).

61 Grant or refusal of tourist fossicking authority

- (1) The Department Head may grant or refuse an application.

S. 61(2)
amended by
No. 76/1998
s. 31(g)(i).

- (2) The Department Head may grant an application on any terms and conditions specified in the authority.

S. 61(3)
repealed by
No. 76/1998
s. 31(g)(ii).

* * * * *

62 Obligations of holder

- (1) The holder of a tourist fossicking authority must not—
- (a) use any equipment for the purposes of excavation on the land, other than non-mechanical hand tools; or
 - (b) use explosives on the land; or
 - (c) remove or damage any tree or shrub on the land; or

(d) disturb any Aboriginal cultural heritage
(within the meaning of the **Aboriginal
Heritage Act 2006**) on the land.

S. 62(1)(d)
substituted by
No. 16/2006
s. 198(Sch. 2
item 5(8)).

Penalty: 100 penalty units.

(2) The holder of a tourist fossicking authority must
make sure that a person who searches for minerals
under that authority does not do anything
specified in subsection (1)(a), (b), (c) or (d).

Penalty: 100 penalty units.

(3) The holder of a tourist fossicking authority must
repair any damage to the land arising out of the
searching for minerals under that authority by any
person.

S. 62(3)
amended by
No. 25/2008
s. 15.

Penalty: 50 penalty units.

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Pt 5 Div. 3
(Heading and
ss 63–67)
amended by
Nos 86/1993
s. 28, 82/2000
ss 61(b), 72(a),
6/2009 s. 19,
repealed by
No. 59/2010
s. 41.

Part 6—Mining register

S. 68
amended by
No. 46/1998
s. 7(Sch. 1),
repealed by
No. 82/2000
s. 52(1).

* * * * *

S. 69
(Heading)
inserted by
No. 63/2006
s. 38(1).

69 Functions of Department Head regarding mining register

S. 69(1)
amended by
No. 82/2000
s. 52(2).

(1) The Department Head must establish and maintain a mining register.

S. 69(1A)
inserted by
No. 63/2006
s. 38(2).

(1A) The mining register may be kept in electronic form.

S. 69(2)
amended by
No. 82/2000
s. 52(2).

(2) The Department Head must, by any means he or she considers appropriate—

(a) register the following documents—

(i) licences;

S. 69(2)(a)(ia)
inserted by
No. 82/2000
s. 52(3)(b).

(ia) instruments of refusal of applications for licences;

(ii) compensation agreements;

(iii) rehabilitation bonds;

S. 69(2)(a)(iiia)
inserted by
No. 63/2006
s. 38(3).

(iiia) consents given under section 45;

S. 69(2)(a)(iiib)
inserted by
No. 63/2006
s. 38(3).

(iiib) authorisations given under section 46;

Mineral Resources (Sustainable Development) Act 1990
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- (iv) approved work plans;
- (v) work authorities; S. 69(2)(a)(v)
substituted by
No. 82/2000
s. 52(3)(a).
- (vi) instruments of renewal of licences,
including notice of decreased area and
of any changed conditions;
- (vii) instruments of refusal to renew
licences;
- (viii) instruments of variation of licences;
- (ix) instruments of amalgamation of
licences;
- (x) notices of surrender of licences;
- (xi) instruments of cancellation of licences;
- (xii) instruments of variation, suspension,
revocation or addition of licence
conditions; S. 69(2)(a)(xii)
amended by
No. 86/1993
s. 29.
- (xiii) approved instruments of transfer of
licences;
- (xiv) instruments for creating, assigning or
affecting interests in, or conferred by,
licences (including mortgages); S. 69(2)(a)(xiv)
amended by
No. 82/2000
s. 52(3)(c).
- (xv) instruments for the devolution of
licences or interests in, or conferred by,
licences;
- (xva) instruments (including mortgages) for
the termination or cancellation of
interests in, or conferred by, licences; S. 69(2)
(a)(xva)
inserted by
No. 64/2012
s. 36.
- (xvb) written undertakings entered into under
section 107; S. 69(2)
(a)(xvb)
inserted by
No. 68/2014
s. 43(1).

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990
Part 6—Mining register

S. 69(2)(a)(xvi)
amended by
Nos 91/1994
s. 28(1),
52/1998
s. 311(Sch. 1
item 64.5).

(xvi) determinations of the Tribunal or the Supreme Court as to the amount of compensation payable;

(xvii) any other prescribed documents; and

- (b) record in the register the prescribed information contained in—
- (i) any document registered under paragraph (a); and
 - (ii) any other document that is required to be lodged under this Act; and
- (c) endorse on the document and in the register the date and time of registration.

S. 69(3)
amended by
No. 82/2000
s. 52(2).

- (3) The Department Head may—
- (a) approve forms of documents referred to in subsection (2)(a) for registration; and
 - (b) register a document by registering either the original or a copy; and
 - (c) determine the form of an extract from the register.

S. 69(4)
amended by
No. 82/2000
s. 52(2).

- (4) The Department Head may refuse to accept for registration any document referred to in subsection (2)(a) that does not contain the prescribed information or that is not in an approved form.

S. 69(5)
inserted by
No. 68/2014
s. 43(2).

- (5) The Department Head may refuse to accept for registration an approved instrument of transfer if the proposed transferee has not paid all outstanding fees, bonds, royalties and rents in respect of the licence agreed to under section 33B.

70 Effect of registration

- (1) A document referred to in section 69(2)(a) (other than one referred to in subparagraph (xiv), (xv) or (xvi)) has no effect until it is registered.
- (2) A document referred to in section 69(2)(a)(xiv) or (xv) is ineffective for creating, assigning or affecting any interest in or conferred by a licence, or for the devolution of a licence or any interest in or conferred by a licence, until it is registered.
- (3) A licence, on registration, confers on the licensee a proprietary interest in the land covered by the licence and attaches to the licensee all rights and obligations under the licence.
- (4) A proprietary interest in land is conferred by a licence only for the purpose of assisting the licensee to exercise the rights and discharge the obligations under the licence.
- (5) A licence or renewal when registered is not invalid only because of any defect or irregularity (other than one resulting from fraud) in any application or process leading up to the grant or renewal of the licence.
- (6) The Department Head must make sure that documents relating to the same licence are registered in the order in which they are lodged.
- (7) The approval or registration of a document does not give any right, interest or dealing that is evidenced by that document any force or effect that the right, interest or dealing would not have had if this Part had not been enacted.

S. 70(6)
amended by
No. 82/2000
s. 52(2).

71 Creation etc. of interests in licences

A purported creation or assignment of an interest in, or conferred by, a licence, and any purported dealing affecting an interest in, or conferred by, a licence, has no effect until an instrument in an approved form evidencing the creation, assignment or other dealing is registered.

72 Devolution of rights of licensee

- (1) The devolution of any rights under a licence, or any interest in, or conferred by, a licence, that would, but for this section, occur by operation of law has no effect until an instrument in the approved form evidencing the devolution is registered.
- (2) Subsection (1) applies despite anything in any Act or rule of law to the contrary.

73 Correction of register

S. 73(1)
amended by
No. 82/2000
s. 52(2).

- (1) The Department Head may correct any error or omission in the register by—
 - (a) inserting an entry; or
 - (b) amending an entry; or
 - (c) omitting an entry—

if he or she decides that the correction is necessary.

S. 73(2)
amended by
No. 82/2000
s. 52(2).

- (2) The Department Head may make the correction on his or her initiative or on the application of any person.

S. 73(3)
amended by
No. 82/2000
s. 52(2).

- (3) The Department Head must notify the licensee of any correction made under this section that affects the licence.

- (4) A person whose interests are affected by a decision of the Department Head to correct the register may apply to the Tribunal for review of the decision.
- S. 73(4) substituted by No. 52/1998 s. 311(Sch. 1 item 64.6), amended by No. 82/2000 s. 52(2).
- (5) An application for review must be made within 28 days after the later of—
- (a) the day on which the decision is made;
- (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.
- S. 73(5) substituted by No. 52/1998 s. 311(Sch. 1 item 64.6).

74 Disclosure of registered information

- (1) The Department Head must—
- (a) allow access at all reasonable times to the register; and
- (b) provide information from the register; and
- (c) provide a copy of a registered licence; and
- S. 74(1) amended by No. 82/2000 s. 52(2).
- S. 74(1)(c) amended by No. 82/2000 s. 52(4).
- (ca) provide a copy of a registered consent given under section 45; and
- S. 74(1)(ca) inserted by No. 63/2006 s. 39.
- (cb) provide a copy of a registered authorisation given under section 46; and
- S. 74(1)(cb) inserted by No. 63/2006 s. 39.

S. 74(1)(d)
inserted by
No. 82/2000
s. 52(4).

(d) provide a copy of a registered work plan; and

S. 74(1)(e)
inserted by
No. 82/2000
s. 52(4).

(e) provide a copy of a registered variation to a work plan—

to any person who pays the prescribed fee.

S. 74(1A)
inserted by
No. 82/2000
s. 52(5).

(1A) In complying with subsections (1)(d) and (e), the Department Head must exclude from any copy provided any information that is, in the opinion of the Department Head, of a confidential or commercially sensitive nature.

S. 74(2)
amended by
No. 82/2000
s. 52(2).

(2) The Department Head may provide information to a prescribed person in connection with—

- (a) the establishment of; or
- (b) the operation of; or
- (c) the satisfaction of enquiries to—

the integrated computerised information retrieval project, relating to information about land, its ownership and use, that is known as Landata.

S. 75
amended by
No. 82/2000
s. 52(2).

75 Survey standards

The Department Head may, subject to the regulations, specify standards for surveys and the circumstances in which surveys must be carried out before documents will be registered.

S. 76
amended by
No. 82/2000
s. 52(2).

76 Evidence

A certificate in the prescribed form purporting to be issued by the Department Head certifying as to any matter that appears in or can be ascertained from the register or other records kept by the Department Head under this Act is admissible in evidence in any proceedings and, in the absence of

evidence to the contrary, is proof of the matters stated in the certificate.

77 Offences

A person must not knowingly make, or cause or allow to be made, a false or unauthorised entry in the register.

Penalty: 200 penalty units.

**S. 77
amended by
No. 82/2000
s. 72(b).**

Pt 6A
(Heading)
inserted by
No. 6/2009
s. 20.

Part 6A—Extractive industries—Work authorities and other matters

Pt 6A Div. 1
(Heading)
inserted by
No. 6/2009
s. 20,
substituted by
No. 68/2014
s. 44.

Division 1—Searching for stone

S. 77A
inserted by
No. 63/2006
s. 40,
substituted by
Nos 6/2009
s. 20, 68/2014
s. 44.

77A Consent to search for stone on certain land

- (1) A person who proposes to search for stone on Crown land must obtain the consent of the Crown land Minister.
- (2) A person who proposes to search for stone on land that is owned by, vested in or managed or controlled by an Authority under the **Water Act 1989** must obtain the consent of that Authority.
- (3) A consent under subsection (1) or (2)—
 - (a) must not be unreasonably withheld; and
 - (b) may be granted subject to conditions.
- (4) The Crown land Minister whose consent is sought under subsection (1) must, within 60 days (or any longer period allowed by the Crown land Minister) after the consent being sought, grant that consent (whether subject to conditions or not) or refuse to consent.
- (5) An Authority under the **Water Act 1989** whose consent is sought under subsection (2) must, within 60 days after the consent being sought, grant that consent (whether subject to conditions or not) or refuse that consent.
- (6) An Authority under the **Water Act 1989** that does not comply with subsection (5) is taken to have given the consent sought.

- (7) A person or body that refuses to consent must, within 7 days after the decision to refuse, give the person who sought the consent a statement in writing of the reasons for the decision.

Note

Section 6AA sets out land that is not available for searching for stone.

77B Depth restriction on searching for stone on land adjacent to waterways or water infrastructure

A person must not search for stone at a depth of more than 0.75 metres below any land that is within 100 metres of—

- (a) a waterway that is owned by, vested in or managed or controlled by an Authority under the **Water Act 1989**; or
- (b) any main drains, sewers, aqueducts, channels or pipelines of that Authority—

unless the person has first consulted the Authority and searches for stone in compliance with any conditions specified by the Authority.

77C Notice of proposed searching for stone on land on which there are roads etc.

A person who proposes to search for stone on land on which there is a public highway, road or street must give 21 days notice of the proposed searching to the person or body having the care or management of the public highway, road or street.

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S. 77B
inserted by
No. 6/2009
s. 20,
amended by
No. 17/2012
s. 92,
substituted by
No. 68/2014
s. 44.

S. 77C
inserted by
No. 6/2009
s. 20,
substituted by
No. 68/2014
s. 44.

S. 77D
inserted by
No. 6/2009
s. 20,
repealed by
No. 68/2014
s. 44.

S. 77E
inserted by
No. 6/2009
s. 20,
repealed by
No. 68/2014
s. 44.

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S. 77F
inserted by
No. 6/2009
s. 20,
repealed by
No. 68/2014
s. 44.

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Division 2—Work plans and extractive industry work authorities

77G Work plan

S. 77G
inserted by
No. 6/2009
s. 20.

(1) A person who proposes to apply for an extractive industry work authority to carry out an extractive industry must lodge a work plan with the Department Head.

S. 77G(2)
amended by
No. 47/2015
s. 11.

(2) Subsection (1) does not apply to a person who proposes to apply for an extractive industry work authority to carry out an extractive industry—

S. 77G(2)(a)
substituted by
No. 68/2014
s. 45.

(a) on land that has an area not exceeding 5 hectares and at a depth not exceeding 5 metres; and

(b) that does not require blasting or the clearing of native vegetation—

unless the Department Head declares, in writing, that the applicant must lodge a work plan.

S. 77G(2A)
inserted by
No. 59/2010
s. 43.

(2A) A specified work plan that is lodged under subsection (1) must be statutorily endorsed.

- (3) A work plan must—
- (a) be appropriate in relation to the nature and scale of the extractive industry activities proposed to be carried out; and
 - (b) identify the risks that the extractive industry activities may pose to the environment, to any member of the public, or to land, property or infrastructure in the vicinity of the activities; and
 - (c) specify what the person who proposes to apply for an extractive industry work authority will do to eliminate or minimise those risks as far as reasonably practicable; and
 - (d) include a rehabilitation plan for the land proposed to be covered by the work authority; and
 - (e) include a plan for consulting with the community that demonstrates that the extractive industry authority holder will use appropriate and effective measures to consult with the community throughout the period of the extractive industry work authority and is prepared in accordance with the regulations and any guidelines issued by the Minister relating to such plans (a *community engagement plan*); and
 - (f) if the extractive industry work authority relates to a declared quarry, contain the prescribed mine stability requirements and processes; and
 - (g) contain any other matters required by the regulations.

S. 77G(3)
amended by
No. 55/2010
s. 50,
substituted by
No. 10/2014
s. 27(1) (as
amended by
No. 47/2015
s. 4).

S. 77G(4)
amended by
No. 10/2014
s. 27(2).

- (4) The Department Head must, within 1 month after the work plan is lodged—
- (a) approve the work plan with or without conditions; or
 - (b) require the changes to the rehabilitation plan or the work plan specified in a notice to the person lodging the plan to be made before the plan will be approved; or
 - (c) refuse to approve the work plan—
- and notify, and give a statement of reasons for the decision to, the person who lodged the plan.

S. 77G(5)
inserted by
No. 1/2020
s. 140.

- (5) The Department Head, within 7 days after approving a work plan relating to the carrying out of an extractive industry on land wholly or partly within the levy area, must give the Secretary to the Department of Environment, Land, Water and Planning—
- (a) written notice of that approval; and
 - (b) a copy of the work plan.

S. 77G(6)
inserted by
No. 1/2020
s. 140.

- (6) In this section—
- levy area* has the same meaning as in section 3 of the **Melbourne Strategic Assessment (Environment Mitigation Levy) Act 2020**.

S. 77H
inserted by
No. 6/2009
s. 20,
amended by
No. 59/2010
s. 44,
substituted by
No. 10/2014
s. 28.

77H Application for variation of work plan

- (1) The holder of an extractive industry work authority who—
- (a) proposes to vary an approved work plan; or

(b) is directed by the Department Head under section 77HA or clause 3A of Schedule 9 to lodge an application for approval of a variation of a work plan—

S. 77H(1)(b)
amended by
No. 47/2015
s. 12.

must lodge an application for approval of the variation with the Department Head.

- (2) An application for approval of a variation must contain the prescribed information.
- (3) A proposed specified variation that is the subject of an application must be statutorily endorsed.

77HA Department Head may direct holder to lodge application for variation of work plan

S. 77HA
inserted by
No. 10/2014
s. 28.

- (1) The Department Head may, on his or her own initiative, determine that an approved work plan be varied.
- (2) On making a determination, the Department Head must give the holder of the extractive industry work authority written notice of the proposed variation, and the reasons for it, and give the holder an opportunity to comment on the proposal.
- (3) After considering any comments made by the holder of the work authority, the Department Head may direct the holder to lodge an application for approval of the variation.

77HB Approval of variation of work plan

S. 77HB
inserted by
No. 10/2014
s. 28.

- (1) On application by a holder of an extractive industry work authority under section 77H(1) or 77KB for approval of the variation of a work plan, the Department Head must, within 28 days after the application is lodged—
 - (a) approve the variation with or without conditions; or

S. 77HB(5)
inserted by
No. 1/2020
s. 141.

S. 77HB(6)
inserted by
No. 1/2020
s. 141.

- (b) require the changes specified in a notice to the licensee to be made before the variation will be approved; or
 - (c) refuse to approve the variation.
- (2) The Department Head must not approve a variation of a work plan unless he or she has consulted the municipal council in whose municipal district the land is situated.
- (3) Once the Department Head has decided to approve a variation, the approved work plan for the work authority is the work plan as amended by that variation.
- (4) The Department Head must—
- (a) notify the holder of the work authority of his or her decision on the application; and
 - (b) give the holder of the work authority a statement of reasons for the decision.
- (5) The Department Head, within 7 days after approving a variation of a work plan relating to the carrying out of an extractive industry on land wholly or partly within the levy area, must give the Secretary to the Department of Environment, Land, Water and Planning—
- (a) written notice of that approval; and
 - (b) a copy of the work plan as amended by the variation and any previous variations.
- (6) In this section—
- levy area*** has the same meaning as in section 3 of the **Melbourne Strategic Assessment (Environment Mitigation Levy) Act 2020**.

77HC Planning permits not required for some work variations

S. 77HC
inserted by
No. 10/2014
s. 29.

- (1) This section applies if—
 - (a) an extractive industry work authority holder proposes to vary an approved work plan that was approved in respect of work for which an Environment Effects Statement was prepared and assessed under section 77T; and
 - (b) a permit is required to be obtained under a planning scheme for the new work that it is proposed to do.
- (2) The extractive industry work authority holder is not required to obtain a permit for that work only if—
 - (a) the Minister, after consultation with the Minister administering the **Environment Effects Act 1978**, is satisfied that the new work will not cause any significant additional environmental impacts; and
 - (b) the Department Head approves the variation.
- (3) If the Minister is not satisfied that the new work will not cause any significant additional environmental impacts, the holder of an extractive industry work authority is still not required to obtain a permit for that work if—
 - (a) the Minister administering the **Environment Effects Act 1978** directs that a report be prepared on the additional environmental impacts that the new work may have; and
 - (b) the report is made available for public inspection and comment for at least 28 days; and

- (c) after considering any comments made during that period, that Minister submits an assessment of the report to the Minister; and
- (d) the variation, in the form that it is approved by the Department Head, substantially complies with any requirements recommended by that assessment.

S. 77I
inserted by
No. 6/2009
s. 20.

77I Extractive industry work authorities

- (1) A person who proposes to carry out an extractive industry may apply to the Minister for an authority to carry out the extractive industry.
- (2) The Minister may grant or refuse to grant an authority to a person (who has applied for the authority) to carry out the extractive industry specified in the authority on the land specified in the authority.
- (3) The Minister must not grant an authority under subsection (2) unless he or she is satisfied that the applicant has—
 - (a) when required under section 77G, a work plan approved under that section; and
 - (b) entered into a rehabilitation bond under section 80; and
 - (c) complied with any relevant planning scheme and obtained any necessary planning permit under that planning scheme; and
 - (d) obtained all necessary consents and other authorities required by or under this or any other Act; and

- (e) in the case of Crown land, obtained the consent of the Crown land Minister—
- and that the proposed extractive industry will, if carried out in accordance with the extractive industry work authority, comply with any relevant planning scheme.
- (4) The Crown land Minister may consent to the carrying out of an extractive industry on Crown land—
- (a) for an unlimited period or for a specified period; and
- (b) unconditionally or subject to any specified conditions.
- (5) An extractive industry work authority must describe the land in respect of which the work authority is granted.
- (6) The grant of an extractive industry work authority under this section does not confer a right on the holder of the authority to enter any land without the consent of the owner of the land.

Note

The granting of an authority under this section may be a land use activity under the **Traditional Owner Settlement Act 2010** if it relates to public land to which a land use activity agreement under that Act applies.

Note to s. 77I
inserted by
No. 62/2010
s. 140(2).

77J Conditions of extractive industry work authorities

- (1) The Minister may impose conditions to which an extractive industry work authority is to be subject, including but not limited to conditions about—
- (a) the rehabilitation of the land to a safe, stable and visually acceptable condition;
- (b) the time when rehabilitation work must be commenced or completed;

S. 77J
inserted by
No. 6/2009
s. 20.

S. 77J(1)(c)
substituted by
No. 47/2015
s. 13(1).

(c) elimination and minimisation of the risks that the work may pose to the environment, to any member of the public, or to land, property or infrastructure in the vicinity of the work;

S. 77J(1)(d)
repealed by
No. 47/2015
s. 13(2).

* * * * *

S. 77J(1)(f)
amended by
No. 55/2010
s. 51,
repealed by
No. 47/2015
s. 13(2).

(e) the protection of groundwater;

* * * * *

(g) the payment of royalties;

(h) the payment of fees (if any) prescribed in the regulations.

(2) If, by the operation of section 77G(2), a person carrying out an extractive industry is not required to have a work plan, the Minister may impose a condition requiring compliance with a Code of Practice on the extractive industry work authority for that extractive industry operation.

S. 77J(3)
inserted by
No. 47/2015
s. 13(3).

(3) Following consultation with the holder of the extractive industry work authority, the Minister may by notice in writing require, as a condition to which an extractive industry work authority is subject, that the holder—

(a) submit to the Minister a report on work undertaken under the extractive industry work authority; and

(b) publish that report.

- (4) A notice under subsection (3) must specify—
- (a) the work undertaken under the extractive industry work authority on which the holder must report; and
 - (b) the manner in which the holder must submit the report to the Minister; and
 - (c) the manner in which the holder must publish the report; and
 - (d) the dates by which the report must be submitted and published.

S. 77J(4)
inserted by
No. 47/2015
s. 13(3).

77K Extractive industry work authority holder's duty to consult with community

S. 77K
inserted by
No. 6/2009
s. 20.

The holder of an extractive industry work authority has a duty to consult with the community throughout the period of the work authority by—

- (a) sharing with the community information about any activities authorised by the work authority that may affect the community; and
- (b) giving members of the community a reasonable opportunity to express their views about those activities.

77KA Chief Inspector to be notified of reportable events in relation to quarries

S. 77KA
inserted by
No. 55/2010
s. 52.

- (1) The holder of an extractive industry work authority who carries out an extractive industry at a quarry must report to the Chief Inspector in accordance with the regulations a reportable event at the quarry as soon as practicable after the reportable event occurs.
- (2) In this section, *reportable event* means an event prescribed as a reportable event for the purposes of this section.

S. 77KB
inserted by
No. 55/2010
s. 52.

77KB Variation application must be made if quarry is declared

- (1) If the Minister declares by Order under section 7C that a specified quarry is a declared quarry, the holder of an extractive industry work authority in respect of the declared quarry, within 60 days after the declaration, must make an application to vary the approved work plan in respect of the declared quarry.
- (2) The application must contain the prescribed quarry stability information.
- (3) Section 77H(2) and (3) apply to an application lodged under this section.

S. 77KB(3)
amended by
No. 10/2014
s. 30.

S. 77L
inserted by
No. 6/2009
s. 20.

77L Period of extractive industry work authority

An extractive industry work authority remains in force for the period for which the carrying out of an extractive industry is permitted on the land under the relevant planning scheme or a planning permit unless—

- (a) the work authority is sooner cancelled; or
- (b) in the case of Crown land, the Crown land Minister's consent is revoked, lapses or otherwise ceases to have effect; or
- (c) it is varied under section 77M.

S. 77M
inserted by
No. 6/2009
s. 20.

77M Variation of an extractive industry work authority

- (1) The Minister may, by instrument served on the holder of the extractive industry work authority, vary the work authority, or vary, suspend or revoke a condition of the extractive industry work authority or add a new condition.

- (2) The Minister may act under subsection (1)—
- (a) at the request of the holder of the work authority; or
 - (b) if the Minister decides it is necessary for the rehabilitation or stabilisation of the land to which the extractive industry work authority applies; or
 - (c) if the Minister decides it is necessary to eliminate or minimise the risks that the work may pose to the environment, to any member of the public, or to land, property or infrastructure in the vicinity of the work.
- (3) The Minister must not act under subsection (1) unless he or she has consulted with the holder of the extractive industry work authority and the municipal council in whose municipal district the land is situated.

S. 77M(2)(b)
amended by
No. 47/2015
s. 14(1).

S. 77M(2)(c)
amended by
No. 55/2010
s. 53,
substituted by
No. 47/2015
s. 14(2).

77N Transfer of an extractive industry work authority

S. 77N
inserted by
No. 6/2009
s. 20.

- (1) The holder of an extractive industry work authority may, with the consent in writing of the Minister, transfer that work authority to another person.
- (2) The Minister must consent to the transfer of an extractive industry work authority if—
- (a) the person to whom the extractive industry work authority is to be transferred has entered into a rehabilitation bond for an amount determined by the Minister; and
 - (b) in the case of an existing extractive industry work authority holder who has a work plan, the Minister is satisfied that the work plan relating to the extractive industry work authority is adequate.

S. 77N(2)(b)
amended by
No. 68/2014
s. 46(1).

S. 77N(3)
amended by
No. 68/2014
s. 46(2).

- (3) If the existing extractive industry work authority holder has a work plan and the Minister is not satisfied that the work plan relating to the extractive industry work authority is adequate, the Minister may consent to the transfer of the extractive industry work authority subject to the person to whom the extractive industry work authority is to be transferred being required to submit a new work plan for approval by the Department Head within the time specified by the Minister.

S. 77O
inserted by
No. 6/2009
s. 20.

77O Cancellation of an extractive industry work authority

- (1) The Minister may cancel an extractive industry work authority by instrument served on the holder of the work authority if at the end of 28 days the Minister is satisfied that the holder—
- (a) has not substantially complied with—
 - (i) this Act or the regulations; or
 - (ii) any condition to which the authority is subject; or
 - (iii) a condition of a work plan under section 77G; or
 - (iv) a condition on the approval of a variation of a work plan under section 77HB; or
 - (v) any relevant planning scheme or planning permit; or
 - (b) has endangered an employee or a member of the public on or near land to which the extractive industry work authority applies; or
 - (c) has undertaken work on the land other than in accordance with the work plan.

S. 77O
(1)(a)(iv)
amended by
No. 10/2014
s. 31.

- (2) Before cancelling an extractive industry work authority under subsection (1), the Minister must give the holder of the work authority 28 days written notice of his or her intention to cancel and, in the notice, request the holder to provide reasons why the work authority should not be cancelled.

77OA Surrender of an extractive industry work authority

The holder of an extractive industry work authority may, with the consent of the Minister, surrender the authority by notice in writing.

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S. 77OA
inserted by
No. 6/8/2014
s. 47.

S. 77P
inserted by
No. 6/2009
s. 20,
repealed by
No. 10/2014
s. 32.

Division 3—Managers

77Q Manager must be appointed

- (1) The holder of an extractive industry work authority must not carry out any extractive industry unless the holder has appointed a quarry manager or a person to manage the extractive industry operation.

Penalty: 50 penalty units.

- (2) A person must not operate a quarry unless the person has appointed a quarry manager to manage the quarry.

Penalty: 50 penalty units.

- (3) The holder of an extractive industry work authority or the operator of a quarry may appoint himself or herself to be the quarry manager or person to manage the extractive industry operation.

S. 77Q
inserted by
No. 6/2009
s. 20.

Division 4—Planning requirements

77R Powers to amend planning scheme

S. 77R
inserted by
No. 6/2009
s. 20.

- (1) In addition to any other power to prepare, adopt or approve amendments to planning schemes, the Minister administering the **Planning and Environment Act 1987** may prepare, adopt and approve amendments to any planning scheme to—
 - (a) set out policies relating to extractive industries; or
 - (b) enable the carrying out of an extractive industry on land with a planning permit; or
 - (c) specify the Minister administering this Act or any other person or body as a referral authority for any application for a planning permit to carry out an extractive industry.
- (2) The **Planning and Environment Act 1987** (except section 12(2), Divisions 1 and 2 of Part 3 and section 39(1) to (5) and any regulations made for the purposes of those provisions) applies to the preparation, adoption and approval of an amendment under subsection (1).
- (3) Section 39(7) of the **Planning and Environment Act 1987** applies to an amendment prepared, adopted or approved under subsection (1) as if before "Division 1" there were inserted "section 12(1) or".
- (4) Section 39(8) of the **Planning and Environment Act 1987** applies to an amendment prepared, adopted or approved under subsection (1) as if—
 - (a) the expression "Except for an application under this section," were omitted; and
 - (b) before "Division 1" there were inserted "section 12(1) or".

- (5) Nothing in this section prevents either House of Parliament exercising its power under section 38 of the **Planning and Environment Act 1987**.

77S Land subject to a licence under Part 2

S. 77S
inserted by
No. 6/2009
s. 20.

- (1) A person who applies for an extractive industry work authority in respect of land which is the subject of a licence under Part 2 must, on the same day that the applicant lodges the application—

S. 77S(1)
substituted by
No. 68/2014
s. 48(1).

- (a) send a copy of the application to any holder of a licence under Part 2 relating to the land or any part of the land to which the application applies; and
- (b) send a notice to any holder of a licence referred to in paragraph (a) seeking consent to the granting of the extractive industry work authority.

- (2) The applicant for an extractive industry work authority over land in respect of which there is a licence under Part 2 must forward to the Minister—

- (a) a copy of any consent to the granting of an extractive industry work authority that the licensee has given to the applicant; and
- (b) if the licence is an exploration licence, and the licensee is withholding consent to the granting of an extractive industry work authority, evidence that the applicant has given the licensee a copy of the application under subsection (1)(a) and a notice seeking consent under subsection (1)(b).

S. 77S(2)(b)
amended by
No. 68/2014
s. 48(2).

S. 77S(3)
amended by
No. 53/2011
s. 6(b) (as
amended by
No. 43/2012
s. 3(Sch.
item 43)).

(3) If land that is the subject of an application for an extractive industry work authority is also the subject of a licence under Part 2, the Minister must not grant an extractive industry work authority over the land unless—

- (a) the Minister is satisfied that the licensee has consented to the granting of an extractive industry work authority; or
- (b) if the licence is an exploration licence and the licensee is withholding consent, the Minister is satisfied that the licensee is unreasonably withholding consent.

S. 77T
inserted by
No. 6/2009
s. 20.

77T Environment Effects Statement

If under a planning scheme a permit is required to be obtained for carrying out an extractive industry on the land covered by an extractive industry work authority in accordance with that work authority, the holder of the work authority is not required to obtain a permit if—

- (a) an Environment Effects Statement has been prepared under the **Environment Effects Act 1978** on the work proposed to be done under the work authority; and
- (b) an assessment of that Statement by the Minister administering the **Environment Effects Act 1978** has been submitted to the Minister; and
- (c) the work authority was granted by the Minister following the Minister's consideration of that assessment.

Part 6B—Statutory endorsement of work plans

Pt 6B
(Heading and
ss 77TA–
77TH)
inserted by
No. 59/2010
s. 45.

77TA Definitions

In this Part—

referral authority means—

- (a) in the case of a work plan, or a variation of an approved work plan, for work proposed to be done under an extractive industry work authority, a person or body that has been specified in a planning scheme under the **Planning and Environment Act 1987** as a referral authority under that Act; and
- (b) in the case of a work plan, or a variation of an approved work plan, for mining work proposed to be done under a mining licence—
 - (i) the Environment Protection Authority under the **Environment Protection Act 2017**; and
 - (ii) any other person or body referred to in paragraph (a);

statutory endorsement means an endorsement of a work plan or a variation to an approved work plan under section 77TD.

77TB Application of Part

This Part applies to—

- (a) a work plan for work in respect of which a planning permit under the **Planning and Environment Act 1987** is required; or

S. 77TA
inserted by
No. 59/2010
s. 45.

S. 77TA
def. of *referral
authority*
substituted by
No. 39/2018
s. 24.

S. 77TB
inserted by
No. 59/2010
s. 45.

- (b) a variation of an approved work plan for a variation to work—
 - (i) that is being carried out in accordance with the approved work plan; and
 - (ii) in respect of which a planning permit under the **Planning and Environment Act 1987** is required.

S. 77TC
inserted by
No. 59/2010
s. 45,
amended by
No. 64/2012
s. 37.

77TC Giving of work plan or variation to approved work plan for statutory endorsement

A licensee, a holder of an extractive industry work authority or a person who proposes to apply for an extractive industry work authority may, as the case requires, give to the Department Head, for statutory endorsement, a work plan or a variation to an approved work plan.

S. 77TD
inserted by
No. 59/2010
s. 45.

77TD Department Head may endorse work plan or variation to approved work plan

S. 77TD(1)
substituted by
No. 10/2014
s. 33(1).

- (1) Subject to this Part, on receiving a work plan or a variation to an approved work plan, the Department Head must, by written notice within 28 days—

S. 77TD(1)(c)
substituted by
No. 39/2018
s. 25.

- (a) ask for changes to be made to the work plan or variation to an approved work plan; or
- (b) endorse or refuse to endorse the work plan or variation to an approved work plan; or
- (c) give a copy of the work plan or variation to an approved work plan—
 - (i) to each relevant referral authority in accordance with section 77TE(1); and
 - (ii) in the case of a work plan (or a variation of an approved work plan) for mining work proposed to be done under a mining licence, to the Environment

Protection Authority under the
Environment Protection Act 2017 and
each other relevant referral authority in
accordance with section 77TE(1A).

- (1A) If the Department Head asks for changes to be made to the work plan or variation to an approved work plan, the licensee, holder of an extractive industry work authority or person proposing to apply for an extractive industry work authority must, in accordance with section 77TC, give to the Department Head, for statutory endorsement, a work plan or variation to an approved work plan that includes those changes.
- (2) The Department Head must not make a decision under subsection (1) that is inconsistent with anything that a referral authority tells the Department Head, or any comments the referral authority gives to the Department Head, under section 77TF.
- (3) The Department Head may, in a statutory endorsement, specify that certain conditions must be observed in carrying out an approved work plan by—
- (a) the licensee; or
 - (b) the holder of an extractive industry work authority; or
 - (c) a person who proposes to apply under section 77I for an extractive industry work authority if he or she is subsequently granted the authority by the Minister.
- (4) In the case of a statutory endorsement of a variation to an approved work plan, the conditions specified under subsection (3) may include—
- (a) in the case of variation to an approved work plan for work under a licence, any of the matters set out in section 26(2);

S. 77TD(1A)
inserted by
No. 10/2014
s. 33(2).

S. 77TD(3)
substituted by
No. 64/2012
s. 38(1).

(b) in the case of variation to an approved work plan for work under an extractive industry work authority, any of the matters set out in section 77J(1).

S. 77TD(5)
amended by
No. 64/2012
s. 38(2) (as
amended by
No. 70/2013
s. 3(Sch.1
item 47.2)).

(5) The Department Head must, as the case requires, give the licensee, holder of an extractive industry work authority or person proposing to apply for an extractive industry work authority who gave the work plan or the variation to an approved work plan, his or her statement of reasons for his or her decision under this section.

S. 77TE
inserted by
No. 59/2010
s. 45.

77TE Department Head must give work plan or variation application to referral authority

S. 77TE(1)
amended by
No. 10/2014
s. 34(1).

(1) On receiving a work plan or a variation to an approved work plan, the Department Head must, within 28 days, give a copy of the work plan or variation to an approved work plan to every referral authority that the Department Head considers, having regard to the kind of work proposed under the work plan or variation, should be given the work plan or variation.

S. 77TE(1A)
inserted by
No. 39/2018
s. 26(1).

(1A) In the case of a work plan (or a variation of an approved work plan) for mining work proposed to be done under a mining licence, in addition to complying with the requirement set out in subsection (1), the Department Head must give a copy of the work plan or variation to the Environment Protection Authority under the **Environment Protection Act 2017** within 28 days after receiving the work plan or variation of an approved work plan.

S. 77TE(2)
amended by
No. 39/2018
s. 26(2).

(2) Before complying with subsection (1) or (1A), the Department Head must be satisfied that the work plan or the variation to an approved work plan complies with the regulations.

(3) If the Department Head gives a copy of the work plan or variation to an approved work plan to a referral authority, the Department Head must, by written notice, endorse or refuse to endorse the work plan or the variation to the approved work plan—

S. 77TE(3)
inserted by
No. 10/2014
s. 34(2).

- (a) within 28 days of being told by a referral authority that it objects or does not object to the endorsement of the work plan or variation of the work plan; or
- (b) within 28 days of the expiry of the time specified in section 77TF(2).

77TF Referral authority must consider work plan and variation of approved work plan

S. 77TF
inserted by
No. 59/2010
s. 45.

- (1) A referral authority must consider every work plan and variation to an approved work plan given to it and must—
- (a) tell the Department Head in writing that—
 - (i) it does not object to the endorsement of the work plan or variation to the approved work plan;
 - (ii) it does not object to the statutory endorsement of the work plan or variation to the approved work plan if the work plan or variation is subject to conditions in the statutory endorsement; or
 - (iii) it objects to the statutory endorsement of the work plan or variation to the approved work plan on any specified ground; and
 - (b) give the Department Head its comments (if any) in relation to the work plan and variation to an approved work plan, as the case requires.

- (2) A referral authority must comply with subsection (1) within 30 days after being given the work plan or variation to an approved work plan, as the case requires.
- (3) If a referral authority does not comply with subsection (1) within the time specified under subsection (2), the referral authority is taken to have not objected to the statutory endorsement of the work plan or variation of the approved work plan.

S. 77TG
inserted by
No. 59/2010
s. 45.

77TG Interrelationship with the Planning and Environment Act 1987

- (1) Despite anything to the contrary in the **Planning and Environment Act 1987**, section 55(1) of that Act does not apply to those parts of an application referred to in that section that consist of a work plan or a variation to an approved work plan given to a referral authority under section 77TE.
- (2) However, for the purposes of subsection (1), a referral authority does not include the Department Head or Department (as the case requires).

S. 77TH
inserted by
No. 59/2010
s. 45,
amended by
No. 64/2012
s. 39,
repealed by
No. 10/2014
s. 35.

* * * * *

Part 6C—Review

Pt 6C
(Heading and
ss 77I, 77J)
inserted by
No. 10/2014
s. 36.

77TI Review by Tribunal

S. 77I
inserted by
No. 10/2014
s. 36.

- (1) A licensee or the holder of an extractive industry work authority may apply to the Tribunal for review of—
 - (a) a decision of the Department Head under section 40A, 41AAB, 77G or 77HB to refuse to approve a work plan or a variation of an approved work plan; or
 - (b) a decision of the Department Head under section 40A, 41AAB, 77G or 77HB to approve a work plan or the variation of an approved work plan with conditions.
- (2) The holder of an extractive industry work authority may apply to the Tribunal for review of—
 - (a) a decision of the Minister to impose a condition on the extractive industry work authority under section 77J; or
 - (b) a decision of the Minister to vary a condition of the extractive industry work authority under section 77M or impose a new condition under that section; or
 - (c) a decision of the Minister under section 77N to impose a new condition on the extractive industry work authority that the Minister has consented to be transferred to another person under that section.

- (3) A licensee, the holder of an extractive industry work authority or a person proposing to apply for an extractive industry work authority may apply to the Tribunal for review of—
 - (a) a decision of the Department Head under section 77TD to refuse to statutorily endorse a work plan or variation to an approved work plan; or
 - (b) a decision of the Department Head under section 77TD to statutorily endorse a work plan or variation to an approved work plan with conditions.
- (4) The former holder of an extractive industry work authority may apply to the Tribunal for review of a decision of the Minister to cancel the work authority under section 77O.
- (5) Subsections (1) and (3) do not apply to a condition that has been imposed on an approval of a work plan or of a variation of a work plan if—
 - (a) the condition is substantially the same as a condition of the relevant planning scheme or a planning permit for the carrying out of the extractive industry; or
 - (b) a decision to impose the condition has already been the subject of review by the Tribunal.

S. 77TJ
inserted by
No. 10/2014
s. 36.

77TJ Application for review

An application for review must be made within 28 days after the later of—

- (a) the day on which the decision is made; or

(b) either—

- (i) the day on which the statement of reasons for the decision is given under section 40A, 41AAB, 77G, 77HB or 77TD to the person entitled to apply for review; or
- (ii) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person entitled to apply for review requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

Part 7—Rehabilitation

New Pt 7
(Heading)
inserted by
No. 6/2009
s. 20.

77U Definitions

S. 77U
inserted by
No. 6/2009
s. 20.

In this Part—

auditor means an environmental auditor appointed under section 53S of the **Environment Protection Act 1970**;

authority means—

- (a) an exploration licence, a mining licence, a prospecting licence or a retention licence under Part 2; or

* * * * *

- (c) an extractive industry work authority;

authority holder means the holder of an authority.

S. 77U def. of
authority
amended by
Nos 55/2010
s. 56(1),
10/2014 s. 37.

78 Licensee must rehabilitate land

S. 78(1)
amended by
Nos 76/1998
s. 31(h),
59/2010
s. 27(1).

- (1) The holder of a mining licence or prospecting licence must rehabilitate land in accordance with the rehabilitation plan approved by the Department Head.

S. 78(2)
amended by
Nos 86/1993
s. 30(1),
59/2010
s. 27(2).

- (2) The holder of an exploration licence or retention licence must rehabilitate land in accordance with the conditions in the licence.

S. 78(3)
repealed by
No. 86/1993
s. 30(2).

* * * * *

- (4) The owner of land may request the licensee to enter into a written agreement as to the rehabilitation plan.

78A Holder of extractive industry work authority must rehabilitate land

**S. 78A
inserted by
No. 6/2009
s. 21.**

- (1) The holder of an extractive industry work authority must rehabilitate land in accordance with the rehabilitation plan approved by the Department Head.
- (2) The holder of an extractive industry work authority must rehabilitate land in accordance with the conditions in the authority.

79 Rehabilitation plan

A rehabilitation plan must—

- (a) take into account—
 - (i) any special characteristics of the land; and
 - (ii) the surrounding environment; and
 - (iii) the need to stabilise the land; and
 - (iv) the desirability or otherwise of returning agricultural land to a state that is as close as is reasonably possible to its state before the mining licence, prospecting licence or extractive industry work authority was granted; and
 - (v) any potential long term degradation of the environment; and
- (b) be prepared by—
 - (i) the applicant for the extractive industry work authority after consultation with the owner of the land, if the land is private land; or

**S. 79(a)(iv)
amended by
Nos 6/2009
s. 22(1),
68/2014
s. 49(a).**

**S. 79(a)(v)
inserted by
No. 82/2000
s. 53.**

**S. 79(b)
amended by
76/1998
s. 31(i),
substituted by
No. 6/2009
s. 22(2).**

S. 79(b)(ii)
amended by
No. 68/2014
s. 49(b).

(ii) the licensee after consultation with the owner of the land, if the land is private land and the licence is a mining licence or prospecting licence.

S. 79A
inserted by
No. 63/2006
s. 41.

79A Rehabilitation liability assessment

S. 79A(1)
amended by
Nos 6/2009
s. 23(1),
59/2010 s. 51.

(1) The Minister may require an authority holder to undertake an assessment of the authority holder's rehabilitation liability under section 78 or 78A (a *rehabilitation liability assessment*) for the purpose of determining the amount of a rehabilitation bond or reviewing the amount of a rehabilitation bond entered into or to be entered into by the authority holder.

(2) A rehabilitation liability assessment must—

(a) be undertaken in a manner and form determined by the Minister; and

(b) take into account works required to be undertaken to rehabilitate the land in accordance with the requirements of section 78 or 78A (as the case may be).

S. 79A(2)(b)
amended by
No. 6/2009
s. 23(2).

(3) The Minister may require an authority holder to engage an auditor to certify that a rehabilitation liability assessment has been prepared in accordance with subsection (2) and that it is accurate.

S. 79A(3)
amended by
No. 6/2009
s. 23(3).

(4) An auditor who has given a certification under subsection (3) must forward a copy of the certificate to the Minister within 21 days after giving that certification.

80 Rehabilitation bond

- | | |
|--|--|
| (1) A licensee or an applicant for an extractive industry work authority must enter into a rehabilitation bond for an amount determined by the Minister. | S. 80(1)
amended by
No. 6/2009
s. 24(1). |
| (2) If land covered by a mining licence or prospecting licence is private land, the Minister must, before determining the amount of a rehabilitation bond, consult with—

(a) the council in whose municipal district the land is situated; and

(b) the owner of the land. | S. 80(2)
amended by
No. 76/1998
s. 31(j)(i),
substituted by
No. 63/2006
s. 42,
amended by
No. 68/2014
s. 50(a). |
| (2A) If the land that is proposed to be covered by an extractive industry work authority is private land, the Minister must, before determining the amount of a rehabilitation bond, consult with the council in whose municipal district the land is situated. | S. 80(2A)
inserted by
No. 6/2009
s. 24(2). |
| (3) The condition of a rehabilitation bond is that the authority holder rehabilitates the land as required by section 78 or 78A to the satisfaction of the Minister. | S. 80(3)
amended by
Nos 76/1998
s. 31(j)(ii),
6/2009
s. 24(3). |
| (4) The Minister may, at any time after a rehabilitation bond is entered into and after consultation with the authority holder, by notice served on the authority holder require the authority holder to enter into a further rehabilitation bond within 28 days after service of that notice, or by a later date specified in the notice, for an amount determined by the Minister if he or she is of the opinion that the amount of the bond already entered into is insufficient. | S. 80(4)
amended by
Nos 6/2009
s. 24(4)(b),
29/2011
s. 3(Sch. 1
item 60.1),
10/2014
s. 38(1). |

S. 80(4A)
inserted by
No. 10/2014
s. 38(2).

(4A) An authority holder must comply with a requirement to enter into a further rehabilitation bond under subsection (4).

Penalty: In the case of a corporation,
200 penalty units

In any other case, 40 penalty units.

S. 80(5)
amended by
Nos 6/2009
s. 24(5),
29/2011
s. 3(Sch. 1
item 60.2),
10/2014
s. 38(3).

(5) The Minister may serve on an authority holder who has not complied with a requirement under subsection (4) within 28 days after service of notice of the requirement, a notice prohibiting the authority holder from doing any work until the authority holder has entered into the further rehabilitation bond.

S. 80(6)
amended by
Nos 82/2000
s. 54(1),
68/2014
s. 50(b).

(6) An authority holder must comply with a notice under subsection (5)⁸.

Penalty: In the case of a corporation,
1000 penalty units.

In any other case, 200 penalty units.

Default penalty:

In the case of a corporation, 20 penalty units.

In any other case, 10 penalty units.

S. 81
amended by
Nos 82/2000
s. 54(2),
63/2006 s. 43
(ILA s. 39B(1)).

81 Rehabilitation

S. 81(1)
amended by
No. 6/2009
s. 25(1)(a).

(1) The authority holder must rehabilitate land in the course of doing work under the authority and must, as far as practicable, complete the rehabilitation of the land before the authority or any renewed authority ceases to apply to that land.

- (2) If the rehabilitation has not been completed before the authority or renewed authority ceases to apply to the land the former authority holder must complete it as expeditiously as possible. **S. 81(2) inserted by No. 63/2006 s. 43, amended by No. 6/2009 s. 25(1)(b).**
- (3) While the rehabilitation is being completed, a former authority holder must continue the appointment of— **S. 81(3) inserted by No. 63/2006 s. 43, substituted by No. 6/2009 s. 25(2).**
- (a) in the case of a former licensee, a manager to control and manage the former licence worksite; and
- (b) in the case of a former extractive industry work authority holder, a quarry manager or person to manage the site where the extractive industry operation was carried out.

Penalty: 20 penalty units.

81A Certification that land has been rehabilitated

S. 81A inserted by No. 63/2006 s. 44.

- (1) The Minister may require that an authority holder or a former authority holder engage an auditor to certify that land has been rehabilitated as required by section 78 for the purpose of deciding whether to return any rehabilitation bond under section 82. **S. 81A(1) amended by No. 6/2009 s. 26.**
- (2) An auditor who has given a certification under subsection (1) must forward a copy of the certificate to the Minister within 21 days after giving that certification.

82 Return of bond if rehabilitation satisfactory

- (1) The Minister must return the bond or bonds to the authority holder or former authority holder as soon as possible if the Minister is satisfied— **S. 82(1) amended by Nos 76/1998 s. 31(k), 6/2009 s. 27(a).**

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990
Part 7—Rehabilitation

S. 82(1)(a)
amended by
No. 6/2009
s. 27(b).

(a) that the land has been rehabilitated as required by section 78 or 78A (as the case may be); and

S. 82(1)(b)
amended by
No. 32/2019
s. 9(1)(a).

(b) that the rehabilitation is likely to be successful; and

S. 82(1)(c)
inserted by
No. 32/2019
s. 9(1)(b).

(c) in the case that the land or any part of the land is declared mine land, that the closure criteria that apply to the declared mine land have been met.

S. 82(2)
amended by
Nos 6/2009
s. 27(c),
68/2014 s. 51.

(2) If the land is private land the Minister must not return the bond or bonds to the holder or former holder of a mining licence or prospecting licence or the holder or former holder of an extractive industry work authority until after the owner of the land and the council in whose municipal district the land is situated have been consulted.

S. 82(3)
inserted by
No. 82/2000
s. 55,
amended by
Nos 6/2009
s. 27(d),
29/2011
s. 3(Sch. 1
item 60.3),
substituted by
No. 32/2019
s. 9(2).

(3) The Minister may, as a condition of returning a bond or bonds to an authority holder or a former authority holder, require that holder to enter a further rehabilitation bond if—

(a) any land or part of the land to which the bond relates has not been rehabilitated, or requires further rehabilitation; or

(b) in the case that the land or any part of the land to which the bond relates is declared mine land, it has not been rehabilitated, or requires further rehabilitation in accordance with the declared mine rehabilitation plan that applies to it.

83 Minister may carry out rehabilitation

- (1) The Minister may take any necessary action to rehabilitate land if he or she—
- (a) is not satisfied that the land has been rehabilitated as required by section 78 or 78A (as the case may be); or
 - (ab) in the case that the land or any part of the land is declared mine land, is not satisfied that the land has been rehabilitated; or
 - (ac) in the case that the land or any part of the land is declared mine land, is satisfied that the declared mine land requires further rehabilitation in accordance with the declared mine rehabilitation plan that applies to it; or
 - (b) is satisfied that further rehabilitation of the land is necessary; or
 - (c) is requested to do so by the owner of the land.
- (2) The Minister must, if he or she refuses to act on a request under subsection (1)(c), inform the owner of the land of the reasons for that refusal.
- (3) The Minister may only take action under subsection (1) if he or she has requested the authority holder or former authority holder to rehabilitate the land and the authority holder or former authority holder has failed to do so within a reasonable period after the request.
- (4) The Minister may recover as a debt due to the Crown in a court of competent jurisdiction any amount by which the cost incurred under subsection (1) exceeds the amount of the bond or bonds.

S. 83(1)(a)
amended by
No. 6/2009
s. 28(a).

S. 83(1)(ab)
inserted by
No. 32/2019
s. 10.

S. 83(1)(ac)
inserted by
No. 32/2019
s. 10.

S. 83(3)
amended by
No. 6/2009
s. 28(b).

S. 83(5)
amended by
No. 6/2009
s. 28(c).

(5) The Minister must, if satisfied that no further rehabilitation of the land is likely to be necessary, return to the authority holder or former authority holder as soon as possible any balance of the bond or bonds after any cost incurred under subsection (1) is deducted.

S. 83(6)
substituted by
No. 82/2000
s. 56,
amended by
No. 6/2009
s. 28(d).

(6) In making a decision under subsection (5), the Minister must take into account the possibility that some of the damage caused to the land by the authorised activities may not become evident for some time.

S. 83A
inserted by
No. 32/2019
s. 11.

83A Payment of bond into Declared Mine Fund on cancellation of licence

If the Minister cancels a mining licence relating to declared mine land of an authority holder who has not complied with a declared mine rehabilitation plan, the balance of a rehabilitation bond or bonds may be paid into the Declared Mine Fund.

84 Payment out of Consolidated Fund

Any money required by the Minister under this Part is payable out of the Consolidated Fund, which is appropriated to the necessary extent.

Part 7A—Mine Land Rehabilitation Authority

Pt 7A
(Heading)
substituted by
No. 32/2019
s. 12.

Pt 7A
(Headings
and ss 84AA–
84AZL)
inserted by
No. 22/2017
s. 5.

Division 1—Preliminary

84AA Definitions

In this Part—

annual report means a report prepared under
section 84AZH;

authorised officer means a person authorised
under section 84AU;

Board means the Board of the Rehabilitation
Authority established under section 84AD;

S. 84AA
inserted by
No. 22/2017
s. 5.

S. 84AA
def. of *Board*
inserted by
No. 32/2019
s. 13(a).

* * * * *

S. 84AA
def. of
framework
repealed by
No. 22/2017
s. 6(1)(a).

Latrobe Valley licensee means the holder or the
former holder of—

- (a) the mining licence No. 5003; or
- (b) the mining licence No. 5004; or
- (c) the mining licence No. 5189; or
- (d) the mining licence No. 5216; or
- (e) the mining licence No. 5304;

S. 84AA
def. of
*monitoring
framework*
inserted by
No. 22/2017
s. 6(1)(b).

monitoring framework means the framework
published under section 84AZD;

public sector body has the meaning given by
section 84AB;

public sector employee means a person employed
in the Department under Part 3 of the **Public
Administration Act 2004**;

referral investigation means an investigation
commenced by the referral of a matter under
section 84AQ;

referral report means a report published under
section 84AZG;

regulatory framework has the meaning given by
section 84AC;

S. 84AA
def. of
*rehabilitation
planning
activity*
amended by
No. 32/2019
s. 13(b)(c).

rehabilitation planning activity means an activity
carried out by a public sector body or a
declared mine licensee to plan in relation to
the rehabilitation of declared mine land
including—

- (a) the preparation of a research plan; or
- (b) the carrying out of research; or
- (c) the carrying out of a technical
investigation; or
- (d) the carrying out of a rehabilitation trial;
or
- (e) the preparation of a declared mine
rehabilitation plan.

84AB Meaning of *public sector body*

For the purposes of this Part, a *public sector body* is one of the following entities—

- (a) the Department Head of the Department of Transport;
- (ab) the Department Head of the Department of Jobs, Precincts and Regions;
- (b) the Department Head of the Department of Environment, Land, Water and Planning;
- (c) the Environment Protection Authority under the **Environment Protection Act 2017**;
- (d) the Victorian WorkCover Authority under the **Workplace Injury Rehabilitation and Compensation Act 2013**;
- (e) a responsible authority within the meaning of the **Planning and Environment Act 1987** that performs functions under that Act in the Latrobe Valley region;
- (f) an Authority within the meaning of the **Water Act 1989** that performs functions under that Act in the Latrobe Valley region;
- (g) the Aboriginal Heritage Council under the **Aboriginal Heritage Act 2006**;
- (h) the Victorian Rail Track under the **Transport Integration Act 2010**;
- (i) the V/Line Corporation under the **Transport Integration Act 2010**;

S. 84AB inserted by No. 22/2017 s. 5.

S. 84AB(a) substituted by No. 49/2019 s. 186(Sch. 4 item 29.2(a)).

S. 84AB(ab) inserted by No. 49/2019 s. 186(Sch. 4 item 29.2(a)).

S. 84AB(c) amended by No. 39/2018 s. 27.

S. 84AB(j)
amended by
No. 49/2019
s. 186(Sch. 4
item 29.2(b)).

(j) the Head, Transport for Victoria;

(k) a public sector body (within the meaning of the **Public Administration Act 2004**) that is prescribed.

S. 84AC
inserted by
No. 22/2017
s. 5.

84AC Meaning of *regulatory framework*

For the purposes of this Part, the *regulatory framework* is—

S. 84AC(a)
amended by
No. 32/2019
s. 14.

(a) the provisions of this Act or any regulations made under this Act or any instrument made under this Act that apply to the rehabilitation of and the activities carried out on declared mine land; and

(b) an approval, authority or permission given, granted or issued under another Act relating to activities—

S. 84AC(b)(i)
amended by
No. 32/2019
s. 14.

(i) carried out on declared mine land; and

(ii) to which a rehabilitation plan applies.

Pt 7A Div. 2
(Heading and
ss 84AD–
84AK)
inserted by
No. 22/2017
s. 5,
substituted as
Pt 7A Div. 2
(Heading and
ss 84AD–
84AKD) by
No. 32/2019
s. 15.

Division 2—Establishment of Rehabilitation Authority and the Board

S. 84AD
substituted by
No. 32/2019
s. 15.

84AD Mine Land Rehabilitation Authority

(1) The Mine Land Rehabilitation Authority is established.

- (2) The Rehabilitation Authority—
- (a) is a body corporate with perpetual succession; and
 - (b) may sue and be sued; and
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) subject to this Act, may do and suffer all acts and things that a body corporate may by law do and suffer.
- (3) The official seal of the Rehabilitation Authority must be kept as directed by the Rehabilitation Authority and must not be used except as authorised by the Rehabilitation Authority.

84AE Objectives of the Rehabilitation Authority

The objectives of the Rehabilitation Authority are—

- (a) to provide assurance to the Victorian community—
 - (i) that public sector bodies and the Latrobe Valley licensees are implementing the regional rehabilitation strategy; and
 - (ii) that public sector bodies and the declared mine licensees are planning for the rehabilitation and ongoing management of declared mine land; and
- (b) to promote the participation of the community and stakeholders from the Latrobe Valley, in the implementation of the regional rehabilitation strategy; and
- (c) to promote the effective and consistent rehabilitation of coal mine land in accordance with the regional rehabilitation strategy; and

**S. 84AE
substituted by
No. 32/2019
s. 15.**

- (d) to promote the sustainable and beneficial use of coal mine land in accordance with the regional rehabilitation strategy; and
- (e) to promote the effective and consistent rehabilitation of declared mine land in accordance with any Ministerial direction.

S. 84AF
substituted by
No. 32/2019
s. 15.

84AF Rehabilitation Authority powers relating to property

The Rehabilitation Authority—

- (a) may acquire and hold any property for the purposes of this Part and Parts 7B and 7C; and
- (b) has control and management of all property vested in or acquired by the Rehabilitation Authority; and
- (c) may dispose of property of the Rehabilitation Authority.

S. 84AG
substituted by
No. 32/2019
s. 15.

84AG Board of Rehabilitation Authority

- (1) The Rehabilitation Authority is to have a governing body called a Board.
- (2) The Board is responsible for the management of the affairs of the Rehabilitation Authority.
- (3) The Board consists of—
 - (a) a chairperson; and
 - (b) a deputy chairperson; and
 - (c) a member; and
 - (d) up to 3 other members.

S. 84AH
substituted by
No. 32/2019
s. 15.

84AH Appointment of members of the Board

The Governor in Council, on the recommendation of the Minister, by instrument, may appoint a person as a member of the Board.

84AI Remuneration

A member of the Board is entitled to the remuneration and allowances determined from time to time by the Governor in Council.

S. 84AI
substituted by
No. 32/2019
s. 15.

84AJ Terms and conditions of appointment

- (1) A member of the Board—
 - (a) holds office for the period, not exceeding 5 years, specified in the instrument of appointment and is eligible for reappointment; and
 - (b) is appointed on a full-time or part-time basis, as specified in the instrument of appointment; and
 - (c) holds office on the terms and conditions determined by the Governor in Council.
- (2) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a member of the Board in respect of that office.

S. 84AJ
substituted by
No. 32/2019
s. 15.

84AK Acting appointment

- (1) The Governor in Council, on the recommendation of the Minister, by instrument, may appoint a person to act as a member of the Board—
 - (a) during any period when the member of the Board is absent; or
 - (b) during any period when the member of the Board is unable to perform the duties of the office.
- (2) An appointment under subsection (1) is for the period, not exceeding 12 months, that is specified in the instrument of appointment.
- (3) A person appointed under subsection (1) is entitled to be paid the same remuneration and allowances as the member of the Board.

S. 84AK
substituted by
No. 32/2019
s. 15.

- (4) A person appointed under subsection (1) holds office on the terms and conditions determined by the Governor in Council.
- (5) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a person acting as the member of the Board in respect of that office.
- (6) While a person is acting as the member of the Board, the person has all the powers and may perform any of the functions of the member of the Board.
- (7) The Governor in Council may revoke an appointment under subsection (1) at any time.

S. 84AKA
inserted by
No. 32/2019
s. 15.

84AKA Resignation

A member of the Board ceases to hold office if the member of the Board resigns by notice given to the Minister.

S. 84AKB
inserted by
No. 32/2019
s. 15.

84AKB Removal from office

The Governor in Council, on the recommendation of the Minister, at any time may remove the member of the Board on any of the following grounds—

- (a) misconduct;
- (b) neglect of duty;
- (c) inability to perform the functions and powers of the member of the Board;
- (d) any other ground on which the Governor in Council is satisfied that the member of the Board should not be the member of the Board.

84AKC Chairperson of the Board

- (1) The Governor in Council may, on the recommendation of the Minister, appoint a member of the Board to be chairperson of the Board.
- (2) A member of the Board is eligible to be appointed to be chairperson of the Board if the member has expertise relating to the rehabilitation of mines.
- (3) The chairperson may resign that office by notice in writing signed by the chairperson and delivered to the Minister.

S. 84AKC
inserted by
No. 32/2019
s. 15.

84AKD Deputy chairperson of the Board

- (1) The Governor in Council, on the recommendation of the Minister, must appoint one of the members of the Board to be the deputy chairperson of the Board.
- (2) The deputy chairperson may resign that office by notice in writing signed by the deputy chairperson and delivered to the Minister.

S. 84AKD
inserted by
No. 32/2019
s. 15.

Division 3—Functions and powers

84AL Functions and powers of the Rehabilitation Authority

- (1) The Rehabilitation Authority has the following functions—

S. 84AL
(Heading)
amended by
No. 32/2019,
s. 16(1).

S. 84AL
inserted by
No. 22/2017
s. 5.

S. 84AL(1)
amended by
No. 32/2019
s. 16(2)(a).

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990
Part 7A—Mine Land Rehabilitation Authority

S. 84AL(1)(a)
substituted by
No. 22/2017
s. 7(1) (as
amended by
No. 32/2019
s. 51).

(a) to monitor and evaluate the implementation of the regional rehabilitation strategy in accordance with the monitoring framework;

S. 84AL(1)(b)
amended by
Nos 32/2019
s. 16(2)(b),
22/2017 s. 7(2)
(as amended
by No.
32/2019 s. 51).

(b) to carry out strategic audits of public sector bodies and declared mine licensees in relation to the implementation of rehabilitation planning activities and the regional rehabilitation strategy;

S. 84AL(1)(c)
amended by
No. 22/2017
s. 7(3) (as
amended by
No. 32/2019
s. 51).

(c) to monitor and evaluate implementation and effectiveness of rehabilitation planning activities and the regional rehabilitation strategy in accordance with the monitoring framework;

S. 84AL(1)(d)
substituted by
No. 32/2019
s. 16(2)(c).

(d) to review any research plan in relation to the rehabilitation of declared mine land prepared by a declared mine licensee and make recommendations, if any, following a review to the relevant declared mine licensee;

(e) to coordinate rehabilitation planning activities;

S. 84AL(1)(f)
amended by
No. 32/2019
s. 16(2)(d)(i).

(f) to engage with the following groups and persons in relation to the rehabilitation of declared mine land—

(i) the Victorian community;

(ii) other stakeholders;

(iii) public sector bodies;

(iv) the declared mine licensees;

S.
84AL(1)(f)(iv)
amended by
No. 32/2019
s. 16(2)(d)(ii).

(g) to conduct and support meetings between the following groups and persons in relation to rehabilitation planning activities that promote communication and the resolution of issues—

- (i) the Victorian community;
- (ii) other stakeholders;
- (iii) public sector bodies;
- (iv) the declared mine licensees;

S.
84AL(1)(g)(iv)
amended by
No. 32/2019
s. 16(2)(e).

(h) to provide advice and recommendations to the Minister in relation to—

- (i) the possible changes to the regulatory framework; and
- (ii) the outcomes of any engagement by the Rehabilitation Authority with the Victorian community or stakeholders; and
- (iii) the planning for the monitoring, and completion, of the rehabilitation of declared mine land; and
- (iv) the planning for the monitoring and maintenance of declared mine land that has been rehabilitated; and
- (v) the regional rehabilitation strategy; and
- (vi) the declared mine rehabilitation plans of the declared mine licensees;

S.
84AL(1)(h)(ii)
amended by
No. 32/2019
s. 16(2)(f)(i).

S.
84AL(1)(h)(iii)
amended by
No. 32/2019
s. 16(2)(f)(ii).

S.
84AL(1)(h)(iv)
amended by
No. 32/2019
s. 16(2)(f)(ii).

S.
84AL(1)(h)(vi)
amended by
No. 32/2019
s. 16(2)(g).

- (i) to provide information and education to the Victorian community about—
- S. 84AL(1)(i)(i) amended by No. 32/2019 s. 16(2)(h).
- (i) the planning for the rehabilitation of declared mine land; and
- (ii) the regional rehabilitation strategy;
- (j) to carry out investigations on the referral of the Minister under Division 4;
- S. 84AL(1)(k) amended by No. 32/2019 s. 16(2)(i).
- (k) to provide advice, reports and recommendations to the Minister on matters referred to the Rehabilitation Authority under Division 4;
- S. 84AL(1)(ka) inserted by No. 32/2019 s. 16(3).
- (ka) to monitor and evaluate the risks posed by geotechnical, hydrogeological, water quality or hydrological factors for declared mine land in relation to public safety, the environment and relevant infrastructure;
- S. 84AL(1)(kb) inserted by No. 32/2019 s. 16(3).
- (kb) to ensure the monitoring and maintenance for registered mine land is carried out;
- S. 84AL(1)(kc) inserted by No. 32/2019 s. 16(3).
- (kc) to establish and maintain a register of declared mine land;
- S. 84AL(1)(kd) inserted by No. 32/2019 s. 16(3).
- (kd) to register declared mine land in the declared mine land register in accordance with the prescribed requirements and procedures;
- S. 84AL(1)(ke) inserted by No. 32/2019 s. 16(3).
- (ke) to provide advice to the Minister regarding conditions that may apply to the registration of declared mine land;
- S. 84AL(1)(kf) inserted by No. 32/2019 s. 16(3).
- (kf) to assess the amount of funds to be paid by declared mine licensees or land holders of declared mine land to the Rehabilitation Authority for payment into the Declared

- Mine Fund on the registration of declared mine land;
- (kg) to obtain and hold any entitlement, licence or permission required for the purpose of rehabilitating, monitoring and maintaining registered mine land; **S. 84AL(1)(kg) inserted by No. 32/2019 s. 16(3).**
- (kh) to rehabilitate, monitor, maintain and manage registered mine land in accordance with the relevant registered post-closure plan; **S. 84AL(1)(kh) inserted by No. 32/2019 s. 16(3).**
- (ki) to purchase, acquire and dispose of declared mine land or land in close proximity to declared mine land; **S. 84AL(1)(ki) inserted by No. 32/2019 s. 16(3).**
- (kj) to provide advice and recommendations to the Minister in relation to— **S. 84AL(1)(kj) inserted by No. 32/2019 s. 16(3).**
- (i) rehabilitation planning activities of declared mine licensees; and
 - (ii) any aspect of regional, local or environmental planning that may be impacted by or impact on declared mine land; and
 - (iii) declared mine land and registered mine land; and
 - (iv) the regulatory framework and declared mine land;
- (kk) to provide for the preservation of relevant records and information in respect of registered mine land; **S. 84AL(1)(kk) inserted by No. 32/2019 s. 16(3).**
- (l) to provide advice, recommendations and reports to the Minister on the exercise of the Rehabilitation Authority's functions; **S. 84AL(1)(l) amended by No. 32/2019 s. 16(2)(j).**

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990
Part 7A—Mine Land Rehabilitation Authority

S. 84AL(1)(m)
amended by
Nos 32/2019
s. 16(2)(k),
22/2017
s. 7(4) (as
amended by
No. 32/2019
s. 51).

(m) other functions conferred on the
Rehabilitation Authority under this Act;

S. 84AL(1)(n)
inserted by
No. 22/2017
s. 7(5) (as
amended by
No. 32/2019
s. 51).

(n) to develop and maintain, in consultation with
the community, stakeholders, public sector
bodies and Latrobe Valley licensees, a
framework for—

(i) the monitoring and evaluation of the
implementation and effectiveness of
rehabilitation planning activities and
the regional rehabilitation strategy; and

(ii) the achieving of the outcomes set out in
the framework; and

(iii) the carrying out of strategic audits of
public sector bodies and Latrobe
Valley licensees in relation to the
implementation of rehabilitation
planning activities and the regional
rehabilitation strategy;

S. 84AL(1)(o)
inserted by
No. 22/2017
s. 7(5) (as
amended by
No. 32/2019
s. 51).

(o) to monitor and report, in accordance with the
monitoring framework, on—

(i) the implementation by public sector
bodies and Latrobe Valley licensees of
the regional rehabilitation strategy; and

(ii) the effectiveness of the regional
rehabilitation strategy.

S. 84AL(2)
amended by
No. 32/2019
s. 16(4).

(2) The Rehabilitation Authority has all the powers
that are necessary or convenient to perform the
Rehabilitation Authority's functions under this
Part.

84AM Rehabilitation Authority to have regard to objective, regional rehabilitation strategy and regulatory framework

In performing a function or exercising a power under this Part the Rehabilitation Authority must have regard to—

- (a) the objective of the Rehabilitation Authority; and
- (b) the regional rehabilitation strategy; and
- (c) the regulatory framework; and
- (d) any Ministerial direction.

S. 84AM (Heading) amended by No. 32/2019 s. 17(1).

S. 84AM inserted by No. 22/2017 s. 5, amended by No. 32/2019 s. 17(2).

S. 84AM(a) amended by No. 32/2019 s. 17(3).

S. 84AM(c) amended by No. 32/2019 s. 17(4).

S. 84AM(d) inserted by No. 32/2019 s. 17(5).

84AN Staff to be provided

The Department Head must ensure that the Rehabilitation Authority is provided with any public sector employees that are necessary to assist the Rehabilitation Authority in performing the Rehabilitation Authority's functions.

S. 84AN inserted by No. 22/2017 s. 5, amended by No. 32/2019 s. 18.

84AO Assistance to be provided by the Department Head

The Department Head must ensure that the Rehabilitation Authority is provided with any assistance in connection with the performance of the Rehabilitation Authority's functions that the Rehabilitation Authority reasonably requires.

S. 84AO inserted by No. 22/2017 s. 5, amended by No. 32/2019 s. 19.

S. 84AP
inserted by
No. 22/2017
s. 5,
substituted by
No. 32/2019
s. 20.

84AP Assistance to be provided by a public sector body and a declared mine licensee

A public sector body and a declared mine licensee must ensure that the Rehabilitation Authority is provided with any assistance in connection with the reasonable performance of the Rehabilitation Authority's functions that the Rehabilitation Authority reasonably requires.

Pt 7A Div. 4
(Heading)
amended by
No. 32/2019
s. 21.

Division 4—Investigations by the Rehabilitation Authority

S. 84AQ
(Heading)
amended by
No. 32/2019
s. 22(1).

84AQ Minister may refer a matter for investigation to the Rehabilitation Authority

S. 84AQ
inserted by
No. 22/2017
s. 5.

S. 84AQ(1)
amended by
No. 32/2019
s. 22(2)(a).

(1) The Minister, by notice published in the Government Gazette, may refer to the Rehabilitation Authority for investigation a matter that relates to—

S. 84AQ(1)(a)
amended by
No. 32/2019
s. 22(2)(b).

(a) the rehabilitation of declared mine land; or

(b) the regional rehabilitation strategy; or

(c) a rehabilitation planning activity.

(2) A notice under subsection (1) must set out—

(a) the terms of reference of the investigation of the matter; and

- (b) the reporting requirements that will apply, including when a report is to be given to the Minister and whether or not it is to be published.

84AR Power of entry and inspection without consent

- (1) This section applies if—

S. 84AR
inserted by
No. 22/2017
s. 5.

- (a) a matter has been referred to the Rehabilitation Authority under this Division; and

S. 84AR(1)(a)
amended by
No. 32/2019
s. 23(1)(a).

- (b) the Rehabilitation Authority believes on reasonable grounds that it is necessary for the Rehabilitation Authority or an authorised officer to enter declared mine land or any land adjacent to declared mine land for the purposes of investigating the referred matter.

S. 84AR(1)(b)
amended by
No. 32/2019
s. 23(1).

- (2) An authorised officer may enter, without consent, declared mine land or any land adjacent to declared mine land but only between the hours of 9 a.m. and 5 p.m.

S. 84AR(2)
amended by
No. 32/2019
s. 23(2).

- (3) The authorised officer must not, under this section, enter any part of declared mine land or any land adjacent to declared mine land that is residential premises.

S. 84AR(3)
amended by
No. 32/2019
s. 23(3).

- (4) On entering the land under this section, the authorised officer may do all or any of the following—

S. 84AR(4)
amended by
No. 32/2019
s. 23(4).

- (a) inspect the land;

- (b) take and keep samples (without payment) of any thing found on the land, if the authorised officer believes on reasonable grounds that the thing is relevant to the referral investigation;

S. 84AR(4)(b)
amended by
No. 32/2019
s. 23(4).

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990
Part 7A—Mine Land Rehabilitation Authority

S. 84AR(4)(c)
amended by
No. 32/2019
s. 23(4).

(c) make any still or moving image or audio-visual recording that the authorised officer believes on reasonable grounds is relevant to the referral investigation;

(d) take measurements of any thing on the land.

S. 84AR(5)
amended by
No. 32/2019
s. 23(5)(a).

(5) The authorised officer must not enter any land under this section unless, before that entry, the authorised officer—

S. 84AR(5)(a)
amended by
No. 32/2019
s. 23(5)(b).

(a) has produced the authorised officer's identity card to the occupier or the apparent occupier for inspection; and

(b) has taken all reasonable steps to notify the occupier or the apparent occupier of the land of the entry.

S. 84AR(6)
amended by
No. 32/2019
s. 23(6).

(6) If the authorised officer exercises a power of entry under this section without the occupier or the apparent occupier being present the authorised officer must, on leaving the land, leave a notice setting out—

(a) the time of entry; and

(b) the purpose of entry; and

(c) a description of things done while on the land; and

(d) the time of departure; and

S. 84AR(6)(e)
amended by
No. 32/2019
s. 23(6).

(e) the contact details of the authorised officer.

84AS Occupier or apparent occupier of land must assist authorised officer to enter

The occupier, or apparent occupier for the time being, of land which the authorised officer wants to enter under section 84AR must not, without reasonable excuse, refuse or fail to provide such assistance as the authorised officer may reasonably require to enter the land.

Penalty: In the case of a corporation,
300 penalty units;

In any other case, 60 penalty units.

S. 84AS
(Heading)
amended by
No. 32/2019
s. 24(1).

S. 84AS
inserted by
No. 22/2017
s. 5,
amended by
No. 32/2019
s. 24(2).

84AT Occupier or apparent occupier of land must assist authorised officer to inspect

The occupier, or apparent occupier for the time being, of land which the authorised officer wants to inspect under section 84AR must not, without reasonable excuse, refuse or fail to provide such assistance as the authorised officer may reasonably require to inspect the land.

Penalty: In the case of a corporation,
300 penalty units;

In any other case, 60 penalty units.

S. 84AT
(Heading)
amended by
No. 32/2019
s. 25(1).

S. 84AT
inserted by
No. 22/2017
s. 5,
amended by
No. 32/2019
s. 25(2).

84AU Authorised officers under this Division

(1) The Department Head, by instrument, may authorise the following persons to be authorised officers for the purposes of all or any specified provisions of this Division applying to an authorised officer—

(a) a public sector employee who assists the Rehabilitation Authority under section 84AN;

(b) an inspector.

S. 84AU
inserted by
No. 22/2017
s. 5.

S. 84AU(1)(a)
amended by
No. 32/2019
s. 26.

- (2) The Department Head may determine the terms and conditions of authorisation of any authorised officer.
- (3) The terms and conditions of authorisation of an authorised officer may—
 - (a) contain general directions as to how the authorised officer's powers may be exercised; or
 - (b) direct that the exercise of the authorised officer's powers be limited to a specified referral investigation.
- (4) The Department Head, in writing, may vary or revoke the authorisation of an authorised officer at any time.

S. 84AV
inserted by
No. 22/2017
s. 5.

84AV Authorised officer's identity cards

- (1) The Department Head must issue an identity card to each authorised officer containing a photograph of the authorised officer and the authorised officer's signature.
- (2) Subsection (1) does not apply in respect of an authorised officer who is an inspector.

Note

See section 92 for the issue of an identity card to an authorised officer who is an inspector.

- (3) If a person to whom an identity card has been issued under subsection (1) ceases to be an authorised officer, the person must return the identity card to the Department Head as soon as practicable.

Division 5—Giving of documents or other things

84AW Giving of documents or other things to the Rehabilitation Authority by declared mine licensees

S. 84AW
(Heading)
amended by
No. 32/2019
s. 27(1).

S. 84AW
inserted by
No. 22/2017
s. 5.

(1) For the purposes of a referral investigation, the Rehabilitation Authority, by written notice given to a declared mine licensee, may require the licensee to give to the Rehabilitation Authority a document or other thing specified in the notice that is held by the declared mine licensee.

S. 84AW(1)
amended by
No. 32/2019
s. 27(2).

(2) A notice under subsection (1) must specify the time within and manner with which the document or other thing must be given to the Rehabilitation Authority.

S. 84AW(2)
amended by
No. 32/2019
s. 27(3).

(3) A declared mine licensee given a notice under subsection (1) must not, without reasonable excuse, refuse or fail to comply with the notice.

S. 84AW(3)
amended by
No. 32/2019
s. 27(4).

Penalty: In the case of a corporation,
300 penalty units;

In any other case, 60 penalty units.

(4) A declared mine licensee must not in purported compliance with a notice under subsection (1) give to the Rehabilitation Authority a document or information that the licensee knows is false or misleading in a material particular.

S. 84AW(4)
amended by
No. 32/2019
s. 27(5).

Penalty: In the case of a corporation,
300 penalty units;

In any other case, 60 penalty units.

S. 84AX
(Heading)
amended by
No. 32/2019
s. 28(1).

**84AX Giving of documents or other things to the
Rehabilitation Authority by public sector bodies**

S. 84AX
inserted by
No. 22/2017
s. 5.

S. 84AX(1)
amended by
No. 32/2019
s. 28(2).

(1) For the purposes of a referral investigation the Rehabilitation Authority, by written notice given to a public sector body, may require the public sector body to give to the Rehabilitation Authority any document or other thing specified in the notice that is held by the public sector body.

S. 84AX(2)
amended by
No. 32/2019
s. 28(3).

(2) A notice under subsection (1) must specify the time and manner within which the document or other thing must be given to the Rehabilitation Authority.

(3) A public sector body must comply with a notice under subsection (1).

S. 84AY
inserted by
No. 22/2017
s. 5.

**84AY Confidentiality of document or other thing given
under a notice**

S. 84AY(1)
amended by
No. 32/2019
s. 29.

(1) A document or thing given under section 84AW or 84AX to the Rehabilitation Authority is not admissible in evidence in any hearing or proceeding in a court or a tribunal.

(2) This section does not apply to a proceeding for an offence against section 84AW(3) or (4).

**Division 6—Information gathering by the
Rehabilitation Authority**

Pt 7A Div. 6
(Heading)
amended by
No. 32/2019
s. 30.

84AZ Definition

S. 84AZ
inserted by
No. 22/2017
s. 5.

In this Division—

non-investigatory function means a function of
the Rehabilitation Authority under this Part
other than a function under Division 4.

S. 84AZ def. of
*non-
investigatory
function*
amended by
No. 32/2019
s. 31.

**84AZA Notice requiring documents or information from
public sector body**

S. 84AZA
inserted by
No. 22/2017
s. 5.

- (1) The Rehabilitation Authority, by written notice given to a public sector body, may require the body to give to the Rehabilitation Authority a document or information the Rehabilitation Authority requires for the purpose of performing a non-investigatory function.
- (2) A notice under subsection (1) must specify—
 - (a) the document or information that is required to be given to the Rehabilitation Authority; and
 - (b) the time within and manner with which the document or information must be given to the Rehabilitation Authority.

S. 84AZA(1)
amended by
No. 32/2019
s. 32(1).

S. 84AZA(2)(a)
amended by
No. 32/2019
s. 32(2).

S. 84AZA(2)(b)
amended by
No. 32/2019
s. 32(2).

S. 84AZB
(Heading)
amended by
No. 32/2019
s. 33(1).

S. 84AZB
inserted by
No. 22/2017
s. 5.

S. 84AZB(1)
amended by
No. 32/2019
s. 33(2).

S. 84AZB(2)(a)
amended by
No. 32/2019
s. 33(3).

S. 84AZB(2)(b)
amended by
No. 32/2019
s. 33(3).

S. 84AZB(3)
amended by
No. 32/2019
s. 33(4).

84AZB Notice requiring documents or information from declared mine licensee

- (1) The Rehabilitation Authority, by written notice given to a declared mine licensee, may require the licensee to give to the Rehabilitation Authority a document or information the Rehabilitation Authority requires for the purpose of performing a non-investigatory function.
- (2) A notice under subsection (1) must specify—
 - (a) the document or information that is required to be given to the Rehabilitation Authority; and
 - (b) the time within and manner with which the document or information must be given to the Rehabilitation Authority.
- (3) A declared mine licensee given a notice under subsection (1) must not, without reasonable excuse, refuse or fail to comply with the notice.

Penalty: In the case of a corporation,
100 penalty units;
In any other case, 20 penalty units.

Division 7—Monitoring framework

Pt 7A Div. 7
(Heading and
ss 84AZC–
84AZF)
inserted by
No. 22/2017
s. 5,
amended by
No. 32/2019
ss 34–37,
substituted by
No. 22/2017
s. 8 (as
amended by
No. 32/2019
s. 52).

84AZC Rehabilitation Authority must prepare monitoring framework

S. 84AZC
substituted by
No. 22/2017
s. 8 (as
amended by
No. 32/2019
s. 52).

- (1) The Rehabilitation Authority must prepare a document that sets out a framework for the monitoring and evaluation of the implementation and effectiveness of—
 - (a) rehabilitation planning activities; and
 - (b) the regional rehabilitation strategy.
- (2) Without limiting subsection (1), the monitoring framework must provide for—
 - (a) the outcomes to be achieved, including measures to be undertaken to achieve the outcomes and the effectiveness of those measures; and
 - (b) the carrying out of strategic audits of public sector bodies and Latrobe Valley licensees in relation to the implementation of the regional rehabilitation strategy.
- (3) The Rehabilitation Authority must prepare the monitoring framework in consultation with—
 - (a) community members and stakeholders of the Latrobe Valley region; and
 - (b) public sector bodies; and

- (c) the Latrobe Valley licensees; and
- (d) the declared mine licensees.

S. 84AZD
substituted by
No. 22/2017
s. 8 (as
amended by
No. 32/2019
s. 52).

84AZD Making the monitoring framework

The Rehabilitation Authority must cause the monitoring framework to be published on an Internet site maintained by the Department as soon as practicable after the framework is made.

S. 84AZE
substituted by
No. 22/2017
s. 8 (as
amended by
No. 32/2019
s. 52).

84AZE Amendment of monitoring framework

The Rehabilitation Authority may amend the monitoring framework at any time.

S. 84AZF
substituted by
No. 22/2017
s. 8 (as
amended by
No. 32/2019
s. 52).

84AZF Making an amendment to the monitoring framework

- (1) The Rehabilitation Authority must cause to be published on an Internet site maintained by the Department the monitoring framework, as amended under section 84AZE.
- (2) As soon as practicable after the amended monitoring framework is published under subsection (1), the Rehabilitation Authority must publish a notice stating the date of the publication of the amended monitoring framework under subsection (1) in the Government Gazette.

Pt 7A Div. 8
(Heading)
amended by
No. 32/2019
s. 38.

Division 8—Reports and reviews of the Rehabilitation Authority

S. 84AZG
inserted by
No. 22/2017
s. 5.

84AZG Report of referral investigation

S. 84AZG(1)
amended by
No. 32/2019
s. 39.

- (1) The Rehabilitation Authority must cause to be published on an Internet site maintained by the Department a report on a referral investigation after giving the report to the Minister.

- (2) Subsection (1) does not apply if the notice making the referral under section 84AQ(2) specifies that the report must not be published.

84AZH Annual report of Rehabilitation Authority

S. 84AZH
(Heading)
amended by
No. 32/2019
s. 40(1).

S. 84AZH
inserted by
No. 22/2017
s. 5.

- (1) The Rehabilitation Authority by 30 September in each year must make a report on the performance of the Rehabilitation Authority's functions and the exercise of the Rehabilitation Authority's powers under this Part during the financial year ending on the immediately preceding 30 June.

S. 84AZH(1)
amended by
No. 32/2019
s. 40(2).

- (2) The first report under subsection (1) must relate to the period commencing on the date of commencement of this section and ending on 30 June the following year.

- (3) The Rehabilitation Authority must give a report made under subsection (1) to the Minister.

S. 84AZH(3)
amended by
No. 32/2019
s. 40(3).

- (4) The Minister must cause a report given to the Minister under subsection (3) to be laid before each House of Parliament within 6 sitting days after the Minister receives the report.

- (5) After a report is laid before each House of Parliament under subsection (4), the Rehabilitation Authority must cause to be published a copy of the report on an Internet site maintained by the Department.

S. 84AZH(5)
amended by
No. 32/2019
s. 40(4).

84AZI Consultation

Before publishing a referral report or an annual report, the Rehabilitation Authority must consult with any public sector body or declared mine

S. 84AZI
inserted by
No. 22/2017
s. 5,
amended by
No. 32/2019
s. 41.

licensee in relation to factual information relating to the public sector body or the declared mine licensee that is to be contained in the published report.

S. 84AZJ
inserted by
No. 22/2017
s. 5.

84AZJ Reports to the Minister

The Commissioner may report to the Minister on any matter relating to the performance of the Commissioner's functions.

S. 84AZK
inserted by
No. 22/2017
s. 5,
substituted by
No. 32/2019
s. 42.

84AZK Rehabilitation Authority review of research plans of declared mine licensee

- (1) The Rehabilitation Authority may review a research plan in relation to the rehabilitation of declared mine land prepared by a declared mine licensee.
- (2) The Rehabilitation Authority on carrying out a review under subsection (1) may make recommendations or provide comments to the declared mine licensee.

Division 9—Protections for persons acting under this Part

S. 84AZL
inserted by
No. 22/2017
s. 5.

84AZL Protection against self-incrimination

It is a reasonable excuse for a natural person to refuse or fail to give a document or other thing, or do any other thing that the person is required to do under this Part, if the giving of the document or other thing or the doing of that other thing would tend to incriminate the person.

Part 7B—Regional rehabilitation strategy

Pt 7B
(Heading and
ss 84AZM–
84AZR)
inserted by
No. 22/2017
s. 5.

84AZM Minister must prepare a strategy for the rehabilitation of coal mine land

S. 84AZM
inserted by
No. 22/2017
s. 5.

The Minister by 30 June 2020 must prepare a document that sets out the strategy in relation to the following matters—

- (a) the safety, stability and sustainability of coal mine land and any adjacent land;
- (b) the planning for the Latrobe Valley region in relation to the rehabilitation of coal mine land and any adjacent land, and the relationship between each mine void;
- (c) the development of a plan for the monitoring and evaluation of coal mine land after rehabilitation of that land is complete.

84AZN Publication of regional rehabilitation strategy

S. 84AZN
inserted by
No. 22/2017
s. 5.

- (1) The Minister must cause to be published on an Internet site maintained by the Department the regional rehabilitation strategy.
- (2) As soon as practicable after the regional rehabilitation strategy is published under subsection (1) the Minister must publish a notice stating the date of that publication in the Government Gazette.

84AZO Review of regional rehabilitation strategy

S. 84AZO
inserted by
No. 22/2017
s. 5.

The Minister must review the regional rehabilitation strategy at least once every 3 years after it is published.

S. 84AZP
inserted by
No. 22/2017
s. 5.

84AZP Amendment of regional rehabilitation strategy

The Minister may amend the regional rehabilitation strategy at any time.

S. 84AZQ
inserted by
No. 22/2017
s. 5.

84AZQ Publication of amendment to regional rehabilitation strategy

- (1) The Minister must cause to be published on an Internet site maintained by the Department the regional rehabilitation strategy, as amended under section 84AZP.
- (2) As soon as practicable after the amended regional rehabilitation strategy is published under subsection (1), the Minister must publish a notice stating the date of the publication of the amended regional rehabilitation strategy under subsection (1) in the Government Gazette.

S. 84AZR
inserted by
No. 22/2017
s. 5,
amended by
No. 32/2019
s. 43.

84AZR Minister must consult

Before publishing the regional rehabilitation strategy under section 84AZN or an amendment under section 84AZQ, the Minister must consult the Rehabilitation Authority.

Part 7C—Declared mine land rehabilitation

Division 1—Preliminary

Pt 7C
(Headings
and
ss 84AZS–
84AZZM)
inserted by
No. 32/2019
s. 44.

84AZS Definitions

In this Part—

Register of land has the same meaning as
Register in the **Transfer of Land Act 1958**;

Registrar has the same meaning as in the
Transfer of Land Act 1958;

registration amount means an amount specified
in a registration direction;

registration direction means a direction given by
the Minister under section 84AZZB(1)(c).

S. 84AZS
inserted by
No. 32/2019
s. 44.

84AZT Ministerial direction—declared mine land

- (1) The Minister may direct the Rehabilitation Authority to meet specified priorities and policies in relation to declared mine land by notice published in the Government Gazette.
- (2) The Minister may from time to time, after consulting the Board, vary or revoke a direction given under subsection (1) by notice published in the Government Gazette.
- (3) A direction under subsection (1), including a variation or revocation of a direction, applies on and from the publication of the notice in the Government Gazette or any later date specified in the direction.

S. 84AZT
inserted by
No. 32/2019
s. 44.

Division 2—Declared mine rehabilitation plans

S. 84AZU
inserted by
No. 32/2019
s. 44.

84AZU Declared mine licensee to prepare plan for rehabilitation of land

- (1) A declared mine licensee must prepare for the approval by the Department Head, a plan for the rehabilitation of the declared mine land covered by the licensee's licence.
- (2) The plan must be prepared within the prescribed period.
- (3) The plan must include—
 - (a) any rehabilitation plan or requirement under section 82(3) that the declared mine licensee enter into a further rehabilitation bond; and
 - (b) the prescribed criteria (*closure criteria*) to be met by the declared mine licensee for the closure of the mine on the declared mine land; and
 - (c) a document (*post-closure plan*) that sets out the monitoring and maintenance to be carried out on the closure of the mine on the declared mine land by (as the case requires)—
 - (i) the declared mine licensee; or
 - (ii) the Rehabilitation Authority; or
 - (iii) the owner of the land; and
 - (d) an undertaking by the declared mine licensee to pay the registration amount to the Minister on a registration direction being given for the declared mine land; and
 - (e) an assessment of the risks posed by the geotechnical, hydrogeological, water quality or hydrological factors within the declared mine land; and

(f) any other prescribed matter.

- (4) The declared mine licensee must consult with a prescribed person or a prescribed class of persons in relation to the plan.

84AZV Department Head to consider plan for rehabilitation of declared mine land

S. 84AZV
inserted by
No. 32/2019
s. 44.

- (1) On receiving a plan prepared under section 84AZU the Department Head must, in considering the plan—
- (a) consult the Rehabilitation Authority; and
 - (b) in respect of the closure criteria for the plan, consult with the Crown land Minister and the Minister responsible for administering each of the following Acts—
 - (i) the **Crown Land (Reserves) Act 1978**;
 - (ii) the **Environment Protection Act 1970**;
 - (iii) the **Forests Act 1958**;
 - (iv) the **Land Act 1958**;
 - (v) the **National Parks Act 1975**;
 - (vi) the **Planning and Environment Act 1987**;
 - (vii) the **Water Act 1989**;
 - (viii) the **Wildlife Act 1975**; and
 - (c) take into account any other prescribed matter; and
 - (d) follow any other prescribed process.
- (2) The Department Head may, after considering the plan under subsection (1)—
- (a) approve the plan; or

- (b) require the changes to the plan specified in a notice to the declared mine licensee to be made before the plan will be approved; or
 - (c) refuse to approve the plan.
- (3) After considering the plan, the Department Head must as soon as practicable—
- (a) notify the declared mine licensee of the decision under subsection (2); and
 - (b) if the Department Head refuses to approve the plan under subsection (2)(c), provide reasons for the decision.

S. 84AZW
inserted by
No. 32/2019
s. 44.

84AZW Application for variation of declared mine rehabilitation plan

- (1) A declared mine licensee may from time to time apply to the Department Head to vary a declared mine rehabilitation plan.
- (2) On receiving an application under subsection (1), the Department Head must in considering the application—
 - (a) consult with the Crown land Minister and the Minister responsible for administering the following Acts—
 - (i) the **Crown Land (Reserves) Act 1978**;
 - (ii) the **Environment Protection Act 1970**;
 - (iii) the **Forests Act 1958**;
 - (iv) the **Land Act 1958**;
 - (v) the **National Parks Act 1975**;
 - (vi) the **Planning and Environment Act 1987**;
 - (vii) the **Water Act 1989**;
 - (viii) the **Wildlife Act 1975**; and

- (b) take into account any other prescribed matter; and
 - (c) follow any other prescribed process.
- (3) The Department Head may, after considering the variation—
- (a) approve the variation of the declared mine rehabilitation plan; or
 - (b) require the changes to the variation of the declared mine rehabilitation plan specified in a notice to the declared mine licensee to be made before the plan will be approved; or
 - (c) refuse to approve the variation of the declared mine rehabilitation plan.
- (4) After considering the variation, the Department Head must as soon as practicable—
- (a) notify the declared mine licensee of the decision under subsection (3); and
 - (b) if the Department Head refuses to approve the variation under subsection (3)(c), provide reasons for the decision.

84AZX Department Head may direct declared mine licensee to apply for variation of declared mine rehabilitation plan

**S. 84AZX
inserted by
No. 32/2019
s. 44.**

- (1) The Department Head may, on the Department Head's own initiative, determine that a declared mine rehabilitation plan be varied.
- (2) On making a determination, the Department Head must give the declared mine licensee written notice of the proposed variation, and the reasons for it, and give the declared mine licensee an opportunity to comment on the proposal.
- (3) After considering any comments made by the declared mine licensee, the Department Head may direct the declared mine licensee to make an

application for approval of the variation under section 84AZW.

Division 3—Closure of mine, registration of declared mine land and post-closure plan

S. 84AZY
inserted by
No. 32/2019
s. 44.

84AZY Application for determination that closure criteria have been met

- (1) A declared mine licensee may apply to the Minister for a determination that the closure criteria for the declared mine land covered by the licence of the licensee have been met.
- (2) An application made under subsection (1) must—
 - (a) be accompanied by the prescribed information (if any); and
 - (b) be accompanied by any other document or information reasonably required by the Minister.

S. 84AZZ
inserted by
No. 32/2019
s. 44.

84AZZ Consideration of application that closure criteria have been met

- (1) On receiving an application made under section 84AZY, the Minister must—
 - (a) request advice from the Rehabilitation Authority on the application; and
 - (b) consult on the application with the Crown land Minister and the Minister responsible for administering the following Acts—
 - (i) the **Crown Land (Reserves) Act 1978**;
 - (ii) the **Environment Protection Act 1970**;
 - (iii) the **Forests Act 1958**;
 - (iv) the **Land Act 1958**;
 - (v) the **National Parks Act 1975**;

- (vi) the **Planning and Environment Act 1987**;
 - (vii) the **Water Act 1989**;
 - (viii) the **Wildlife Act 1975**; and
 - (c) take into account any other prescribed matter; and
 - (d) follow any other prescribed process.
- (2) The Minister must provide a copy of an application under section 84AZY and any accompanying documents to the Rehabilitation Authority and each Minister referred to in subsection (1)(b).

84AZZA Determination of application—closure criteria

**S. 84AZZA
inserted by
No. 32/2019
s. 44.**

- (1) After considering an application and any advice or consultations carried out under section 84AZZ, the Minister must determine the application.
- (2) The Minister may determine—
 - (a) that the declared mine licensee has met the closure criteria for that declared mine land;
or
 - (b) that the declared mine licensee has not met the closure criteria for that declared mine land.
- (3) After determining the application the Minister must as soon as practicable—
 - (a) notify the declared mine licensee of the decision under subsection (2); and
 - (b) if the Minister made a determination under subsection (2)(b), provide reasons for the decision.

S. 84AZZB
inserted by
No. 32/2019
s. 44.

84AZZB Closure criteria for declared mine land met

- (1) The Minister may, if a declared mine licensee has met the closure criteria for the declared mine land covered by the licensee's licence—
 - (a) return the balance of the rehabilitation bond or any further rehabilitation bond entered into by the declared mine licensee; and
 - (b) consent to the surrender of the declared mine licence; and
 - (c) direct the Rehabilitation Authority to register in the declared mine land register—
 - (i) the declared mine land; and
 - (ii) the post-closure plan for that declared mine land.
- (2) The Minister must cause a copy of a registration direction to be published in the Government Gazette.
- (3) A registration direction may require—
 - (a) the Rehabilitation Authority to register the post-closure plan and the declared mine land with any specified conditions and in accordance with the prescribed procedure (if any); and
 - (b) the declared mine licensee to give to the Rehabilitation Authority the prescribed records and information; and
 - (c) the declared mine licensee to pay the Minister the specified registration amount.

Note

See section 83A for payment of any rehabilitation bond in respect of declared mine land into the Declared Mine Fund on cancellation of the mining licence.

84AZZC Registration of declared mine land

The Rehabilitation Authority must register any land or part of land that is declared mine land by entering the prescribed matters in the declared mine land register if—

- (a) the Minister gives a registration direction to the Rehabilitation Authority to register any land or part of the land that is declared mine land; or
- (b) the Minister pays any rehabilitation bond into the Declared Mine Fund under section 83A on the cancellation of a mining licence in respect of any land or part of the land that is declared mine land.

S. 84AZZC
inserted by
No. 32/2019
s. 44.

**Division 4—Registered post-closure plans recorded
and transfer of registered mine land**

84AZZD Registered post-closure plan recorded on title

- (1) On the registration of a post-closure plan in the declared mine land register, the Rehabilitation Authority must as soon as practicable lodge with the Registrar notice of any land, other than unalienated Crown land, affected by the registered post-closure plan.
- (2) On receipt of a notice under this section, the Registrar must make any recordings in the Register of land that are necessary or convenient for the purpose of giving effect to the notice.
- (3) The Registrar may require any evidence of the identity of any land affected by a notice lodged under this section that the Registrar considers fit.
- (4) If a Crown grant is issued in respect of registered mine land that is unalienated Crown land, any registered post-closure plan affecting the land

S. 84AZZD
inserted by
No. 32/2019
s. 44.

must be specified in a notice to the Registrar accompanying the Crown grant.

- (5) A notice under this section must be in a form approved by the Registrar.

S. 84AZZE
inserted by
No. 32/2019
s. 44.

84AZZE Removal of registered post-closure plan from title

- (1) On the removal of a registered post-closure plan under section 84AZZM(2)(b) from the declared mine land register, the Rehabilitation Authority must as soon as practicable lodge with the Registrar notice of any land affected by the removal.
- (2) On receipt of the notice under this section the Registrar must make any recording in the Register of land that is necessary or convenient for the purpose of giving effect to the notice.

S. 84AZZF
inserted by
No. 32/2019
s. 44.

84AZZF Transfer of registered mine land to Rehabilitation Authority

The owner of registered mine land may transfer the land in accordance with the **Transfer of Land Act 1958** to the Rehabilitation Authority, whether or not for valuable consideration.

Division 5—Declared Mine Fund

S. 84AZZG
inserted by
No. 32/2019
s. 44.

84AZZG Declared Mine Fund

There must be established in the Public Account as part of the Trust Fund an account to be known as the Declared Mine Fund.

S. 84AZZH
inserted by
No. 32/2019
s. 44.

84AZZH Payments into the Fund

There must be paid into the Declared Mine Fund—

- (a) all money that is appropriated by the Parliament for the purposes of the Fund; and

- (b) all money that is received from the investment of money in the Fund; and
- (c) all money directed or authorised to be paid into the Fund by or under this or any other Act.

84AZZI Payments out of the Fund

S. 84AZZI
inserted by
No. 32/2019
s. 44.

- (1) There must be paid out of the Declared Mine Fund—
 - (a) amounts authorised by the Minister to fund the cost of all or any part of the monitoring, maintenance and rehabilitation of registered mine land; and
 - (b) amounts authorised by the Minister to fund the cost of unforeseen events in relation to registered mine land.
- (2) There must be paid out of the Declared Mine Fund amounts authorised by the Minister for the payment of costs and expenses incurred in—
 - (a) administering this Part; and
 - (b) monitoring and reporting on the financial operations and financial position of the Fund.

84AZZJ Delegation of power to authorise payments

S. 84AZZJ
inserted by
No. 32/2019
s. 44.

The Minister may, by instrument, delegate the Minister's power to authorise payments under section 84AZZI to the Department Head.

Division 6—Monitoring and maintenance of registered mine land

84AZZK Functions and powers of the Rehabilitation Authority—registered mine land

S. 84AZZK
inserted by
No. 32/2019
s. 44.

In relation to any requirement in a registered post-closure plan for registered mine land not owned by the Rehabilitation Authority that the Rehabilitation Authority carry out ongoing

monitoring and maintenance of the land, the Rehabilitation Authority may exercise any function or power under Part 7A, other than a function or power under Division 4 of that Part.

Division 7—Register of declared mine land

S. 84AZZL
inserted by
No. 32/2019
s. 44.

84AZZL Register of declared mine land

- (1) The Rehabilitation Authority must establish and maintain a register of declared mine land registered under this Part.
- (2) The register of declared mine land may—
 - (a) be kept in electronic form; and
 - (b) be inspected by any person.
- (3) The Rehabilitation Authority must for each registration of declared mine land—
 - (a) register the following documents in the register of declared mine land—
 - (i) any licence (whether or not in force) that covers the land;
 - (ii) the post-closure plan for the land;
 - (iii) any prescribed records or information that relate to the land; and
 - (b) record in the register of declared mine land—
 - (i) the declared mine land; and
 - (ii) any conditions that apply to the recording of the land; and
 - (iii) any prescribed matters.

84AZZM Removal of registered mine land from the Register

S. 84AZZM
inserted by
No. 32/2019
s. 44.

- (1) The Minister may direct the Rehabilitation Authority to remove registered mine land or a part of that land from the declared mine land register, if the Minister is satisfied that the geotechnical, water quality or hydrogeological factors that posed a significant risk to public safety, the environment or infrastructure that existed on the registration of the declared mine land are no longer present.
- (2) On receipt of a direction referred to in subsection (1), the Rehabilitation Authority must amend the declared mine land register—
 - (a) by removing the registered mine land or a part of that land that is the subject of the direction; and
 - (b) by removing the registered post-closure plan for that land if the whole of the land is removed.

Part 8—Compensation

Division 1—General

Pt 8 Div. 1
(Heading)
inserted by
No. 6/2009
s. 29.

84A Application of this Division

S. 84A
inserted by
No. 6/2009
s. 29.

This Division does not apply in any circumstances in which Division 2 applies.

85 What compensation is payable for

S. 85(1)
amended by
No. 59/2010
s. 46(1).

(1) Compensation is payable by the licensee to the owner or occupier of private land that is land affected for any loss or damage that has been or will be sustained as a direct, natural and reasonable consequence of the approval of the work plan or the doing of work under the licence including—

- (a) deprivation of possession of the whole or any part of the surface of the land; and
- (b) damage to the surface of the land; and
- (c) damage to any improvements on the land; and
- (d) severance of the land from other land of the owner or occupier; and
- (e) loss of amenity, including recreation and conservation values; and
- (f) loss of opportunity to make any planned improvement on the land; and
- (g) any decrease in the market value of the owner or occupier's interest in the land; and

S. 85(1)(g)
amended by
No. 82/2000
s. 57(1).

- (h) loss of opportunity to use tailings disposed of with the consent of the Minister under section 14(2). **S. 85(1)(h) inserted by No. 82/2000 s. 57(1).**
- (1A) Compensation is payable by the licensee to the owner or occupier of private land that is not land affected for any loss or damage that has been or will be sustained as a direct, natural and reasonable consequence of the approval of the work plan or the doing of work under the licence including— **S. 85(1A) inserted by No. 59/2010 s. 46(2).**
- (a) damage to the surface of the land; and
 - (b) damage to any improvements on the land; and
 - (c) severance of the land from other land of the owner or occupier; and
 - (d) loss of amenity, including recreation and conservation values; and
 - (e) loss of opportunity to make any planned improvement on the land; and
 - (f) any decrease in the market value of the owner or occupier's interest in the land.
- (2) The amount of compensation payable under subsection (1)—
- (a) must, if it is necessary for the owner or occupier of land to obtain replacement land, take account of the reasonable incidental expenses incurred in obtaining and moving to that land; and
 - (b) may be increased by up to 10% by way of solatium to compensate the owner or occupier for intangible and non-pecuniary disadvantages that are not otherwise compensable and that result from the approval of the work plan or the doing of work under the licence.

S. 85(2A)
inserted by
No. 6/2009
s. 30.

- (2A) The holder of an extractive industry work authority is entitled to compensation under this section only for the deprivation of possession of the whole or any part of the surface of the land and for the loss of opportunity to extract stone from the whole or any part of the land.
- (3) Compensation is not payable for the value of any mineral in or under the surface of land covered by a licence.
- (4) Any amount of compensation paid, agreed to be paid or determined under this Part is not affected by any subsequent change in the ownership or occupancy of the land.
- (5) A licensee is not liable to pay any greater total amount of compensation because of a change in the ownership or occupancy of the land.
- (6) Compensation is not payable in respect of any land which only became private land after the commencement of work on that land under the licence.

S. 85A
inserted by
No. 82/2000
s. 58.

85A What compensation is payable for—Crown land

- (1) This section applies if the Minister is of the opinion that the approval of a work plan, or the carrying out of any work under a licence, in relation to any Crown land has, or will, result in loss or damage of the following nature being sustained as a direct, natural and reasonable consequence of the approval of the plan, or the carrying out of the work—
 - (a) deprivation of possession of the whole, or any part of the surface, of the land; or
 - (b) damage to the surface of the land to such an extent that it cannot be rehabilitated and returned to its former, or a comparable, state;
or

- (c) damage to any improvements on the land; or
 - (d) severance of the land from any other Crown land; or
 - (e) loss of opportunity to make any planned improvement on the land.
- (2) The Minister may require the licensee to pay compensation for the loss or damage—
- (a) to the Crown; or
 - (b) to any person who is authorised to undertake activities on the land under a lease, licence, permit or other authority granted under an Act.
- (3) In determining whether compensation should be paid under subsection (2)(a), the Minister must take into account any benefits that may accrue to the people of Victoria from the work carried out under the licence (for example, the provision of infrastructure).
- (4) In determining the amount of compensation to be paid, the Minister may, if it is necessary for the Crown to obtain replacement land, take account of the reasonable incidental expenses incurred in obtaining that land.
- (5) If the Minister determines that compensation should be paid to a person referred to in subsection (2)(b), the Minister may increase the amount payable by up to 10% by way of solatium to compensate the person for intangible and non-pecuniary disadvantages for which compensation is not otherwise payable and that result from the approval or the carrying out of the work.
- (6) Compensation is not payable in respect of any land which only became Crown land after work under the licence started on that land.
- (7) Sections 85(4) and (5) also apply to this section.

86 When a claim can be made

A claim for compensation for any loss or damage under section 85 which is not the subject of a registered compensation agreement may be made at any time until the end of the period of three years—

- (a) after the loss or damage occurred; or
- (b) after the licence expires—

whichever is the earlier.

87 Compensation agreement

S. 87(1)
substituted by
No. 59/2010
s. 47(1).

(1) The licensee and the owner or occupier of land to which this section applies may enter into a written agreement as to the amount or kind of compensation payable by the licensee for any loss or damage that has been or will be sustained as a direct, natural and reasonable consequence of the approval of the work plan or the doing of work under the licensee's licence.

(2) The licensee must lodge an agreement under subsection (1) with the mining registrar for registration.

S. 87(2A)
inserted by
No. 59/2010
s. 47(2).

(2A) A compensation agreement may be about the amount or kind of compensation payable under section 85(1) or (1A).

S. 87(3)
amended by
No. 32/2019
s. 61.

(3) A compensation agreement may include, in relation to the amount or kind of compensation payable or any other agreed matter (among other things)—

- (a) a description of the licensee's proposed work, including the location and area of that work; and
- (b) the anticipated date of commencement and anticipated duration of the proposed work; and

- (c) agreed points of entry onto and exit from the land for the purposes of the proposed work; and
 - (d) the number and type of vehicles, plant and equipment involved in the proposed work; and
 - (e) a description of the facilities, including sanitary arrangements, which the licensee will be providing on the land.
- (4) This section applies to private land (whether or not that land is land affected).

S. 87(4)
inserted by
No. 59/2010
s. 47(3).

88 Determination of compensation disputes

- (1) The owner or occupier or the licensee may—
- (a) apply to the Tribunal for determination of a disputed claim for compensation; or
 - (b) refer a disputed claim for compensation to the Supreme Court for determination—

S. 88(1)
amended by
No. 91/1994
s. 28(2)(a),
substituted by
No. 52/1998
s. 311(Sch. 1
item 64.7).

in accordance with Part 10 of the **Land Acquisition and Compensation Act 1986** as if it were a claim for compensation under that Act and the licensee were the Authority referred to in that Part.

- (2) A party who applies to the Tribunal in respect of a claim or refers a claim to the Court under subsection (1) is only entitled to have that claim determined by the Tribunal or the Court (as the case requires) if the Tribunal or the Court is satisfied, after considering evidence produced to it, that the party has attempted to settle the claim by conciliation but has not been able to do so because the other party has refused to negotiate a settlement or because both parties are unable to agree.

S. 88(2)
amended by
Nos 91/1994
s. 28(2)(b)(c),
52/1998
s. 311(Sch. 1
item 64.8).

S. 88(3)(a)
amended by
No. 91/1994
s. 28(2)(b).

S. 88(3)(b)
amended by
No. 91/1994
s. 28(2)(b).

S. 88(3)(b)(i)
substituted by
No. 82/2000
s. 57(2).

(3) In its application to a claim referred under subsection (1) Part 10 of the **Land Acquisition and Compensation Act 1986** has effect as if—

(a) it required the Tribunal or the Court (as the case requires) in determining the compensation payable to have regard to the provisions of this Part; and

(b) section 91(1) provided that the licensee must pay the licensee's own costs and the costs of the other party unless—

(i) the other party is not the owner or occupier of the land affected; or

(ii) the other party has been frivolous or vexatious or has otherwise acted unreasonably—

in which case the Tribunal or the Court (as the case requires) may, subject to that section, award such costs as it thinks proper.

(4) The licensee must lodge a copy of a determination under this section with the mining registrar for registration.

S. 88A
inserted by
No. 82/2000
s. 59.

88A Determination of disputes—Crown land

(1) A licensee may apply to the Tribunal for a review of any requirement made by the Minister under section 85A.

(2) A person who is authorised to undertake activities on Crown land under a lease, licence, permit or other authority granted under an Act may apply to the Tribunal for a review of any decision made by the Minister under section 85A that affects the person.

- (3) An application for a review under this section must be made within 28 days after the later of—
- (a) the day on which the decision is made;
 - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the applicant requests a statement of reasons for the decision, the day on which the statement of reasons is given to the applicant or the applicant is informed under section 46(5) of that Act that a statement of reasons will not be given.

89 Limit on total amount of compensation

- (1) The total amount of compensation payable under section 85(1) or (1A) in respect of any land must be no greater if the land is not owned and occupied by the same person than if it is.
- (2) Nothing in subsection (1) limits the amount of solatium payable to the owner or occupier under section 85(2).
- (3) The maximum amount of compensation that a court or the Tribunal may order to be paid under section 85(1)(e) or (1A)(d) (loss of amenity) is \$10 000.

S. 89(1)
amended by
No. 59/2010
s. 48(1).

S. 89(3)
inserted by
No. 82/2000
s. 60,
amended by
Nos 59/2010
s. 48(2),
68/2014 s. 52.

Division 2—Extractive industries search authorities

Pt 8 Div. 2
(Heading and
ss 89AA,
89AB)
inserted by
No. 6/2009
s. 31.

89AA Compensation—search authorities

- (1) Compensation is payable by the Crown to the owner or occupier of any land in respect of which an authority is granted under section 112 to enter for the purpose of searching for stone (a *search*

S. 89AA
inserted by
No. 6/2009
s. 31,
amended by
No. 68/2014
s. 53.

authority) for damage that has been or will be sustained by the owner or occupier to crops or improvements, including permanent artificial water supply, by reason of any operation that has been or will be carried out on that land under the search authority.

- (2) The holder of a search authority must not commence any surveys or operations on any land unless the Crown has paid or tendered to the owner and to the occupier of the land the amount of compensation (if any) in each case that is—
 - (a) agreed on by the Crown and the owner or occupier (as the case may be); or
 - (b) in default of agreement, determined by the Magistrates' Court in accordance with subsection (6).
- (3) The Crown may treat and agree with the owner or occupier with respect to the amount of compensation to be paid.
- (4) An agreement is not valid unless it is in writing signed by the parties and a copy is lodged with the Secretary.
- (5) At least 28 days before the holder of a search authority commences to search for stone on any land he or she must notify the owner of the land or the owner and the occupier of his or her intention to do so.
- (6) If within 21 days after notice of intention to commence to search for stone on any land has been given the parties have not agreed upon the compensation to be paid the amount may upon the application of either party be determined by the Magistrates' Court.

89AB Measure of compensation payable under section 89AA

S. 89AB
inserted by
No. 6/2009
s. 31.

Compensation payable under section 89AA is compensation for—

- (a) deprivation of the possession of the surface of the land or any part of the surface; and
- (b) damage to the surface of any land and to any improvements on the land which has been caused by or may arise from the carrying on of any operation under the search authority on the land in respect of which the search authority was granted; and
- (c) all consequential damage to the land.

Pt 8A
(Heading and
ss 89A–89H)
inserted by
No. 63/2006
s. 45.

Part 8A—Codes of Practice

S. 89A
inserted by
No. 63/2006
s. 45.

89A Power to make Codes of Practice

- (1) The Minister, in accordance with this Part, may make Codes of Practice that—
 - (a) specify standards and procedures for the carrying out of any of the objectives or purposes of this Act or the regulations made under this Act; and
 - (b) provide practical guidance to persons on complying with their obligations under this Act or the regulations made under this Act.
- (2) A Code of Practice may apply, adopt or incorporate any matter contained in any document, standard, rule, specification or method, formulated, issued, prescribed or published by any person whether—
 - (a) wholly or partially or as amended by the Code of Practice; or
 - (b) as formulated, issued, prescribed or published at the time the Code of Practice is made or at any time before then; or
 - (c) as formulated, issued, prescribed or published from time to time.

S. 89B
inserted by
No. 63/2006
s. 45.

89B Variation and revocation of Code of Practice

The Minister, in accordance with this Part, may vary or revoke a Code of Practice at any time.

89C Advertising of draft Code of Practice, variation or revocation

S. 89C
inserted by
No. 63/2006
s. 45.

- (1) The Minister must give notice of—
 - (a) any draft Code of Practice which the Minister proposes to make;
 - (b) any variation of a Code of Practice which the Minister proposes to make;
 - (c) any revocation of a Code of Practice which the Minister proposes to make.
- (2) A notice under subsection (1) must—
 - (a) state where a copy of the draft Code of Practice, variation or revocation (as the case requires) may be obtained; and
 - (b) state that submissions may be made to the Minister within 28 days of the publication of the notice; and
 - (c) be published—
 - (i) in the Government Gazette; and
 - (ii) in a newspaper circulating generally throughout the State.
- (3) Subsection (1) does not apply to any proposed variation to a Code of Practice—
 - (a) to correct a clerical mistake; or
 - (b) to correct an error arising from an accidental slip or omission; or
 - (c) to update references.

89D Consideration of submissions

S. 89D
inserted by
No. 63/2006
s. 45.

The Minister must consider any submissions received by the Minister within the time specified in section 89C(2)(b).

S. 89E
inserted by
No. 63/2006
s. 45.

89E How is a Code of Practice made?

- (1) After the Minister has considered any submissions, the Minister may make the Code of Practice or the variation or revocation of the Code of Practice.
- (2) On the making of a Code of Practice or a variation or revocation of a Code of Practice the Minister must cause to be published in the Government Gazette notice of—
 - (a) the making of the Code of Practice or the variation or revocation of the Code of Practice; and
 - (b) in the case of the making of the Code of Practice or any variation, the place where copies of the Code of Practice may be obtained.
- (3) A Code of Practice or a variation or revocation of a Code of Practice takes effect on—
 - (a) the date that the notice under subsection (2) is published in the Government Gazette; or
 - (b) any later date specified in the notice.

S. 89F
inserted by
No. 63/2006
s. 45.

89F Availability of Code of Practice

A Code of Practice and any documents incorporated in a Code of Practice must be made available for public inspection free of charge—

- (a) at the principal office of the Department and major regional offices of the Department; or
- (b) in electronic form published on the Department's Internet site.

89G Code of Practice

- (1) Subject to subsection (2), a person is not liable to any civil or criminal proceedings merely because the person has failed to observe any provision of a Code of Practice.
- (2) Subsection (1) does not apply to—
- (a) the holder of an extractive industry work authority that is subject to a condition of compliance with a Code of Practice under section 77J(2); or
 - (b) the holder of a mining licence that is subject to a condition of compliance with a Code of Practice under section 26(2A); or
 - (c) the holder of a prospecting licence that is subject to a condition of compliance with a Code of Practice under section 26(2A).

S. 89G
inserted by
No. 63/2006
s. 45,
substituted by
No. 6/2009
s. 32.

S. 89G(2)
substituted by
No. 10/2014
s. 39.

89H Use of Code of Practice in proceedings

If in any proceeding under this Act it is alleged that a person contravened a provision of this Act in relation to which a Code of Practice was in effect at the time of the alleged contravention—

- (a) the Code of Practice is admissible in evidence in that proceeding; and
- (b) if the court is satisfied in relation to any matter which it is necessary for the prosecution to prove in order to establish the alleged contravention that—
 - (i) a provision of the Code of Practice is relevant to that matter; and

S. 89H
inserted by
No. 63/2006
s. 45.

(ii) the person failed at any material time to observe that provision—

that matter must be taken as proved unless the court is satisfied that in respect of that matter the person complied with the provision of this Act otherwise than by way of observance of that provision of the Code of Practice.

Part 9—Inspectors

Division 1—Employment of inspectors

Pt 9 Div. 1
(Heading)
inserted by
No. 63/2006
s. 46.

90 Employment of inspectors

(1) There may be employed under Part 3 of the
Public Administration Act 2004—

S. 90(1)
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 134.4).

(a) a Chief Inspector; and

S. 90(1)(a)
substituted by
No. 82/2000
s. 61(a),
amended by
No. 6/2009
s. 33(1)(a).

(b) such number of inspectors as are necessary
for the purposes of this Act.

S. 90(1)(b)
amended by
No. 6/2009
s. 33(1)(b).

(2) A person must not be employed under
subsection (1) unless he or she has appropriate
qualifications and experience.

S. 90(2)
amended by
No. 46/1998
s. 7(Sch. 1).

(3) The Chief Inspector has all the powers of an
inspector.

S. 90(3)
amended by
Nos 82/2000
s. 61(b),
6/2009
s. 33(2).

S. 91
(Heading)
inserted by
No. 6/2009
s. 34(1).

91 Delegation by Chief Inspector

The Chief Inspector may, by instrument—

S. 91
amended by
Nos 82/2000
s. 61(b),
6/2009
s. 34(2).

(a) delegate to an inspector any power of the Chief Inspector; or

S. 91(a)
amended by
Nos 82/2000
s. 61(b),
6/2009
s. 34(2).

S. 91(b)
substituted by
No. 63/2006
s. 47.

(b) delegate any power of an inspector to—
(i) any person employed under Part 3 of the **Public Administration Act 2004**;
or

S. 91(b)(ii)
amended by
No. 19/2018
s. 247.

(ii) any employee of Parks Victoria established under the **Parks Victoria Act 2018**—

other than this power of delegation.

S. 92
amended by
No. 86/1993
s. 31(a)(b),
substituted by
No. 63/2006
s. 48.

92 Identity cards

- (1) The Department Head must issue an identity card to each inspector containing a photograph of the inspector and his or her signature.
- (2) An inspector must produce his or her identity card for inspection if asked to do so when performing a function or exercising a power under this Act or the regulations.
- (3) If a person to whom an identity card has been issued ceases to be an inspector, the person must return the identity card to the Department Head as soon as practicable.

Division 2—Performance of functions or exercise of powers

Pt 9 Div. 2
(Heading)
inserted by
No. 63/2006
s. 49.

93 Inspectors subject to Department Head's directions

S. 93
substituted by
Nos 82/2000
s. 62, 63/2006
s. 49.

- (1) An inspector is subject to the Department Head's directions in the performance of his or her functions or in the exercise of his or her powers under this Act or the regulations.
- (2) A direction under subsection (1) may be of a general nature or may relate to a specified matter or specified class of matter.

Division 3—Powers relating to entry

Pt 9 Div. 3
(Heading and
ss 94–95B)
inserted by
No. 63/2006
s. 49.

94 Power to enter

New s. 94
inserted by
No. 63/2006
s. 49.

- (1) At any time during working hours, an inspector may enter a place that the inspector reasonably believes—
 - (a) is a worksite; or
 - (b) is a place where an activity is being or has been conducted in contravention of section 8, 8AA or 8AB.
- (2) However, an inspector may enter a place referred to in subsection (1) at any time if the inspector reasonably believes that there is an immediate risk to public safety, the environment, land, property or infrastructure arising from the conduct of an undertaking at the place.

S. 94(1)
substituted by
No. 68/2014
s. 54(1).

S. 94(2)
amended by
Nos 84/2012
s. 4, 68/2014
s. 54(2).

New s. 95
inserted by
No. 63/2006
s. 49.

95 General powers on entry

An inspector who enters a place under this Division may do any of the following—

- (a) inspect, examine and make enquiries at the place;
- (b) inspect and examine any thing (including a document) at the place;
- (c) bring any equipment or materials to the place that may be required;
- (d) seize any thing (including a document) at the place that may afford evidence of the commission of an offence against this Act or the regulations;
- (e) seize any thing at the place for further examination or testing but only if the inspector reasonably believes that the examination or testing is reasonably necessary and cannot be reasonably conducted on site;
- (f) take photographs or measurements or make sketches or recordings;
- (g) exercise any other power conferred on the inspector by this Act or the regulations;
- (h) do any other thing that is reasonably necessary for the purpose of the inspector performing his or her functions or exercising his or her powers under this Act or the regulations.

Note

The powers conferred by this section are limited if all or part of the place is used only for residential purposes (see section 95I).

95A Power to require production of documents etc.

S. 95A
inserted by
No. 63/2006
s. 49.

- (1) An inspector who enters a place under this Division may—
 - (a) require a person to produce a document or part of a document located at the place that is in the person's possession or control; and
 - (b) examine that document or part; and
 - (c) require a person at the place to answer any questions put by the inspector.
- (2) A person must not, without reasonable excuse, refuse or fail to comply with a requirement under subsection (1).

Penalty: In the case of a corporation,
300 penalty units;

In any other case 60 penalty units.

- (3) Before requiring a person to produce a document or part of a document or to answer questions under subsection (1), an inspector—
 - (a) must produce his or her identity card for inspection by the person and warn the person that a refusal or failure to comply with the requirement, without reasonable excuse, is an offence; and
 - (b) must inform the person that he or she may refuse or fail to answer any question if answering the question would tend to incriminate him or her.
- (4) A person is not liable to be prosecuted for an offence against subsection (2) if the inspector concerned failed to comply with subsection (3).

Notes

- 1 The powers conferred by this section are limited if all or part of the place is used only for residential purposes (see section 95I).

Note 2 to
s. 95A(4)
amended by
No. 69/2009
s. 54(Sch. Pt 1
item 37.1).

- 2 This section does not affect legal professional privilege or client legal privilege (see section 95T) or, in the case of a requirement to answer questions, the privilege against self-incrimination (see section 95S).

S. 95B
inserted by
No. 63/2006
s. 49.

95B Power to take samples

- (1) An inspector who enters a place under this Division may take (without payment) samples of any thing at the place that may be required for analysis.
- (2) If an inspector intends to take a sample, he or she must notify the occupier or apparent occupier for the time being of the place of his or her intention.
- (3) Unless it is unsafe to do so, after taking the sample the inspector must—
 - (a) divide it into as many parts as are necessary and mark and seal or fasten up each part in a way that the nature of the sample allows; and
 - (b) if the occupier or apparent occupier requires the inspector to give them a part, give one part to that person; and
 - (c) keep one part for future comparison.
- (4) If it is determined that the sample is to be analysed the inspector must submit another part to an analyst for that purpose.

Pt 9 Div. 4
(Heading and
ss 95C, 95D)
inserted by
No. 63/2006
s. 49.

Division 4—Procedure relating to entry

S. 95C
inserted by
No. 63/2006
s. 49.

95C Announcement on entry

- (1) Immediately on entering a place under Division 3, an inspector must take all reasonable steps to notify the occupier or apparent occupier for the time being of the place of the entry and to produce

his or her identity card for inspection by that person.

- (2) However, an inspector is not required to notify, or produce his or her identity card for inspection by, a person if—
- (a) to do so would defeat the purpose for which the place was entered or cause unreasonable delay; or
 - (b) the person is already aware that the inspector has entered the place or was notified in advance of when he or she would enter.

95D Report to be given about entry

- (1) An inspector who enters a place under Division 3 must give a report concerning the entry when, or as soon as practicable after, the inspector leaves the place to the occupier or apparent occupier for the time being of the place.
- (2) The report must be in writing and include—
- (a) the time of the entry and departure; and
 - (b) the purpose of the entry; and
 - (c) a description of things done while at the place; and
 - (d) a summary of the inspector's observations while at the place; and
 - (e) the procedure for contacting the Department Head and the inspector for further details of the entry; and
 - (f) the procedure for seeking review of any decision made by the inspector during the entry.

S. 95D
inserted by
No. 63/2006
s. 49.

- (3) If the inspector takes photographs or makes sketches or recordings under section 95(f), the report must also include a statement that—
- (a) the photographs have been taken or sketches or recordings have been made; and
 - (b) they are or will be available for inspection at a specified place.

S. 95D(4)
repealed by
No. 55/2010
s. 54.

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Pt 9 Div. 5
(Heading and
ss 95E–95H)
inserted by
No. 63/2006
s. 49.

Division 5—Search warrants

S. 95E
inserted by
No. 63/2006
s. 49.

95E Definition

In this Division a *place* includes a worksite, premises and a vehicle.

S. 95F
inserted by
No. 63/2006
s. 49.

95F Issue of search warrants

- (1) An inspector may apply to a magistrate for the issue of a search warrant in relation to a particular place if the inspector believes on reasonable grounds that there is, or may be within the next 72 hours, a particular thing (including a document) at the place that may afford evidence of the commission of an offence against this Act or the regulations.
- (2) A magistrate may issue the search warrant if he or she is satisfied by evidence on oath or by affirmation, whether oral or by affidavit, that there are reasonable grounds for suspecting that there is, or may be within 72 hours, a particular thing (including a document) at the place that may

S. 95F(2)
amended by
No. 6/2018
s. 68(Sch. 2
item 89).

- afford evidence of the commission of an offence against this Act or the regulations.
- (3) The search warrant may authorise a named inspector and any assistants the inspector considers necessary—
- (a) to enter the place or part of the place named or described in the warrant; and
 - (b) to search for the thing named or described in the warrant.
- (4) In addition to any other requirement, the search warrant must state—
- (a) the offence suspected; and
 - (b) the place to be searched; and
 - (c) a description of the thing for which the search is to be made; and
 - (d) any conditions to which the warrant is subject; and
 - (e) whether entry is authorised to be made at any time or during specified hours; and
 - (f) that the warrant authorises entry on only one occasion; and
 - (g) a day, not later than 7 days after the warrant is issued, on which it ceases to have effect.
- (5) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and in the form prescribed under that Act.
- (6) The rules that apply to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to search warrants under this section.

S. 95G
inserted by
No. 63/2006
s. 49.

95G Announcement before entry on warrant

- (1) Before executing a search warrant, the inspector named in the warrant or an assistant to the inspector must—
 - (a) announce that he or she is authorised by the warrant to enter the place; and
 - (b) give any person at the place an opportunity to allow that entry.
- (2) However, the inspector or an assistant to the inspector need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the place is needed to ensure that the effective execution of the warrant is not frustrated.

S. 95H
inserted by
No. 63/2006
s. 49.

95H Copy of warrant to be given to occupier

If an occupier or apparent occupier is present at the place when a search warrant is being executed, the inspector must—

- (a) identify himself or herself to that person by producing his or her identity card for inspection; and
- (b) give that person a copy of the execution copy of the warrant.

Pt 9 Div. 6
(Heading and
s. 95I)
inserted by
No. 63/2006
s. 49.

Division 6—Limitation on entry powers

S. 95I
inserted by
No. 63/2006
s. 49.

95I Places used for residential purposes

Despite anything else in this Part, the powers of an inspector under this Part in relation to entering a place are not exercisable in respect of any part of a place that is used only for residential purposes except—

- (a) with the consent of the occupier for the time being of the place; or
- (b) under the authority conferred by a search warrant.

Division 7—Return and forfeiture of seized things

Pt 9 Div. 7
(Heading and
ss 95J, 95K)
inserted by
No. 63/2006
s. 49.

95J Return of seized things

S. 95J
inserted by
No. 63/2006
s. 49.

- (1) As soon as possible after an inspector seizes any thing (including a document) under this Part the Department Head must return the thing to the owner unless—
 - (a) the Department Head considers it necessary to retain the thing because it may afford evidence in proceedings, that have been or may be commenced, for an offence against this Act or the regulations; or
 - (b) the thing is forfeited to the Crown under section 95K; or
 - (c) the Department Head is otherwise authorised (by a law or court order) to retain, destroy or dispose of the thing.
- (2) The thing may be returned either unconditionally or on such terms and conditions as the Department Head considers appropriate.
- (3) If the Department Head imposes terms or conditions on the return of a thing, the owner must comply with each of those terms and conditions.

Penalty: In the case of a corporation,
300 penalty units;
In any other case 60 penalty units.

S. 95K
inserted by
No. 63/2006
s. 49.

95K Forfeiture of seized things

Any thing (including a document) that an inspector has seized and retained under this Part is forfeited to the Crown if the Department Head—

- (a) cannot find its owner despite making reasonable enquiries; or
- (b) cannot return it to the owner despite making reasonable efforts.

Pt 9 Div. 8
(Heading and
ss 95L, 95M)
inserted by
No. 63/2006
s. 49.

Division 8—Other powers

S. 95L
inserted by
No. 63/2006
s. 49.

95L Power to require name and address

- (1) An inspector may ask a person to state his or her name and address if the inspector reasonably believes that the person—
 - (a) may be able to assist in the investigation of an offence under this Act that has been committed or is suspected of having been committed; or
 - (b) has committed or is about to commit an offence under this Act or the regulations.
- (2) The inspector must inform the person of the grounds for his or her belief in sufficient detail to allow the person to understand the nature of the offence or suspected offence.
- (3) A person who, in response to being asked to state his or her name and address in accordance with this section—
 - (a) refuses or fails to do so; or
 - (b) states a name that is false in a material particular; or

(c) states an address other than the full and correct address of his or her ordinary place of residence or business—

is guilty of an offence and liable to a fine not exceeding 5 penalty units.

(4) A person who is asked to state his or her name and address may ask the inspector to produce his or her identity card for inspection.

95M Power to give directions

S. 95M
inserted by
No. 63/2006
s. 49.

(1) An inspector may give a direction (either orally or in writing) to a person at a worksite if the inspector reasonably believes that it is necessary to do so because of an immediate risk to public safety, the environment, land, property or infrastructure.

S. 95M(1)
amended by
No. 84/2012
s. 5.

(2) A person must not, without reasonable excuse, refuse or fail to comply with a direction given to the person under subsection (1).

Penalty: In the case of a corporation,
500 penalty units;

In any other case 100 penalty units.

Division 9—Other matters

Pt 9 Div. 9
(Heading and
ss 95N–95Q)
inserted by
No. 63/2006
s. 49.

95N Occupier must assist inspector

The occupier or apparent occupier for the time being of a worksite must not, without reasonable excuse, refuse or fail to provide such assistance as an inspector may reasonably require for the performance of his or her functions or exercise of

S. 95N
inserted by
No. 63/2006
s. 49.

his or her powers under this Act or the regulations.

Penalty: In the case of a corporation,
300 penalty units;

In any other case 60 penalty units.

S. 95O
inserted by
No. 63/2006
s. 49.

95O Other assistance in exercising powers

- (1) For the purpose of exercising a power under this Act or the regulations, an inspector may seek the assistance of any person.
- (2) If the power being exercised involves entry to a worksite, the occupier or apparent occupier for the time being of the worksite must allow the person assisting access to that worksite.

Penalty: In the case of a corporation,
300 penalty units;

In any other case 60 penalty units.

- (3) If an inspector uses the assistance of an interpreter—
 - (a) any enquiry or request made by the interpreter on the inspector's behalf is taken to have been made by the inspector; and
 - (b) any answer given to the interpreter is taken to have been given to the inspector.

S. 95P
inserted by
No. 63/2006
s. 49.

95P Inspector may take affidavits

An inspector is authorised to take affidavits for any purpose relating or incidental to the performance of his or her functions or exercise of his or her powers under this Act or the regulations.

95Q Inspector may copy documents

An inspector may make copies of, or take extracts from, a document or part of a document given to the inspector in accordance with a requirement under this Act or the regulations.

S. 95Q
inserted by
No. 63/2006
s. 49.

Division 10—Offences

Pt 9 Div. 10
(Heading and
s. 95R)
inserted by
No. 63/2006
s. 49.

95R Offences in relation to inspections

- (1) A person must not wilfully assault, obstruct or attempt to obstruct, threaten, intimidate or attempt to intimidate an inspector in the exercise of the inspector's powers or the discharge of the inspector's duties.

Penalty: In the case of a corporation,
1000 penalty units;

In any other case, 200 penalty units.

- (2) A person must not—
- (a) contravene or fail to comply with any lawful requirement of an inspector; or
 - (b) make to an inspector exercising a power or discharging a duty under this Act a statement knowing it to be false or misleading in any particular.

Penalty: In the case of a corporation,
500 penalty units;

In any other case, 100 penalty units.

- (3) A reference in this section to an inspector includes a reference to a person acting under an instrument of delegation under section 91(b).

S. 95R
inserted by
No. 63/2006
s. 49.

Pt 9 Div. 11
(Heading and
ss 95S, 95T)
inserted by
No. 63/2006
s. 49.

Division 11—Protection of privileges

S. 95S
inserted by
No. 63/2006
s. 49.

95S Protection against self-incrimination

- (1) A natural person may refuse or fail to give information or do any other thing that the person is required to do by or under this Part if giving the information or doing the other thing would tend to incriminate the person.
- (2) However, subsection (1) does not apply to—
 - (a) the production of a document or part of a document that the person is required by this Part to produce; or
 - (b) the giving of a person's name or address in accordance with section 95L.

S. 95T
(Heading)
amended by
No. 69/2009
s. 54(Sch. Pt 1
item 37.2).

95T Legal professional privilege and client legal privilege not affected

Nothing in this Act or the regulations—

S. 95T
inserted by
No. 63/2006
s. 49.

S. 95T(a)
amended by
No. 69/2009
s. 54(Sch. Pt 1
item 37.3).

- (a) entitles or requires a person to disclose information that is the subject of legal professional privilege or client legal privilege; or

S. 95T(b)
amended by
No. 69/2009
s. 54(Sch. Pt 1
item 37.3).

- (b) affects the law or practice relating to legal professional privilege or client legal privilege.

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* * * * *

**Pt 10
(Heading and
ss 94, 95)
amended by
Nos 46/1998
s. 7(Sch. 1),
52/1998
s. 311(Sch. 1
items 64.9,
64.10 (as
amended by
No. 101/1998
s. 22(1)(j)),
64.11, 64.12),
76/1998
s. 31(l),
repealed by
No. 82/2000
s. 63.**

Part 11—Mining wardens

96 Appointment of mining wardens

- (1) The Governor in Council may appoint as many persons to be mining wardens as are required for the purposes of this Act.
- (2) The appointment of a person as a mining warden is subject to any terms and conditions that are specified in the instrument of appointment.
- (3) A mining warden holds office for the term, not exceeding 3 years, that is specified in the instrument of appointment and is eligible for re-appointment.
- (4) A mining warden is entitled to be paid—
 - (a) the remuneration fixed from time to time by the Governor in Council; and
 - (b) the travelling and other allowances fixed from time to time by the Governor in Council.
- (5) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a mining warden in respect of the office of mining warden.
- (6) A mining warden may resign from office by delivering to the Governor in Council a signed letter of resignation.
- (7) The Governor in Council may at any time remove a mining warden from office.

S. 96(5)
amended by
No. 46/1998
s. 7(Sch. 1),
substituted by
Nos 108/2004
s. 117(1)
(Sch. 3
item 134.5),
80/2006
s. 26(Sch.
item 71.2).

- (8) If a mining warden was, immediately before his or her appointment, an officer within the meaning of the **State Superannuation Act 1988**, he or she continues, subject to that Act, to be an officer within the meaning of that Act while he or she continues in the appointment.

97 Disputes

- (1) A party to a dispute may refer the dispute to a mining warden.
- (2) The mining warden must investigate the dispute, attempt to settle, or arbitrate in relation to, the matters in dispute and, where appropriate, make recommendations to the Minister concerning those matters.

98 Matters referred to mining warden

The Minister or the Department Head may refer a matter to a mining warden for investigation, report and recommendations.

S. 98
amended by
No. 76/1998
s. 31(f).

99 Powers of mining warden

- (1) In investigating a dispute or other matter referred to him or her, a mining warden has power to do all or any of the following—
- (a) conduct a hearing;
 - (b) enter and inspect any relevant land;
 - (c) make an order for the inspection, detention, custody or preservation of any relevant minerals, whether or not in the possession, custody or power of a party to the dispute or other matter;
 - (d) make an order restraining a person from removing from Victoria or otherwise dealing with any minerals specified in the order, whether or not that person is domiciled, resident or present within Victoria;

S. 99(1)(e)
amended by
No. 46/1998
s. 7(Sch. 1).

(e) require an employee of the Department to produce any record or other document kept by, or in the custody, possession or control of, the Department and give any other information or assistance that the mining warden requests and the employee is able to give.

S. 99(2)
amended by
Nos 69/2009
s. 54(Sch. Pt 2
item 36),
67/2014
s. 147(Sch. 2
item 26).

- (2) For the purpose of an investigation a mining warden has the powers conferred on a board appointed by the Governor in Council by sections 14, 15, 16 and 21A of the **Evidence (Miscellaneous Provisions) Act 1958**, as in force immediately before their repeal.
- (3) An order made by a mining warden under subsection (1)(c) or (d) may be enforced as if it were an order made by the Magistrates' Court in a civil proceeding.

100 Conduct of hearing

S. 100(2)(b)
amended by
No. 6/2018
s. 68(Sch. 2
item 89).

- (1) In conducting a hearing, a mining warden—
- (a) is not bound by rules of evidence but may inform himself or herself on any matter in any manner that he or she thinks fit; and
 - (b) is bound by the rules of natural justice; and
 - (c) is not required to conduct the hearing in a formal manner.
- (2) Evidence in a hearing—
- (a) may be given orally or in writing; and
 - (b) if the mining warden so requires, must be given on oath or by affirmation or by affidavit.
- (3) A party may appear before a mining warden in person or may be represented by an agent.

(4) A party may only be represented by an agent who is an Australian lawyer if—

- (a) the other parties to the matter agree; or
- (b) the mining warden grants leave.

S. 100(4)
amended by
Nos 18/2005
s. 18(Sch. 1
item 69),
17/2014
s. 160(Sch. 2
item 64).

(5) Otherwise, the procedure of the mining warden is in his or her discretion.

101 Evidence not admissible in other proceedings

Evidence given to a mining warden must not be used in any proceedings (whether civil or criminal) before a court or tribunal except proceedings for an offence against this Act or for perjury.

102 Validity of acts or decisions

An act or decision of a mining warden is not invalid only because there was a defect or irregularity in or in connection with his or her appointment.

103 Discontinuance of investigation

A mining warden must discontinue the investigation of a dispute or other matter if—

- (a) it appears to him or her that the interests of the person or body that referred the dispute to the mining warden are not directly and substantially affected by the dispute; or
- (b) it appears to him or her that the dispute or other matter is the subject of proceedings before a court or tribunal; or
- (c) the person or body that referred the dispute or other matter to the mining warden requests the mining warden in writing to discontinue the investigation.

104 Costs

- (1) The costs of, and incidental to, an investigation by a mining warden are in the discretion of the mining warden and he or she has power to determine by whom, to whom and to what extent the costs are to be paid.
- (2) A determination by a mining warden as to costs may be enforced as if it were an order made by the Magistrates' Court in a civil proceeding for the payment of money.

New s. 105
inserted by
No. 63/2006
s. 50.

105 Annual report

- (1) A mining warden must, within 3 months after the end of a financial year, submit a report to the Minister.
- (2) A report under subsection (1) must include a brief summary of the following things that occurred in that financial year—
 - (a) the nature and status of any dispute referred to the mining warden under section 97;
 - (b) the nature and status of any matter referred to the mining warden under section 98;
 - (c) any other activity commenced, conducted or completed by the mining warden under this Act.

Part 12—Enforcement

Pt 12
(Heading)
amended by
No. 82/2001
s. 34(a).

* * * * *

S. 105
amended by
Nos 86/1993
s. 32, 56/1995
s. 42, 69/2000
s. 60,
repealed by
No. 82/2001
s. 34(b).

Division 1—Definitions

Pt 12 Div. 1
(Heading)
inserted by
No. 68/2014
s. 55.

105A Definitions

In this Part—

authorised person means a person authorised by the Minister under section 110AB(2);

authority means a licence, an extractive industry work authority, a miner's right or a tourist fossicking authority.

S. 105A
inserted by
No. 68/2014
s. 55.

Division 2—Infringements

Pt 12 Div. 2
(Heading)
inserted by
No. 68/2014
s. 55.

106 Infringements

- (1) An inspector who has reason to believe that a person has committed an offence against this Act or the regulations that is prescribed for the purposes of this Part may serve on that person an infringement notice.

S. 106
amended by
No. 32/2006
s. 94(Sch.
item 33(1)–
(3)),
substituted by
No. 6/2009
s. 35.

- (2) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.
- (3) The infringement penalty for the purposes of this section in respect of an offence referred to in subsection (1) is the penalty prescribed in respect of that offence.

Pt 12 Div. 3
(Heading)
inserted by
No. 68/2014
s. 56.

Division 3—Enforceable undertakings

S. 107
repealed by
No. 32/2006
s. 94(Sch.
item 33(3)),
new s. 107
inserted by
No. 68/2014
s. 56.

107 Enforceable undertakings

- (1) This section applies if—
 - (a) the Minister believes on reasonable grounds that the holder of an authority—
 - (i) has contravened or is likely to contravene this Act or the regulations;
or
 - (ii) has not complied with any condition to which the authority is subject or any condition specified under section 44; or
 - (iii) has not complied with any condition applying to the carrying out of the work plan under the authority; or
 - (iv) has undertaken work on land otherwise than in accordance with the work plan under the authority; and
 - (b) the Minister considers that, having regard to the criteria specified in guidelines made under section 120A, an undertaking under this section is an appropriate enforcement mechanism.

- (2) If this section applies, the Minister and the holder of the authority may enter into a written undertaking.
- (3) The holder of an authority may with the consent of the Minister withdraw or vary an undertaking.
- (4) While an undertaking is in force in respect of a contravention or other thing that is an offence, proceedings may not be brought for an offence constituted by the contravention or other thing.
- (5) If the holder of an authority withdraws an undertaking in respect of a contravention or other thing that is an offence before the undertaking has been fulfilled, proceedings may be brought for the offence constituted by the contravention or other thing.
- (6) If the holder of an authority complies with the requirements of an undertaking in respect of a contravention or other thing that is an offence, no further proceedings may be brought for an offence constituted by the contravention or other thing.
- (7) The Minister may publish an undertaking in any manner the Minister considers appropriate.

108 Offence to contravene an undertaking

The holder of an authority must not contravene an undertaking entered into by the holder under section 107 that is in force.

Penalty: In the case of a corporation,
2500 penalty units.

Penalty: In any other case, 500 penalty units.

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S. 108
repealed by
No. 25/2008
s. 16(1), new
s. 108 inserted
by
No. 68/2014
s. 56.

S. 109
repealed by
No. 86/1993
s. 33.

Pt 12 Div. 4
(Heading)
inserted by
No. 68/2014
s. 57(a).

Division 4—Remedial notices and orders and enforcement orders

S. 110
(Heading)
inserted by
No. 84/2012
s. 6(1) (as
amended by
No. 70/2013
s. 3(Sch. 1
item 35)).

110 Notice requiring authority holder to take action or stop work

S. 110(1)
substituted by
Nos 82/2000
s. 64(1),
63/2006
s. 51(1).

(1) This section applies if the Minister believes on reasonable grounds that—

S. 110(1)(a)
amended by
No. 84/2012
s. 6(2).

- (a) an act or omission by the holder of an authority is likely to result in a risk to public safety, the environment, land, property or infrastructure; or
- (b) the holder of an authority—
 - (i) has contravened or is likely to contravene this Act or the regulations; or
 - (ii) has not complied with any condition to which the authority is subject or any condition specified under section 44; or
 - (iii) has not complied with any relevant planning scheme or permit; or
 - (iv) has not complied with any condition applying to the carrying out of the work plan under the authority; or
 - (v) has undertaken work on land otherwise than in accordance with the work plan under the authority; or

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- | | |
|---|--|
| (vi) has not complied with a declared mine rehabilitation plan; or | S. 110(1)(b)(vi) inserted by No. 32/2019 s. 45(1). |
| (ba) a former licensee or former holder of a mining licence for declared mine land has not complied with a declared mine rehabilitation plan; or | S. 110(1)(ba) inserted by No. 32/2019 s. 45(2). |
| (c) a former licensee or former holder of an extractive industry work authority has failed to comply with section 81. | S. 110(1)(c) amended by No. 6/2009 s. 36(1). |
| (2) The Minister may, by notice served on the holder of the authority— | S. 110(2) amended by No. 86/1993 s. 34, substituted by No. 82/2000 s. 64(1). |
| (a) require the taking within a specified period of any action necessary— | S. 110(2)(a) substituted by No. 84/2012 s. 6(3). |
| (i) to remedy the contravention or non-compliance; | |
| (ii) to avoid the likely contravention or non-compliance; | |
| (iii) to avoid, minimise or remove the risk to public safety, the environment, land, property or infrastructure; | |
| (b) prohibit the doing of any activity or class of activity by the holder of the authority for a specified period or until the occurrence of a specified event; | |
| (c) require the holder of the authority to supply any plans or other information specified in the notice; | |

- (d) require the holder of the authority—
 - (i) to provide monitoring equipment;
 - (ii) to carry out any monitoring or surveys specified in the notice;
 - (iii) to have any audit or assessment specified in the notice carried out by an appropriately qualified person or body;
 - (iv) to give the Minister a report detailing the results of the monitoring, surveys, audit or assessment.

S. 110(3)
substituted by
No. 82/2000
s. 64(1),
amended by
No. 84/2012
s. 6(4).

- (3) The holder of an authority must comply with a notice issued under subsection (2).

Penalty: In the case of a corporation,
2500 penalty units.

In any other case, 500 penalty units.

Default penalty:

In the case of a corporation,
300 penalty units.

In any other case, 60 penalty units.

S. 110(3A)
inserted by
No. 84/2012
s. 6(5).

- (3A) If a holder of an authority is found guilty of an offence against subsection (3), the court may, in addition to imposing any penalty, make—

- (a) an order that the holder must comply with the notice or take specified action to comply with the notice; or

- (b) any other order that it considers appropriate.

S. 110(4)
substituted by
No. 52/1998
s. 311(Sch. 1
item 64.13),
amended by
Nos 82/2000
s. 64(2),
84/2012
s. 6(6).

- (4) Subject to subsection (5A) and section 110AA(4), a person whose interests are affected by a decision of the Minister to serve a notice under subsection (2) or vary a notice under subsection (5) may apply to the Tribunal for review of the decision.

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- (4A) An application for review must be made within 28 days after the later of—
- S. 110(4A) inserted by No. 52/1998 s. 311(Sch. 1 item 64.13).
- (a) the day on which the notice, or notice of the variation, is served;
- S. 110(4A)(a) amended by No. 84/2012 s. 6(7)(a).
- (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision to serve or vary the notice, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.
- S. 110(4A)(b) amended by No. 84/2012 s. 6(7)(b).
- (5) The Minister may, by notice served on the holder of the authority, vary or cancel a notice issued under subsection (2).
- S. 110(5) substituted by No. 82/2000 s. 64(3), amended by No. 84/2012 s. 6(8).
- (5A) A person cannot apply under subsection (4) for review of the variation of a notice if the purpose of the variation is limited to—
- S. 110(5A) inserted by No. 84/2012 s. 6(9).
- (a) correcting a minor or technical error in the notice; or
- (b) extending the period within which an action required by the notice must be taken; or
- (c) reducing the period during which the doing of any activity or class of activity is prohibited.

S. 110(6)
substituted by
Nos 82/2000
s. 64(3),
6/2009
s. 36(2).

(6) For the purposes of this section—

- (a) in the case of a mining licence, service of a notice on the manager appointed to control and manage the licence worksites is deemed to be service of the notice on the licensee; and
- (b) in the case of an extractive industry work authority, service of a notice on the quarry manager or person appointed to manage the extractive industry operation is deemed to be service on the holder of the work authority.

S. 110(7)
inserted by
No. 82/2000
s. 64(3),
amended by
Nos 6/2009
s. 36(3),
59/2010
s. 42(3),
repealed by
No. 68/2014 s.
57(b).

* * * * *

S. 110(8)
inserted by
No. 63/2006
s. 51(2),
amended by
No. 6/2009
s. 36(4).

(8) In subsections (2) to (6) a reference to the holder of an authority or a licensee includes a reference to a former licensee or former holder of an extractive industry work authority.

S. 110AA
inserted by
No. 84/2012
s. 7.

110AA Injunction for non-compliance with notice

- (1) The Minister may apply to the Supreme Court for an injunction—
 - (a) compelling the holder of an authority to comply with a notice served on the holder under section 110; or
 - (b) restraining the holder of an authority from contravening the notice.

- (2) The Minister may apply for an injunction under subsection (1) whether or not—
- (a) an application has been made under section 110(4) for review of a decision to serve or vary the notice; or
 - (b) proceedings have been brought for an offence against this Act or the regulations in relation to the notice; or
 - (c) proceedings have been brought in relation to a matter that gave rise to the decision to serve the notice.
- (3) If a holder of an authority has applied under section 110(4) for review of the decision to serve or vary a notice at the time the Minister applies for an injunction under subsection (1) in relation to that notice—
- (a) the Tribunal must make an order staying the review proceeding pending the determination of the Minister's application; and
 - (b) the Tribunal must dismiss the proceeding if the Supreme Court grants an injunction on the Minister's application.
- (4) If a holder of an authority has not applied under section 110(4) for review of the decision to serve or vary a notice at the time the Minister applies for an injunction under subsection (1) in relation to that notice, the holder cannot apply for review under section 110(4) in relation to that notice—
- (a) while the Minister's application is pending;
or
 - (b) if the Supreme Court grants an injunction on the Minister's application.

S. 110AB
inserted by
No. 84/2012
s. 7.

110AB Minister may take action required by injunction or order

- (1) The Minister may take any action that an order under section 110(3A) or an injunction granted on an application under section 110AA(1) requires to be taken if—
 - (a) the holder of the authority does not take the action within the time specified in the order or injunction or, if no time is specified in the order or injunction, a reasonable time; and
 - (b) failure to take the action is likely to result in a serious risk to public safety, the environment, land, property or infrastructure.
- (2) The Minister may authorise a person and any person assisting that person to enter any land and do anything that in the Minister's opinion is necessary for the purpose of taking an action under subsection (1).
- (3) If it is necessary for an authorised person or a person assisting an authorised person to enter land under subsection (2), the Minister must, except in a case of emergency—
 - (a) if the land is private land, give reasonable notice of the entry to the owner and the occupier of the land; and
 - (b) if the land is Crown land, give reasonable notice of the entry to the Crown land Minister; and
 - (c) ensure that the person enters the land at a reasonable time; and
 - (d) if the land is used only for residential purposes, obtain, or take all reasonable steps to obtain, the consent of the occupier of the land.

110AC Offence to hinder or obstruct remedial action

- (1) A person must not, without reasonable excuse, hinder or obstruct the Minister, an authorised person or a person assisting an authorised person taking action under section 110AB.

Penalty: In the case of a corporation,
300 penalty units.

In any other case, 60 penalty units.

- (2) In this section, *authorised person* means a person authorised by the Minister under section 110AB(2).

S. 110AC
inserted by
No. 84/2012
s. 7.

110AD Immunity for remedial action

- (1) An authorised person or a person assisting an authorised person is not personally liable for anything done or omitted to be done in good faith—

(a) in the course of taking action under section 110AB; or

(b) in the reasonable belief that the act or omission was in the course of taking action under section 110AB.

- (2) Any liability that would, but for subsection (1), attach to a person attaches instead to the Crown.

- (3) In this section, *authorised person* has the same meaning as in section 110AC.

S. 110AD
inserted by
No. 84/2012
s. 7.

110AE Compensation for remedial action

- (1) Subject to subsection (2), compensation is payable by the Minister to the owner or occupier of private land for any loss or damage sustained as a direct, natural and reasonable consequence of an action taken under section 110AB, including—

S. 110AE
inserted by
No. 84/2012
s. 7.

- (a) deprivation of possession of the whole or any part of the surface of the land; and
 - (b) damage to the surface of the land; and
 - (c) damage to any improvements on the land; and
 - (d) severance of the land from other land of the owner or occupier; and
 - (e) loss of amenity, including recreation and conservation values; and
 - (f) loss of opportunity to make any planned improvement on the land; and
 - (g) any decrease in the market value of the owner or occupier's interest in the land.
- (2) Subsection (1) does not apply if the owner or occupier of the land is the holder of the authority subject to the order or injunction in relation to which the action under section 110AB was taken.
- (3) An owner or occupier of land may—
- (a) apply to the Tribunal for determination of a disputed claim for compensation under subsection (1); or
 - (b) refer a disputed claim for compensation under subsection (1) to the Supreme Court for determination—
- in accordance with Part 10 of the **Land Acquisition and Compensation Act 1986** as if it were a claim for compensation under that Act and the Minister were the Authority referred to in that Part.
- (4) In its application to a claim referred under subsection (3), Part 10 of the **Land Acquisition and Compensation Act 1986** has effect as if—

- (a) it required the Tribunal or the Court (as the case requires) in determining the compensation payable to have regard to the provisions of this Part; and
- (b) section 91(1) of that Act provided that the Minister must pay the Minister's own costs and the costs of the owner or occupier unless the owner or occupier has been frivolous or vexatious or has otherwise acted unreasonably, in which case the Tribunal or the Court (as the case requires) may, subject to that section, award such costs as it thinks proper.

110AF When claim for compensation for remedial action can be made

S. 110AF
inserted by
No. 84/2012
s. 7.

- (1) A claim for compensation for any loss or damage may be made under section 110AE at any time until the end of the period of 2 years after the day on which the Minister, an authorised person or a person assisting an authorised person finishes taking the action under section 110AB.
- (2) In this section, *authorised person* has the same meaning as in section 110AC.

110AG Recovery of costs and compensation by Minister

S. 110AG
inserted by
No. 84/2012
s. 7.

The Minister may recover, as a debt due to the Crown, in a court of competent jurisdiction—

- (a) the value of any reasonable costs incurred in taking an action under section 110AB;
- (b) any compensation paid under section 110AE in respect of that action—

from the holder of the authority who was subject to the order under section 110(3A) or injunction under section 110AA in relation to which the action was taken.

S. 110A
inserted by
No. 63/2006
s. 52.

110A Enforcement order

- (1) An inspector who believes on reasonable grounds that a person (other than the holder of an authority) is carrying out or is likely to carry out an activity on land in contravention of this Act or the regulations may issue a notice to the person—
 - (a) to stop that activity; and
 - (b) to take within a specified period any action necessary to remedy the contravention.
- (2) A person must not, without reasonable excuse, fail to comply with a notice under this section.

Penalty: In the case of a corporation,
1000 penalty units;

In any other case, 200 penalty units.

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S. 110A(3)
repealed by
No. 68/2014
s. 57(b).

S. 110B
inserted by
No. 32/2019
s. 46.

110B Notice requiring owner of registered mine land to take action or stop work

- (1) This section applies if the Minister believes on reasonable grounds that—
 - (a) an act or omission of an owner of registered mine land is likely to result in a risk to public safety, the environment, land, property or infrastructure; or
 - (b) an owner of registered mine land has contravened the owner's obligations under the registered post-closure plan; or
 - (c) an owner of registered mine land has contravened or is likely to contravene this Act.

- (2) The Minister may, by notice served on the owner of registered mine land, require the taking within a specified period of any of the actions set out in subsection (3) in order to—
- (a) remedy the contravention or non-compliance; or
 - (b) avoid the likely contravention or non-compliance; or
 - (c) avoid, minimise or remove the risk to public safety, the environment, land, property or infrastructure.
- (3) The actions the Minister may require in a notice under subsection (2) are as follows—
- (a) prohibit the doing of any activity or class of activity by the owner of registered mine land for a specified period or until the occurrence of a specified event;
 - (b) require the owner of registered mine land to supply any plans or other information specified in the notice;
 - (c) require the owner of registered mine land to do any of the following—
 - (i) to provide monitoring equipment;
 - (ii) to carry out any monitoring or surveys specified in the notice;
 - (iii) to have any audit or assessment specified in the notice carried out by an appropriately qualified person or body;
 - (iv) to give the Minister a report detailing the results of the monitoring surveys, audit or assessment.
- (4) The Minister may, by notice served on the owner of registered mine land, vary or cancel a notice under subsection (2).

- (5) The owner of registered mine land must comply with a notice under subsection (2) or as varied under subsection (4).

Penalty: In the case of a corporation,
2500 penalty units;
In any other case, 500 penalty units.

Default penalty:
In the case of a corporation,
300 penalty units;
In any other case, 60 penalty units.

S. 110C
inserted by
No. 32/2019
s. 46.

110C Review of decision to issue notice to owner of registered mine land

- (1) A person whose interests are affected by a decision of the Minister to serve a notice under section 110B(2) or vary a notice under section 110B(4) may apply to the Tribunal for review of the decision.
- (2) An application for review must be made within 28 days after the later of the following—
- (a) the day on which the notice, or notice of the variation, is served;
 - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision to serve or vary the notice—
 - (i) the day on which the statement of reasons is given to the person; or
 - (ii) the day on which the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

- (3) A person cannot apply under subsection (1) for review of the variation of a notice if the purpose of the variation is limited to—
- (a) correcting a minor or technical error in the notice; or
 - (b) extending the period within which an action required by the notice must be taken; or
 - (c) reducing the period during which the doing of any activity or class of activity is prohibited.

Division 5—General

Pt 12 Div. 5
(Heading)
inserted by
No. 68/2014
s. 57(c).

111 Offences by corporations

- (1) In this section, *officer*—

- (a) in relation to a corporation within the meaning of the Corporations Act, has the same meaning as in section 9 of that Act; and
- (b) in relation to a corporation which is not a corporation within the meaning of that Act, means any person (by whatever name called) who is concerned or takes part in the management of the corporation—

S. 111(1)(a)
substituted by
No. 44/2001
s. 3(Sch.
item 82.1(a)).

S. 111(1)(b)
amended by
No. 44/2001
s. 3(Sch.
item 82.1(b)).

but does not include an employee of the corporation.

- (2) If a corporation is guilty of an offence against this Act or a regulation, any officer of the corporation who was in any way, by act or omission, knowingly concerned in or party to the commission of the offence is also guilty of that offence and liable to the penalty for that offence.

- (3) If in a proceeding for an offence against this Act or a regulation it is necessary to establish the intention of a corporation, it is sufficient to show that a servant or agent of the corporation had that intention.
- (4) A statement made by an officer of a corporation is admissible as evidence against the corporation in any proceeding against the corporation for an offence against this Act or a regulation.

S. 111A
inserted by
No. 82/2000
s. 65.

111A Default penalties

- (1) If a person is convicted of an offence against this Act in respect of which a default penalty is provided, the person is guilty of a further offence for each day the offence continues after the conviction, and is liable to be fined up to the amount specified as the default penalty.
- (2) This section does not apply if, owing to a circumstance such as the loss of a document needed to comply with this Act, it is not possible for a person to comply with the provision in respect of which the offence was committed.

Part 13—Miscellaneous

112 Surveys, searches and drilling operations

- S. 112
(Heading)
amended by
No. 68/2014
s. 58(1).
- (1) The Minister may authorise in writing any person to enter, or fly over, any land for the purpose of making a land, mining, geological survey or searching for stone on behalf of the Department.
- S. 112(1)
substituted by
No. 82/2000
s. 66(1),
amended by
No. 68/2014
s. 58(2)(a).
- (2) The Minister may authorise in writing any person to enter any land for the purpose of the carrying out by the Department of any drilling operations for minerals.
- S. 112(2)
amended by
No. 82/2000
s. 66(2).
- (3) A person authorised to enter land under subsection (1) or (2)—
- (a) may do any thing on the land that is necessary for the purposes of the survey, search or drilling operations; and
- S. 112(3)(a)
amended by
Nos 82/2000
s. 66(2),
68/2014
s. 58(2)(b).
- (b) must cause as little harm and inconvenience and do as little damage as possible to the land and anything on or growing on the land; and
- (c) must remain on the land only for so long as is reasonably necessary; and
- (d) must remove from the land on completion of the survey, search or drilling operations all plant, machinery, equipment, goods or buildings brought onto, or erected on, the land other than any of those things that the owner or occupier agrees may be left on the land; and
- S. 112(3)(d)
amended by
Nos 82/2000
s. 66(2),
68/2014
s. 58(2)(b).

S. 112(3)(e)
amended by
Nos 82/2000
s. 66(2),
68/2014
s. 58(2)(b).

(e) must leave the land, as nearly as possible, in the condition in which it was immediately before the commencement of the survey, search or drilling operations; and

(f) must use the person's best endeavours to co-operate with the owner and occupier.

S. 112(4)
substituted by
No. 82/2000
s. 66(3).

(4) Part 8 applies to any drilling operation under subsection (2)—

(a) as if a reference in that Part to a licensee was a reference to the Department; and

(b) as if a reference in that Part to the approval of the work plan or the doing of work under the licence was a reference to the carrying out of the drilling operation.

(5) Compensation is not payable for any loss or damage arising from the making of a survey under subsection (1).

S. 112A
inserted by
No. 59/2010
s. 28.

112A Minister may require review of economic viability of mining of minerals to which a retention licence applies

(1) The Minister may require the holder of a retention licence—

(a) to re-evaluate the economic viability of the mining of a mineral to which the licence relates from the land covered by the licence; and

(b) to report to the Minister in writing the results of the re-evaluation.

(2) In making such a requirement, the Minister—

(a) must make the requirement by giving the licensee written notice of the requirement; and

- (b) must allow the licensee at least 90 days within which to comply with the requirement.
- (3) The Minister may, on the written application of the licensee, allow the licensee more time within which to comply with a requirement made under this section.
- (4) The Minister may not make a requirement under this section if the licensee has already complied with a requirement made under this section on 2 occasions in the 5 years immediately before the making of the requirement.
- (5) If the licensee fails to comply with a requirement made under this section, the Minister may cancel the licence.

113 Discovery of uranium or thorium to be reported

- (1) A person who discovers any uranium or thorium in or on any land in Victoria must immediately report in writing that discovery to the Minister.
Penalty: 100 penalty units.
- (2) The Minister may, by notice served on the person reporting a discovery under subsection (1), require that person to give him or her the further particulars relating to the discovery specified in the notice within the period specified in the notice.
- (3) A person must comply with a notice served on that person under subsection (2).
Penalty: 50 penalty units.
- (4) A person must not possess, use, sell or otherwise dispose of any uranium or thorium except under and in accordance with an authority granted by the Minister.
Penalty: 100 penalty units.

- (5) An authority granted by the Minister under subsection (4) may contain any terms and conditions that the Minister thinks fit.
- (6) The Minister may, by notice served on a person who is unlawfully in possession of any uranium or thorium, require that person to deliver the uranium or thorium to the Minister at the time and place specified in the notice.
- (7) A person must comply with a notice served on that person under subsection (6).

Penalty: 100 penalty units.

S. 113A
inserted by
No. 8/2017
s. 6.

113A Discovery of coal seam gas to be reported

- (1) A person who discovers any coal seam gas on any land must report in writing that discovery to the Minister as soon as practicable.
- (2) The Minister may, by notice served on the person reporting a discovery under subsection (1), require that person to provide the Minister with further details relating to the discovery specified in the notice within the period specified in the notice.
- (3) A person must comply with a notice served on that person under subsection (2).

Penalty: 50 penalty units.

114 Abandoned plant becomes property of the Crown

- (1) If the licensee does not remove any plant from any land before, or within the period of 6 months after, the licence ceases to apply to that land, the plant becomes the absolute property of the Crown at the end of that period of 6 months.
- (2) Subsection (1) does not apply to plant brought onto land in connection with the rehabilitation of the land.

- (3) The Minister may direct the former licensee to remove plant referred to in subsection (2) and if the former licensee does not do so within the period of 6 months after the giving of that direction, the plant becomes the absolute property of the Crown at the end of that period of six months.
- (4) Plant that becomes the property of the Crown may be disposed of, or otherwise dealt with, by the Minister.
- (5) Any money received by the Minister on the sale of property under subsection (4) must—
- (a) if the cost of taking action under section 83(1) in relation to any land covered by the licence exceeds the amount of the bond or bonds, be applied towards covering that cost;
 - (b) in any other case, be paid into the Consolidated Fund.
- (6) If subsection (5)(a) applies and money remains after the cost referred to in that subsection has been covered, that remaining money must be paid into the Consolidated Fund.
- (7) Nothing in this section applies to any plant that is on any land owned by the licensee or former licensee.

S. 114(5)
substituted by
No. 82/2000
s. 67.

S. 114(6)
inserted by
No. 82/2000
s. 67.

S. 114(7)
inserted by
No. 82/2000
s. 67.

115 Occupiers liability

- (1) For the purposes of Part IIA of the **Wrongs Act 1958** and the rules of common law with respect to the liability of occupiers to persons entering on their premises, the licensee is the occupier of that part of any premises on which work is being done under a licence and not any other person.

S. 115(3)
substituted by
No. 68/2014
s. 59.

- (2) An occupier of any premises covered by a licence does not, unless the occupier is also the licensee, owe a duty to take care of any person entering on those premises for the purpose of doing work under the licence.
- (3) An occupier of any premises does not owe a duty to take care of any person entering those premises for the purposes of surveying the boundaries of land proposed to be covered by a mining licence, prospecting licence or retention licence—
- (a) with the consent of the occupier; or
 - (b) under an authority to enter granted under section 26AS.

S. 115(3A)
inserted by
No. 68/2014
s. 59.

- (3A) Subsection (3) does not apply if the occupier is also the person who intends to apply for the mining licence, prospecting licence or retention licence (as the case requires).
- (4) Subsections (2) and (3) apply despite anything to the contrary in Part IIA of the **Wrongs Act 1958** or the rules of common law with respect to the liability of an occupier to a person entering on the occupier's premises.
- (5) Nothing in subsection (2) or (3) limits any other duty owed by an occupier to a person entering on the occupier's premises in the circumstances described in that subsection.

116 Licensee must supply information

- (1) A licensee must in the prescribed form and at the prescribed times furnish to the Minister the prescribed information relating to work done under the licence.

Penalty: 20 penalty units.

(2) A document furnished under subsection (1) is the property of the Crown and may be made available by the Minister for inspection by the public at any time after the licence ceases to be in force.

(3) The Minister may also make a document furnished under subsection (1) available for inspection by the public—

S. 116(3)
substituted by
No. 82/2000
s. 68.

(a) if the licensee consents to the Minister doing so; or

(b) if the licensee refuses to consent to the Minister doing so, but the Minister is satisfied that the licensee is acting unreasonably in refusing to consent and that it is in the public interest that the information should be released while the licence is still in force.

(4) Regulations made under subsection (1) may require the licensee to lodge a detailed current plan of any mine within the area covered by the licence.

S. 116(4)
inserted by
No. 82/2000
s. 68.

116A Holder of extractive industry work authority or consent to supply information

S. 116A
inserted by
No. 57/2009
s. 30.

(1) The holder of an extractive industry work authority must (in the prescribed form and at the prescribed times) furnish to the Minister the prescribed information relating to work done under the extractive industry work authority.

Penalty: 20 penalty units.

(2) The holder of a consent under section 77A must (in the prescribed form and at the prescribed times) furnish to the Minister the prescribed information relating to any surveys and other operations authorised by the consent.

Penalty: 20 penalty units.

- (3) A document furnished under subsection (1) or (2) is the property of the Crown and may be made available by the Minister for inspection by the public at any time after the extractive industry work authority or consent under section 77A ceases to be in force.

117 Obtaining licence or other authority dishonestly

A person must not, by any false statement, misrepresentation or other dishonest means, obtain or attempt to obtain a licence or other authority, or the renewal of a licence or other authority.

Penalty: 50 penalty units.

118 Pecuniary interests

- (1) This section applies to a person who is for the time being—

S. 118(1)(a)
amended by
No. 76/1998
s. 31(l).

(a) the Department Head; or

(b) an officer of the public service employed in the administration of this Act; or

S. 118(1)(c)
amended by
Nos 82/2000
s. 61(b),
6/2009
s. 37(a).

(c) a Chief Inspector; or

S. 118(1)(d)
amended by
No. 6/2009
s. 37(b).

(d) an inspector; or

(e) a mining warden.

- (2) A person to whom this section applies must comply with any of the requirements of the regulations with respect to disclosure of interests.

Penalty: 50 penalty units.

119 Secrecy

- (1) This section applies to a person who has at any time—
- (a) exercised a power or discharged a function under this Act or the regulations; or
 - (b) been employed for the purposes of, or in connection with, the administration of this Act.

- (2) A person to whom this section applies must not divulge or communicate to any person or publish any information obtained by him or her from an authority holder in the course of his or her official duties unless the divulgence, communication or publication is made—

S. 119(2)
amended by
No. 68/2014
s. 60(1)(a).

- (a) with the written consent of the authority holder or the Minister; or
- (b) in connection with the administration of this Act; or
- (c) for the purpose of any legal proceedings under this Act.

Penalty: 100 penalty units.

- (3) The Minister may only consent under subsection (2)(a) if he or she is of the opinion that the authority holder is unreasonably withholding consent.

S. 119(3)
amended by
No. 68/2014
s. 60(1)(b).

- (4) In this section—

authority holder has the same meaning as in section 77U.

S. 119(4)
inserted by
No. 68/2014
s. 60(2).

120 Delegation

S. 120(1)
amended by
Nos 46/1998
s. 7(Sch. 1),
76/1998
s. 31(l).

(1) The Minister may, by instrument, delegate to the Department Head or any employee in the Department any power of the Minister under this Act or the regulations, other than this power of delegation.

S. 120(2)
amended by
Nos 46/1998
s. 7(Sch. 1),
76/1998
s. 31(l).

(2) The Department Head may, by instrument, delegate to any employee in the Department any power of the Department Head under this Act or the regulations, other than this power of delegation and a power delegated to him or her by the Minister.

S. 120(3)
inserted by
No. 57/2009
s. 31.

(3) The Department Head may, by instrument, delegate to any employee in the Department any power or function the Department Head has as a referral authority under the **Planning and Environment Act 1987** or regulations under that Act.

S. 120A
inserted by
No. 63/2006
s. 53.

120A Ministerial guidelines

- (1) The Minister may, from time to time, issue guidelines relating to any of the objectives or purposes of this Act or the regulations made under this Act.
- (2) A guideline has no effect until a notice of its making has been published in the Government Gazette.
- (3) The guidelines must be made available for public inspection free of charge—
- (a) at the principal office of the Department and major regional offices of the Department; or
 - (b) in electronic form published on the Department's Internet site.

121 Immunity

- (1) Nothing done or omitted to be done by the Department Head or an employee of the Department or a mining warden in good faith in the exercise or purported exercise of a power or the discharge or purported discharge of a duty under this Act or the regulations subjects him or her personally to any liability.
- (2) Any liability that would, but for subsection (1), attach to a person attaches instead to the Crown.

S. 121(1)
amended by
Nos 46/1998
s. 7(Sch. 1),
76/1998
s. 31(f).

121A State liability

- (1) Despite any Act (other than the Charter of Human Rights and Responsibilities) or law to the contrary, the State is not liable in any way for any loss, damage or injury of any kind resulting directly or indirectly from or arising out of—
 - (a) the amendments made to this Act by the **Resources Legislation Amendment (Fracking Ban) Act 2017**; or
 - (b) the refusal to accept an application for an exploration licence, a mining licence or a retention licence to the extent that the licence specifies that it is to relate to coal seam gas; or
 - (c) the refusal to grant an exploration licence, a mining licence or a retention licence that would entitle the holder to explore for coal seam gas; or
 - (d) the imposition of conditions relating to coal seam gas on an exploration licence, a mining licence or a retention licence; or
 - (e) the variation of conditions relating to coal seam gas on an exploration licence, a mining licence or a retention licence; or

S. 121A
inserted by
No. 8/2017
s. 7.

- (f) the refusal to approve a work plan under which the exploration for, or the mining of, coal seam gas is proposed to be carried out; or
 - (g) the refusal to approve a work plan under which hydraulic fracturing is proposed to be carried out; or
 - (h) a decision under this Act not being made in relation to an application for—
 - (i) an exploration licence, a mining licence or a retention licence to the extent that the licence specifies that it is to relate to coal seam gas; or
 - (ii) an exploration licence, a mining licence or a retention licence that would entitle the holder to explore for coal seam gas; or
 - (iii) the variation of conditions relating to coal seam gas on an exploration licence, a mining licence or a retention licence; or
 - (iv) the approval of a work plan under which the exploration for, or the mining of, coal seam gas is proposed to be carried out; or
 - (v) the approval a work plan under which hydraulic fracturing is proposed to be carried out.
- (2) Subsection (1)(b), (c), (d), (e), (f) and (g) apply to a refusal, imposition or variation made on or after 24 August 2012 and whether any loss, damage or injury resulting from or arising out of that refusal, imposition or variation is incurred before, on or after the commencement of this section.

- (3) Subsection (1)(h) applies whether any loss, damage or injury resulting from or arising out of the fact that a decision is not made is incurred before, on or after the commencement of this section.

121B Minister may pay for surrender of licences

S. 121B
inserted by
No. 8/2017
s. 7.

- (1) The Minister may pay an amount, determined by Order made under subsection (2), for the surrender within 6 months after the commencement of the **Resources Legislation Amendment (Fracking Ban) Act 2017** of any of the following licences if the licence is in force immediately before that commencement—
- (a) an exploration licence under which the holder is entitled to carry out exploration for coal seam gas;
 - (b) a mining licence or retention licence under which the holder is entitled to carry out mining of or exploration for coal seam gas.
- (2) The Minister may determine, by Order published in the Government Gazette, the amount for the purposes of subsection (1).

122 Service of documents

- (1) If by or under this Act a document is required or permitted to be served on a person then, unless otherwise provided by this Act, the document may be served—
- (a) by delivering it personally to the person to be served; or
 - (b) by leaving it at that person's usual or last known place of residence with a person apparently over the age of 16 years and apparently residing there; or

- (c) by sending it by post addressed to the person to be served at that person's usual or last known place of residence; or
- (d) in the case of service on an owner of any land or premises whose name and address are not known to the server, by serving it on the occupier of the land or premises concerned in accordance with paragraph (a) or (b) or, if there is no occupier, by posting it up on a conspicuous part of the land or premises; or
- (e) in the case of service on an occupier of any land or premises whose name and address are not known to the server, by posting it up on a conspicuous part of the land or premises.

(2) A document that is to be served on the owner or occupier of any land or premises may be addressed by the description of "the owner" or "the occupier" of the land or premises concerned (naming it or them), without further name or description.

S. 122(3)
amended by
No. 44/2001
s. 3(Sch.
item 82.2).

(3) The provisions of this section are additional to and do not take away from the provisions of sections 109X and 601CX of the Corporations Act.

(4) If a document is properly served on the owner or occupier of any land or premises, that service is binding on every subsequent owner or occupier to the same extent as if it had been served on that subsequent owner or occupier.

S. 123
amended by
No. 27/1991
s. 4(5),
substituted by
No. 82/2000
s. 69.

123 Supreme Court—limitation of jurisdiction

It is the intention of section 89(3), as inserted by section 60 of the **Mineral Resources Development (Amendment) Act 2000**, to alter or vary section 85 of the **Constitution Act 1975**.

124 Regulations

- (1) The Governor in Council may make regulations for or with respect to—
- (a) the rate or method of assessment, and the times of payment, of royalties; and
 - (aa) methodologies for measuring the net wet specific energy content of lignite; S. 124(1)(aa) inserted by No. 59/2010 s. 49.
 - (ab) the time at which, and the manner in which, lignite may be sampled for the purpose of measuring the net wet specific energy content of lignite; S. 124(1)(ab) inserted by No. 59/2010 s. 49.
 - (b) applications for a licence and renewal of a licence; and
 - (ba) applications for an extractive industry work authority and variation of an extractive industry work authority; and S. 124(1)(ba) inserted by No. 6/2009 s. 38(1).
 - (c) the advertisement of applications for licences; and S. 124(1)(c) amended by No. 82/2000 s. 70(a).
 - (d) the manner of surveying the boundaries of land; and S. 124(1)(d) substituted by No. 68/2014 s. 61.
 - * * * * *
 - (f) the information to be contained in a work plan or in a notice of variation of an approved work plan; and
 - (g) applications for a miner's right; and
 - (h) applications for a tourist fossicking authority; and S. 124(1)(e) repealed by No. 25/2008 s. 16(2).

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S. 124(1)(i)
repealed by
No. 59/2010
s. 42(4).

* * * * *

- (j) the mining register; and
- (k) prescribing documents that may be registered; and
- (l) the qualifications of mine managers with respect to the administration of first-aid and the use of explosives; and

S. 124(1)(m)
repealed by
No. 82/2000
s. 70(b), new
s. 124(1)(m)
inserted by
No. 57/2009
s. 32.

- (m) the method by which the amount of a mine stability levy is determined; and

S. 124(1)(n)
repealed by
No. 82/2000
s. 70(b), new
s. 124(1)(n)
inserted by
No. 57/2009
s. 32.

- (n) the date by which the mine stability levy or a part of the mine stability levy must be paid; and

S. 124(1)(o)
repealed by
No. 63/2006
s. 54, new
s. 124(1)(o)
inserted by
No. 57/2009
s. 32.

- (o) the method by which the mine stability levy or a part of the mine stability levy must be paid; and

S. 124(1)(oa)
inserted by
No. 57/2009
s. 32.

- (oa) the period to which the mine stability levy will relate; and

- (ob) prescribing requirements for licensees or holders of extractive industry work authorities that relate to geotechnical or hydrogeological risks to public safety, the environment or infrastructure; and
- (oc) prescribing in relation to the rehabilitation and closure of mines on declared mine land and the rehabilitation, management and monitoring of registered mine land—
- (i) the matters to be included in and requirements of declared mine rehabilitation plans; and
 - (ii) the matters to be included in and the process for determining the closure criteria for the closure of a mine on declared mine land; and
 - (iii) the risks to public safety, the environment and infrastructure to be taken into account in determining the closure criteria for the closure of a declared mine including the risks posed by geotechnical, hydrogeological, water quality or hydrological matters; and
 - (iv) the criteria and process for assessing the rehabilitation of declared mine land; and
 - (v) the process for registering declared mine land in the declared mine land register; and
 - (vi) the process and method for determining the amount to be paid to the Minister by a declared mine licensee or for determining payment into the Declared Mine Fund under section 83A; and

S. 124(1)(ob)
inserted by
No. 57/2009
s. 32,
amended by
No. 55/2010
s. 56(2).

S. 124(1)(oc)
inserted by
No. 32/2019
s. 47(1).

Mineral Resources (Sustainable Development) Act 1990
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S. 124(1)(od)
inserted by
No. 32/2019
s. 47(1).

(od) the carrying out of a function or power by
the Rehabilitation Authority; and

(p) prescribing—

(i) infringements for which an
infringement notice may be served; and

S. 124(1)
(p)(ii)(iii)
repealed by
No. 32/2006
s. 94(Sch.
item 33(4)(a)).

* * * * *

S. 124(1)(q)
amended by
No. 32/2006
s. 94(Sch.
item 33(4)(b)).

(q) the penalties for any infringement; and

S. 124(1)(qa)
inserted by
No. 86/1993
s. 35(1),
repealed by
No. 55/2010
s. 55.

* * * * *

S. 124(1)(qb)
inserted by
No. 86/1993
s. 35(1),
amended by
No. 6/2009
s. 38(2).

(qb) the health and safety of members of the
public in relation to work done under a
licence or an extractive industry work
authority;

S. 124(1)(qc)
inserted by
No. 86/1993
s. 35(1).

(qc) requiring that any information required by
the regulations be in the form of, or be
supported by, a statutory declaration;

(r) the disposal of, or otherwise dealing with, by
the Minister of plant that becomes the
property of the Crown under section 114;
and

- (s) the information to be furnished to the Minister under section 116(1) and the times at which it must be furnished; and
 - (t) requirements with respect to the disclosure of interests by persons to whom section 118 applies; and
 - (u) applications under clause 2(10) of Schedule 2; and
 - (v) requiring the payment of fees for anything done under this Act or the regulations and prescribing those fees; and
 - (w) prescribing forms; and
 - (x) any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) A power conferred by this Act to make regulations may be exercised—
- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified case or class of case; and
 - (b) so as to make, with respect to the cases in relation to which the power is exercised—
 - (i) the same provision for all cases in relation to which the power is exercised, or different provisions for different cases or classes of case, or different provisions for the same case or class of case for different purposes; or
 - (ii) any such provision either unconditionally or subject to any specified condition.

**S. 124(1)(v)
substituted by
No. 82/2000
s. 70(c).**

- (3) Regulations made under this Act may be made—
- (a) so as to apply—
 - (i) at all times or at a specified time; or
 - (ii) throughout the whole of the State or in a specified part of the State; or
 - (iii) as specified in both subparagraphs (i) and (ii); and
 - (b) so as to require a matter affected by the regulations to be—
 - (i) in accordance with a specified standard or specified requirement; or
 - (ii) approved by or to the satisfaction of a specified person or a specified class of persons; or
 - (iii) as specified in both subparagraphs (i) and (ii); and
 - (c) so as to apply, adopt or incorporate (with or without modification) any matter contained in any document as at the time the regulations are made or at any time before then; and
 - (d) so as to confer a discretionary authority or impose a duty on a specified person or a specified class of persons; and
 - (e) so as to provide in a specified case or class of case for the exemption of persons or things or a class of persons or things from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified; and

(f) so as to impose a penalty not exceeding 100 penalty units for a contravention of the regulations and, in the case of a contravention of a continuing nature, a further penalty not exceeding 40 penalty units for each day during which the contravention continues after conviction.

(3A) Regulations made under subsection (1)(qa) or (qb) must not be inconsistent with any provision of the **Dangerous Goods Act 1985** or the regulations made under that Act and any regulation made under that subsection that is so inconsistent is, to the extent of the inconsistency, of no effect.

S. 124(3A)
inserted by
No. 86/1993
s. 35(2).

(4) Regulations made under this Act may be disallowed in whole or in part by resolution of either House of Parliament.

S. 124(4)
amended by
No. 78/2010
s. 24(Sch. 1
item 20.1).

* * * * *

S. 124(5)
repealed by
No. 78/2010
s. 24(Sch. 1
item 20.2).

(6) If, under subsection (4), either House of Parliament disallows a regulation, no regulation which is the same in substance as the disallowed regulation may be made within 6 months after the date of the disallowance, unless the resolution to disallow the regulation has been rescinded by the House of Parliament by which it was passed.

(7) Any regulation made in contravention of subsection (6) is void.

(8) Regulations made under subsection (1)(v) may—
(a) vary according to differences in time, place or circumstance; and

S. 124(8)
inserted by
No. 69/2004
s. 56.

S. 124(9)
inserted by
No. 32/2019
s. 47(2).

- (b) provide for different fees for—
 - (i) different activities or classes of activities; or
 - (ii) different cases or classes of cases; or
 - (iii) different modes of providing any service in respect of which those fees apply.

- (9) The Governor in Council may make regulations containing provisions of a transitional nature, including—
 - (a) provisions of an application and savings nature, arising as a result of the enactment of the **Mineral Resources (Sustainable Development) Amendment Act 2019**; and
 - (b) provisions amending or repealing regulations made under this Act which are required by or necessary as a result of the enactment of that Act.

S. 124(10)
inserted by
No. 32/2019
s. 47(2).

- (10) Regulations made under subsection (9) may have a retrospective effect to a day on or after the commencement of this section.

S. 124(11)
inserted by
No. 32/2019
s. 47(2).

- (11) To the extent that regulations made under subsection (9) have a retrospective effect, the regulations do not operate so as—
 - (a) to affect, in a manner prejudicial to any person, the rights of that person existing before the date of the regulations coming into operation; or
 - (b) to impose liabilities on any person in respect of anything done or omitted to be done before the date of the regulations coming into operation.

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No. 92 of 1990
Part 13—Miscellaneous

(12) Regulations made under subsection (9) have effect despite anything to the contrary in any Act (other than this Act or the **Charter of Human Rights and Responsibilities Act 2006**) or in any subordinate instrument.

S. 124(12)
inserted by
No. 32/2019
s. 47(2).

* * * * *

S. 125
repealed by
No. 86/1993
s. 36.

Part 14—Repeals, amendments, savings and transitionals

S. 126
amended by
No. 70/2013
s. 3(Sch. 1
item 34),
repealed by
No. 68/2014
s. 62.

* * * * *

127 Validation of existing titles

- (1) A lease, licence, claim, right, permit or other authority granted, issued or renewed under the **Mines Act 1958** is not invalid only because there was a failure to comply with any requirement of that Act or of the regulations made under that Act specifying a time before which any act or thing must be done or not done.
- (2) An instrument referred to in subsection (1) has, and must be taken always to have had, the same operation and effect that it would have had if this section had been in operation at the time it was granted, issued or renewed, as the case requires.
- (3) The rights of the parties to any proceeding commenced in a court before 2 November 1989 must be determined as if this section had not been enacted.

S. 128
repealed by
No. 68/2014
s. 62.

* * * * *

129 Savings and transitionals

- (1) Schedule 2 contains saving and transitional provisions.

(2) The provisions of Schedule 2 are additional to and do not take away from the provisions of the **Interpretation of Legislation Act 1984**.

**130 Saving and transitional provisions—
2000 amendments**

S. 130
inserted by
No. 82/2000
s. 71.

Schedule 5 contains saving and transitional provisions arising from the amendments made to this Act by the **Mineral Resources Development (Amendment) Act 2000**.

**131 Saving and transitional provisions—
2001 amendments**

S. 131
inserted by
No. 71/2001
s. 5.

Schedule 6 contains saving and transitional provisions arising from the amendments made to this Act by the **Mineral Resources Development (Further Amendment) Act 2001**.

132 Transitional provision—2005 amendments

S. 132
inserted by
No. 89/2005
s. 6.

The amendments made to this Act by the **Mineral Resources Development (Brown Coal Royalties) Act 2005** do not affect the rate at which royalties are payable in respect of any lignite produced before the commencement of that Act.

**133 Validation of certain exploration and mining
work—2006 amendments**

S. 133
inserted by
No. 63/2006
s. 55.

(1) Despite section 45 (as in force immediately before the commencement date), a licensee who, before the commencement date, did any work under the licence within an area of land prohibited by section 45(1)(a)(i) to (x) (as in force immediately before the commencement date) or within 100 metres below that area is deemed always to have complied with section 45 in respect of that work if—

- (a) at the time the work was done an approved work plan and, in the case of a mining licence, a work authority, was registered in respect of the licence; and
 - (b) the work was done in accordance with the approved work plan.
- (2) Nothing in subsection (1) affects the rights of the parties in the proceedings in VCAT known as *Tech-Sol Resources Pty Ltd v Minister for Energy Industries and Resources* [2004] VCAT 1648 and [2004] VCAT 1654.
- (3) In this section ***commencement date*** means the date of commencement of section 34 of the **Mineral Resources Development (Sustainable Development) Act 2006**.

S. 134
inserted by
No. 63/2006
s. 55.

134 Change of title provision—2006 amendments

On the commencement of section 4 of the **Mineral Resources Development (Sustainable Development) Act 2006**, in any Act (other than this Act) or in any instrument made under any Act or in any other document of any kind, any reference to the **Mineral Resources Development Act 1990** is deemed to be a reference to the **Mineral Resources (Sustainable Development) Act 1990** so far as it applies to any period on or after that commencement, unless the contrary intention appears.

S. 135
inserted by
No. 63/2006
s. 56.

135 Transitional provision—2006 amendments

A person who held a licence immediately before the commencement of section 26(2) of the **Mineral Resources Development (Sustainable Development) Act 2006** is not required to provide a community engagement plan in accordance with section 40(3)(b)(ii) as part of the work plan for that licence if the person before that commencement had lodged a work plan under

section 40 and the work plan had not been approved.

Note

A licensee who is not required under section 135 to provide a community engagement plan under section 40 as part of the initial work plan may be required to provide a community engagement plan when the work plan is subsequently varied or the licence is renewed.

135A Transitional provision—2010 amendments abolishing the Mining and Environment Advisory Committee

S. 135A
inserted by
No. 59/2010
s. 50.

On the day section 39 of the **Mineral Resources Amendment (Sustainable Development) Act 2010** comes into operation—

- (a) the Mining and Environment Advisory Committee is abolished; and
- (b) a person holding office as a member of the Mining and Environment Advisory Committee ceases to hold office.

136 Saving and transitional provisions—2009 amendments

S. 136
inserted by
No. 6/2009
s. 39.

Schedule 7 has effect.

137 Savings and transitional provisions—2010 amendments

S. 137
inserted by
No. 59/2010
s. 29.

Schedule 8 has effect.

138 Transitional provision—2012 amendments

S. 138
inserted by
No. 84/2012
s. 8.

- (1) A court may make an order under section 110(3A) in relation to any offence against section 110(3) committed after the commencement of section 6 of the amending Act, whether or not the notice in respect of which the offence is committed is issued before or after that commencement.

- (2) If an offence against section 110(3) is committed between 2 dates and section 6 of the amending Act commences on a date between those 2 dates, for the purposes of subsection (1), the offence is taken to have been committed after that commencement.
- (3) The Minister may apply for an injunction under section 110AA(1) in relation to any non-compliance with a notice that occurs after the commencement of section 7 of the amending Act, whether or not the notice is issued before or after that commencement.
- (4) If non-compliance with a notice occurs between 2 dates and section 7 of the amending Act commences on a date between those 2 dates, for the purposes of subsection (3), the non-compliance is taken to have occurred after that commencement.
- (5) In this section, *amending Act* means the **Mineral Resources (Sustainable Development) Amendment Act 2012**.

S. 139
inserted by
No. 10/2014
s. 40.

**139 Savings and transitional provisions—
2014 amendments**

Schedule 9 has effect.

S. 140
inserted by
No. 68/2014
s. 65.

**140 Savings and transitional provisions—Resources
Legislation Amendment (BTEX Prohibition and
Other Matters) Act 2014**

- (1) A person who made an application for a mining licence, prospecting licence or retention licence (whether or not that application has been granted) immediately before the commencement of section 15(1BH) of the **Mineral Resources (Sustainable Development) Act 1990** as inserted by section 20 of the **Resources Legislation Amendment (BTEX Prohibition and Other Matters) Act 2014** must continue to comply with

sections 38AA to 38AE of the **Mineral Resources (Sustainable Development) Act 1990** (as in force immediately before their repeal).

- (2) The requirements of section 15(1BH) of the Mineral Resources (Sustainable Development) Act 1990 as inserted by section 20 of the Resources Legislation Amendment (BTEX Prohibition and Other Matters) Act 2014 do not apply to an application for a mining licence, prospecting licence or retention licence that was made immediately before the commencement of that section.
- (3) If, immediately before the commencement of section 37 of the **Resources Legislation Amendment (BTEX Prohibition and Other Matters) Act 2014**, the Minister received a request to approve an instrument of transfer under section 33 of the **Mineral Resources (Sustainable Development) Act 1990**, section 33(3) of the **Mineral Resources (Sustainable Development) Act 1990** (as in force immediately before that commencement) applies to that request for approval.
- (4) A person who complied with the requirements of section 77S(1) of the **Mineral Resources (Sustainable Development) Act 1990** (as in force immediately before the commencement of section 48 of the **Resources Legislation Amendment (BTEX Prohibition and Other Matters) Act 2014**) is not required to comply with section 77S(1) as amended by section 48 of the **Resources Legislation Amendment (BTEX Prohibition and Other Matters) Act 2014** in respect of that application for an extractive industry work authority.

S. 141
inserted by
No. 32/2019
s. 62.

141 Transitional provision—Mineral Resources (Sustainable Development) Amendment Act 2019

- (1) A prospecting licence that was in force immediately before the commencement of section 54 of the **Mineral Resources (Sustainable Development) Amendment Act 2019** is taken, on and after that commencement, to be in force for the period beginning on the date the prospecting licence is registered and ending on the seventh anniversary of that date, unless sooner surrendered or cancelled.
- (2) Section 14B as in force on or after the commencement of section 54 of the **Mineral Resources (Sustainable Development) Amendment Act 2019** applies to an application that is in existence but not decided immediately before that commencement.

S. 142
inserted by
No. 32/2019
s. 49.

142 Transitional provisions—Mineral Resources (Sustainable Development) Amendment Act 2019

- (1) The Rehabilitation Authority must prepare or continue and complete the annual report of the Commissioner for a period of time prior to 30 September 2020, if this has not been completed by the Commissioner before the commencement of section 15 of the **Mineral Resources (Sustainable Development) Amendment Act 2019**.
- (2) The Rehabilitation Authority must complete any review of a Latrobe Valley licensee commenced by the Commissioner under section 84AZK before the commencement of section 42 of the **Mineral Resources (Sustainable Development) Amendment Act 2019** if it is not complete on that commencement.

- (3) The Rehabilitation Authority must complete the investigation of a matter referred to the Commissioner by the Minister under section 84AQ before the commencement of section 22 of the **Mineral Resources (Sustainable Development) Amendment Act 2019** that is incomplete immediately before that commencement.
- (4) Any notice issued by the Commissioner under Division 6 of Part 7A before the commencement of sections 32 and 33 of the **Mineral Resources (Sustainable Development) Amendment Act 2019** is taken on and from that commencement to be a notice issued by the Rehabilitation Authority.
- (5) On and from the commencement of section 15 of the **Mineral Resources (Sustainable Development) Amendment Act 2019** any records of the Commissioner are taken to be records of the Rehabilitation Authority.

Mineral Resources (Sustainable Development) Act 1990
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Schedules

Schedules

Sch. 1
amended by
Nos 27/1991
s. 4(6),
29/2006 s. 3,
63/2006 s. 57,
33/2014 s. 12,
repealed by
No. 68/2014
s. 62.

* * * * *

Schedule 2—Savings and transitionals

Section 129

1. (1) Subject to anything provided by this Act expressly or by necessary implication, the repeal by this Act of a provision of the **Mines Act 1958** does not disturb the continuity of status, operation or effect of—
 - (a) any lease, licence, claim, right, permit, certificate or authority granted, issued, given or renewed; or
 - (b) any application for, or for the renewal of, a lease, licence, claim, right, permit, certificate or authority made; or
 - (c) any objection made or lodged; or
 - (d) any agreement (including a tribute agreement) or appointment made; or
 - (e) any Order made; or
 - (f) any approval, consent or other authority granted or given; or
 - (g) any money borrowed, lent or appropriated or any amount payable; or
 - (h) any bond or security lodged; or
 - (i) any surety or security given; or
 - (j) any charge on property created; or
 - (k) any property vested; or
 - (l) any notice given or served; or
 - (m) any liability incurred; or
 - (n) any power conferred; or
 - (o) any entitlement granted; or
 - (p) any right or privilege given or acquired; or

(q) any exemption or immunity granted or conferred; or

(r) any circumstances created; or

(s) any other thing done—

by or under that provision before its repeal.

(2) The repeal by this Act of a provision of the **Mines Act 1958** does not disturb the continuity of status, operation or effect of the registration under the **Transfer of Land Act 1958** of any document existing for the purposes of, or in connection with, that provision or the capacity of any such document to be registered under the **Transfer of Land Act 1958**.

2. (1) In this clause—

corresponding new title, in relation to a former title, means the licence, right or authority of the kind specified opposite the former title in column 2 of the Table in subclause (2);

former title means lease, licence, claim, right, permit or authority of a kind specified in column 1 of the Table in subclause (2).

(2) A lease, licence, claim, right, permit or authority under the **Mines Act 1958** of a kind specified in column 1 of the Table that is in force immediately before the commencement of this clause has effect, subject to this clause, for the remainder of the term or period for which it was granted, issued or renewed (as the case requires) as if it were a licence, right or authority under this Act of the kind specified opposite it in column 2 of the Table.

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990
Schedule 2—Savings and transitionals

TABLE

<i>Column 1</i>	<i>Column 2</i>
Exploration licence	Exploration licence
Prospecting area licence	Exploration licence
Searching permit	Exploration licence
Miner's right	Miner's right
Development lease	Mining licence
Licence under section 65	Mining licence
Mining lease	Mining licence
Mining purposes licence	Mining licence
Registration of land as a claim	Mining licence
Tailings removal licence	Mining licence
Tailings treatment licence	Mining licence
Authority under section 46A(1) or 46B(1)	Tourist mine authority

- (3) A former title that, by virtue of subclause (2), continues in force as if it were a new title—
- (a) subject to paragraph (b), continues in force subject to the same covenants, conditions, restrictions, limitations, reservations, exceptions or other provisions to which it was subject immediately before the commencement of this clause; and
 - (b) may be renewed (subject to subclause (12)), transferred, varied, amalgamated, surrendered or cancelled only in accordance with this Act, despite anything to the contrary in the former title or in the **Mines Act 1958** or in the regulations made under that Act.

- (4) An application for the grant, issue or renewal of a former title made before the commencement of this clause and not determined at that commencement has effect as if it were an application for the corresponding new title.
- (5) A former title continues in operation until the determination of an application for its renewal that, by virtue of subclause (4), has effect as an application for the corresponding new title.
- (6) Section 23 applies to an application that, by virtue of subclause (4), has effect as an application for the corresponding new title as if it had been on the day of its receipt an application for a licence under this Act.
- (7) Section 26(5) applies to an application that, by virtue of subclause (4), has effect as an application for the corresponding new title as if for the reference to 3 months there were substituted a reference to 12 months.
- (8) This Act applies to an application for the renewal of an exploration licence under the **Mines Act 1958** that, by virtue of subclause (4), has effect as an application for an exploration licence under this Act as if—
 - (a) the reference in section 13(3)(a) to 2 years were a reference to 1 year; and
 - (b) it did not contain section 28.
- (9) If by virtue of subclause (4) an exploration licence under this Act is granted on an application for the renewal of an exploration licence under the **Mines Act 1958** then—
 - (a) in calculating, for the purposes of sections 16(1), 25(1)(c), 32(2) and 33, the period for which an exploration licence has been in operation account must be taken of

- the period for which the former licence was in operation; and
- (b) if the application was for the first or third renewal of the former licence, section 30 applies as if the grant of the new licence was the first or third renewal (as the case requires) of the former licence.
- (10) The holder of a former title may apply to the Minister in accordance with the regulations to have that former title converted into the corresponding new title.
- (11) The Minister may, subject to this Act, grant or refuse an application under subclause (10).
- (12) Despite subclause (3)(b), when a former title is renewed as provided for in this Schedule, the Minister may approve the continued operation of any underground workings, surface workings or open cut operations that were, immediately before the commencement of this subclause, in operation in accordance with the former title.
- (13) A person who continues any operation with the approval of the Minister under subclause (12) is not guilty of an offence under section 45(1) in respect of that operation.
- 2A. (1) Section 10 applies to tailings produced before the commencement of this clause and to which a former title within the meaning of clause 2 does not apply at that commencement.
- (2) Any tailings to which subclause (1) applies that are situated on land covered by a former title within the meaning of clause 2 that is in force immediately before the commencement of this clause must be taken to be included in the corresponding new title within the meaning of that clause.

**Sch. 2 item 2A
inserted by
No. 86/1993
s. 37.**

- (3) Despite subclause (2), the Minister may after the day on which the **Mineral Resources Development (Amendment) Act 1993** receives the Royal Assent grant a licence over tailings referred to in that subclause on an application made before that day as if those tailings were not included in the corresponding new title and, if the Minister does so, those tailings must be taken not to be, and to have never been, included in the corresponding new title by virtue of that subclause.
- (4) On the expiry without renewal of a licence referred to in subclause (3), the tailings covered by that licence must be taken to be included in any licence in which they would have been included at that time by virtue of subclause (2) but for subclause (3).
3. (1) The person nominated under section 413(1)(a) of the **Mines Act 1958** to perform the duties of the Chief Mining Inspector immediately before the commencement of section 90 of this Act holds office as chief mining inspector under and subject to this Act and the **Public Service Act 1974** on and from that commencement without any further appointment.
- (2) A person nominated under section 413(1)(b) of the **Mines Act 1958** to perform the duties of an inspector of mines immediately before the commencement of section 90 of this Act holds office as an inspector of mines under and subject to this Act and the **Public Service Act 1974** on and from that commencement without any further appointment.
- (3) The person who holds office as the mining warden immediately before the commencement of section 96 holds office as a mining warden under and subject to this Act on and from that

- commencement for the balance of his or her term of appointment without any further appointment.
4. (1) Any land excepted as described in section 7(1) or 347(1) of the **Mines Act 1958** immediately before the commencement of this clause must be taken to be exempted under this Act from being subject to an exploration licence and a mining licence.
 - (2) Any land excepted as described in section 514(17) of the **Mines Act 1958** immediately before the commencement of this clause must be taken to be exempted under this Act from being subject to an exploration licence.
 - (3) The Governor in Council may, by Order published in the Government Gazette, vary or revoke either in whole or in part an exception that, by virtue of subclause (1) or (2), must be taken to be an exemption under this Act.
5. A person who holds a permit under section 386 of the **Mines Act 1958** immediately before the commencement of section 94 of this Act must be taken to hold a mine manager's certificate for the period and subject to the conditions specified in or prescribed by or under that Act.
 6. An authority granted under section 511(2) of the **Mines Act 1958** must be taken for the purposes of section 113(4) of this Act to have been granted by the Minister under that section of this Act.
 7. Section 114 applies to plant left on land after an instrument referred to in section 59(1) of the **Mines Act 1958** ceases to apply to that land in the same way that it applies to plant left on land after a licence ceases to apply to that land with the modification that for any reference to a period of 6 months there is to be substituted a reference to the period that

was applicable in relation to the instrument under section 59(1) of the **Mines Act 1958**.

8. Any provision of the **Mines Act 1958** that is repealed by this Act continues, despite its repeal, to apply to and in relation to—
 - (a) any proceeding or appeal under that provision pending before a court or the Administrative Appeals Tribunal; or
 - (b) any dispute or other matter under that provision pending before a Land Valuation Board of Review established under Part III of the **Valuation of Land Act 1960**; or
 - (c) any investigation or inquiry under that provision pending before the mining warden; or
 - (d) any inquiry under that provision pending before the Board of Examiners for Mine Managers; or
 - (e) any inquiry or other matter under that provision pending before the Minister; or
 - (f) any arbitration under that provision pending—
immediately before that repeal as if this Act had not been enacted.
9. Division 1A of Part III of the **Mines Act 1958** continues, despite its repeal, to apply with respect to any tribute agreement in force immediately before that repeal.
10. Section 527 of the **Mines Act 1958** continues, despite its repeal, to apply with respect to returns furnished under subsection (1) of that section or any corresponding previous enactment.
11. (1) Any drainage board appointed under Division 4 of Part III. of the **Mines Act 1958** is abolished and its members go out of office on the commencement of this subclause.

- (2) Any sludge abatement trust appointed under Subdivision 3 of Division 5 of Part III. of the **Mines Act 1958** is abolished and its members go out of office on the commencement of this subclause.
- (3) The Mining Consultative Committee established under Division 1 of Part IVA of the **Mines Act 1958** is abolished and its members go out of office on the commencement of this subclause.
12. Any land that was, immediately before the commencement of item 4 of Schedule 1, reserved under section 7 of the **Crown Land (Reserves) Act 1978** must for the purposes of this Act be taken, on and after that commencement, to be nominated under that section as substituted by that item.
13. (1) In this clause—
- (a) *extractive industry title* means a lease, licence or permit—
- (i) granted or issued under the **Extractive Industries Act 1966** and in force in respect of a substance immediately before that substance became a mineral within the meaning of this Act; or
- (ii) granted or issued in respect of a substance under that Act on an extractive industry title application after that substance became a mineral within the meaning of this Act;
- (b) *extractive industry title application* means an application for the grant or issue of a lease, licence or permit under the **Extractive Industries Act 1966** in respect of a substance where the application is made before, but not determined at, the date on which that substance became a mineral within the meaning of this Act;

Sch. 2 cl. 13
inserted by
No. 7/1994
s. 7.

- (c) a reference to a substance becoming a mineral within the meaning of this Act is a reference to it becoming such a mineral by virtue of being specified in Schedule 4 to this Act.
- (2) The fact that a substance has become a mineral within the meaning of this Act does not disturb the continuity of status, operation or effect of—
- (a) an extractive industry title; or
 - (b) an extractive industry title application; or
 - (c) an application for the assignment, transfer, consolidation, variation or renewal of an extractive industry title; or
 - (d) any right to make an application of a kind referred to in paragraph (c); or
 - (e) an assignment of an interest in an extractive industry title application or any right to make such an assignment.
- (3) An extractive industry title may be varied, renewed, assigned, transferred, consolidated, suspended, cancelled or revoked in accordance with the **Extractive Industries Act 1966** as if the substance to which the title applies were not a mineral within the meaning of this Act.

Schedule 3—Restricted Crown land

Section 4(1)

Sch. 3
inserted by
No. 86/1993
s. 38.

1. In this Schedule—

relevant recommendation means a recommendation that proposes that land is to be reserved under the **Crown Land (Reserves) Act 1978** for any of the following purposes—

- (a) regional parks;
- (b) coastal parks (including Gippsland Lakes Reserve);
- (c) marine parks;
- (d) flora or flora and fauna reserves;
- (e) wildlife reserves or wildlife areas (including Wildlife Management Co-Operative Areas);
- (f) natural features reserves, scenic reserves, cave reserves, geological reserves or natural features and scenic reserves;
- (g) bushland reserves;
- (h) historic areas or historic reserves;
- (i) public land water frontage reserves;
- (j) streamside reserves;
- (k) coastal reserves;
- (l) national heritage parks;
- (m) nature conservation reserves;
- (n) historic and cultural features reserves.

Sch. 3 cl. 1
amended by
No. 50/2002
s. 24(1)(2)
substituted by
No. 64/2004
s. 34(1),
amended by
Nos 29/2006
s. 3(Sch. 1
item 23.2(a)),
82/2009
s. 42(1)(2).

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Sch. 3 cl. 1A
inserted by
No. 64/2004
s. 34(1),
amended by
No. 29/2006
s. 3(Sch. 1
item 23.2(b)).

1A. Any land that is the subject of a relevant recommendation of the Victorian Environmental Assessment Council that has been accepted by the Government under Part 3 of the **Victorian Environmental Assessment Council Act 2001**.

Sch. 3 cl. 1B
inserted by
No. 64/2004
s. 34(1),
amended by
No. 29/2006
s. 3(Sch. 1
item 23.2(c)).

1B. Any land—

Sch. 3
cl. 1B(a)
amended by
No. 29/2006
s. 3(Sch. 1
item 23.2(d)).

(a) to which clause 1A does not apply; and

(b) that is not the subject of any other recommendation of the Victorian Environmental Assessment Council that has been accepted by the Government under Part 3 of the **Victorian Environmental Assessment Council Act 2001**—

if that land is the subject of a relevant recommendation of the Land Conservation Council under section 5(1) of the **Land Conservation Act 1970** (as in force before its repeal) of which notice has been given by the Governor in Council under section 10(3) of that Act (as so in force).

2. Any land that is an alpine resort within the meaning of the **Alpine Resorts Act 1983**.
3. Any land that is a heritage river area under section 5 of the **Heritage Rivers Act 1992** other than land to which paragraph (a) or (b) of section 6 of this Act applies.

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4. Any land that is a natural catchment area under section 6 of the **Heritage Rivers Act 1992** other than land to which paragraph (a) or (b) of section 6 of this Act applies.
- 4A. Any land that is described in Divisions 1 to 6 and 9 of Part 3 and Division 1 of Part 4 of the Fifth Schedule to the **Crown Land (Reserves) Act 1978**.
Sch. 3 cl. 4A inserted by No. 50/2002 s. 24(3), substituted by Nos 64/2004 s. 34(2), 57/2006 s. 31(1), amended by No. 90/2009 s. 25(1).
- 4AB. Any land described in Division 2A of Part 4A of the Fifth Schedule to the **Crown Land (Reserves) Act 1978**.
Sch. 3 cl. 4AB inserted by No. 82/2009 s. 42(3).
- 4AC. Any land described in Division 6 of Part 4A of the Fifth Schedule to the **Crown Land (Reserves) Act 1978**.
Sch. 3 cl. 4AC inserted by No. 12/2016 s. 11.
- 4AD. Any land described in Division 7 of Part 4A of the Fifth Schedule to the **Crown Land (Reserves) Act 1978**.
Sch. 3 cl. 4AD inserted by No. 12/2016 s. 12.
- 4B. Any land that is described in Part 8 of Schedule Four to the **National Parks Act 1975**.
Sch. 3 cl. 4B inserted by No. 57/2006 s. 31(2).
- 4BA. Any land described in Divisions 4 and 5 of Part 4A of the Fifth Schedule to the **Crown Land (Reserves) Act 1978**.
Sch. 3 cl. 4BA inserted by No. 82/2009 s. 42(4).
- 4BB. Any land described in Division 4 of Part 5 of the Fifth Schedule to the **Crown Land (Reserves) Act 1978**.
Sch. 3 cl. 4BB inserted by No. 12/2016 s. 13.
- 4C. Any land described in Division 1 or 2 of Part 7 of the Fifth Schedule to the **Crown Land (Reserves) Act 1978**.
Sch. 3 cl. 4C inserted by No. 54/2008 s. 23.

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Sch. 3 cl. 4D
inserted by
No. 90/2009
s. 25(2).

4D. Any land described in Divisions 15 to 26 of Part 1 of the Fifth Schedule to the **Crown Land (Reserves) Act 1978**.

Sch. 3 cl. 5
amended by
No. 63/2006
s. 58.

5. Any other Crown land (other than land to which paragraph (a) or (b) of section 6 applies) that the Minister and the Crown land Minister, by notice published in the Government Gazette, declare to be restricted Crown land for the purposes of this Act.

Sch. 3 cl. 6
inserted by
No. 57/2006
s. 31(3),
amended by
Nos 70/2013
s. 4(Sch. 2
item 32.3),
53/2017 s. 17.

6. Despite anything to the contrary in this Schedule, any land shown delineated and coloured grey on the plan lodged in the Central Plan Office and numbered LEGL./06–260 is to be taken not to be land specified in this Schedule for the purposes of the definition of *restricted Crown land*.

Schedule 4—Minerals

1. Bentonite.
2. Fine clay.
3. Kaolin.
4. Lignite.
5. Minerals in alluvial form including those of titanium,
zirconium, rare earth elements and platinum group
elements.
* * * * *
7. Quartz crystals.
8. Zeolite.

Sch. 4
inserted by
No. 7/1994
s. 5,
amended by
No. 71/2001
s. 3(1)(c).

Sch. 4A
inserted by
No. 10/2014
s. 41,
amended by
No. 28/2019
s. 52.

Schedule 4A—Low impact exploration

Section 4(1)

1 In this Act—

low impact exploration means exploration that does not involve any of the following—

- (a) the use of explosives;
- (b) the taking of flora that is a member of a taxon of flora that is specified in the Threatened List under section 10(1) of the **Flora and Fauna Guarantee Act 1988**, unless that flora is taken from private land that is not owned by a public authority;
- (c) the taking of flora that is a part or a member of a community of flora that is specified in the Threatened List under section 10(1) of the **Flora and Fauna Guarantee Act 1988**, unless that community is found on private land that is not owned by a public authority;
- (d) the taking of fauna that is a member of a taxon of fauna, or that is a part or member of a community of fauna, that is specified in the Threatened List under section 10(1) of the **Flora and Fauna Guarantee Act 1988**;
- (e) the taking of any taxon or community of flora or fauna from any habitat or parts of habitat under section 20 of the **Flora and Fauna Guarantee Act 1988**;
- (f) the removal or damaging of more than 1 hectare of native vegetation if that area does not contain any native trees during either the term of the licence or

- a period of 5 years from the grant of the licence, whichever ends first;
- (g) the removal or damaging of more than 15 native trees that have a trunk diameter of less than 40 cm at a height of 1.3 metres above ground level during either the term of the licence or a period of 5 years from the grant of the licence, whichever ends first;
 - (h) the removal or damaging of more than 5 native trees that have a trunk diameter of 40 cm or more at a height of 1.3 metres above ground level during either the term of the licence or a period of 5 years from the grant of the licence, whichever ends first;
 - (i) the creation of any road, structure or hardstand area without the consent of the owner or occupier of the land on which it is created;
 - (j) the use of any closed road without the consent of the owner or occupier of the land on which the road is located, or undertaking works on any road without the consent of the owner or occupier of the land on which the road is located;
 - (k) ground intrusive work that—
 - (i) is within 200 metres of a waterway; or
 - (ii) is on a slope steeper than 1 vertical : 3 horizontal; or
 - (iii) is of greater than 2 hectares in an area of cultural heritage sensitivity during either the term of the licence or a period of 5 years from

the grant of the licence, whichever ends first; or

- (iv) involves taking water from an aquifer, hydraulic fracturing, or excavation using heavy earth moving equipment.

2 In this Schedule—

area of cultural heritage sensitivity means an area specified as an area of cultural heritage sensitivity under regulations made under the **Aboriginal Heritage Act 2006**;

closed road means a road lawfully closed to public access by barriers (including roads closed seasonally, temporarily or permanently, and management vehicle only roads), roads which have been rehabilitated, and roads which are not trafficable due to the regrowth of vegetation;

community has the same meaning as in the **Flora and Fauna Guarantee Act 1988**;

critical habitat has the same meaning as in the **Flora and Fauna Guarantee Act 1988**;

damaging, in relation to native trees or vegetation, means all activities that impact native vegetation, but does not include—

- (a) lopping or trimming no more than one third of the foliage or a tree or shrub (not including the trunk); or
- (b) mowing or slashing native grasses (but not trees, shrubs or groundcovers) to a height greater than 10 cm;

fauna has the same meaning as in the **Flora and Fauna Guarantee Act 1988**;

flora has the same meaning as in the **Flora and Fauna Guarantee Act 1988**;

ground intrusive work means work that disturbs the topsoil or surface rock layer of the ground by machinery (other than hand-held machinery) in the course of drilling a hole, ground levelling or augering;

hardstand area means an open ground area with a prepared surface that is used for storing material and standing vehicles;

hydraulic fracturing means the injection of water and other materials into a bore under pressure;

native tree means a tree that is indigenous to Victoria;

native vegetation means plants indigenous to Victoria including trees, shrubs, herbs and grasses;

public authority has the same meaning as in the **Flora and Fauna Guarantee Act 1988**;

road means a road within the meaning of the **Road Management Act 2004** and includes Crown land permanently or temporarily formed for the passage of motor vehicles having four or more wheels, and land specified as an unused road under section 400 of the **Land Act 1958**;

structure means materials that have been erected for the purpose of facilitating exploration activities and includes, but is not limited to, facilities associated with exploratory team members, sound attenuation devices to minimise noise disturbance from exploration activities, and ancillary storage facilities;

take has the same meaning as in the **Flora and Fauna Guarantee Act 1988**;

taxon has the same meaning as in the **Flora and Fauna Guarantee Act 1988**;

waterway means—

- (a) a river, creek, stream or watercourse the name of which is registered under the **Geographic Place Names Act 1998**; or
- (b) a natural channel the name of which is registered under the **Geographic Place Names Act 1998** in which water regularly flows, whether or not the flow is continuous; or
- (c) a lake, lagoon, swamp or marsh, being—
 - (i) a natural collection of water (other than water collected and contained in a private dam or a natural depression on private land) into, through or out of which a current that forms the whole or part of the flow of a river, creek, stream or watercourse passes, whether or not the flow is continuous; or
 - (ii) a collection of water (other than water collected and contained in a private dam or a natural depression on private land) that the Governor in Council declares under section 4(1) of the **Water Act 1989** to be a lake, lagoon, swamp or marsh; or

- (d) land which is regularly or intermittently covered by water from a waterway as described in paragraph (a), (b) or (c) but does not include—
 - (i) any artificial channel or work which diverts water away from such a waterway; or
 - (ii) an area covered by the floodwaters of a waterway; or
 - (iii) an area, other than the waterway, designated on a planning scheme as being a floodway or liable to flooding or as being subject to inundation; or
- (e) if any land described in paragraph (d) forms part of a slope rising from the waterway to a definite lip, the land up to that lip.

Sch. 5
inserted by
No. 82/2000
s. 73.

Schedule 5—Saving and transitional provisions arising from the Mineral Resources Development (Amendment) Act 2000

1 Definitions

In this Schedule—

amending Act means the **Mineral Resources
Development (Amendment) Act 2000**;

commencement date means the date section 14 of
the amending Act came into operation.

2 Saving of exploration licence applications based on former measurement system

If the Minister varies the meaning of a graticular
section under section 7A—

- (a) any application for an exploration licence
that was lodged before the date the variation
took effect is not invalid merely because it
does not take account of the varied meaning
of graticular sections; and
- (b) the Minister may grant the application
without modifying the area to which the
licence is to apply to take account of the
varied meaning.

3 "Queued" applications to lapse

(1) This clause applies if—

- (a) an application for a licence was lodged—
 - (i) before the commencement date; and
 - (ii) one or more days after an application
was lodged for a licence in respect of
the same land; and

(b) that other prior application had not lapsed or been withdrawn, rejected or not accepted before the commencement date.

(2) The later application lapses.

4 Other applications

Subject to clauses 2 and 3, any application for a licence or the renewal of a licence that was lodged before the commencement date and that had not lapsed or been withdrawn, rejected or not accepted before that date is to be treated as if it had been lodged on the commencement date.

5 Exploration licences held for less than 5 years

- (1) This clause applies to an exploration licence that was first registered less than 5 years before the commencement date.
- (2) The licence is to be treated as if it had been issued on the day it was first registered for a period of 5 years.
- (3) Subsection (2) is not to be read as enabling the recovery of any area that no longer applies to the licence as a result of section 30 (before its repeal).

6 Exploration licences held for 5 years or more

- (1) This clause applies to an exploration licence that was first registered 5 years or more before the commencement date.
- (2) The licence may be renewed on the expiry of the term specified in the licence.

7 Exploration licences not affected

Subject to clauses 5 and 6, any exploration licence in force on the commencement date continues in force.

8 Mining licences not affected

Any mining licence in force on the commencement date continues in force.

9 Right to reproduce section 116 document imposed as a condition

- (1) This clause applies to any mining licence in force immediately before the commencement date.
- (2) It is a condition of the licence that, in providing a document to the Minister under section 116, the licensee must give the Crown a licence to reproduce the document and any information in the document.

**Schedule 6—Saving and transitional
provisions arising from the Mineral
Resources Development (Further
Amendment) Act 2001**

Sch. 6
inserted by
No. 71/2001
s. 6.

1 Definition

In this Schedule *amending Act* means the
**Mineral Resources Development (Further
Amendment) Act 2001**.

2 Peat mining licences to continue

- (1) In this clause *licence* means Mining Licence No. 4667 granted on 27 May 1993.
- (2) The licence continues, until the expiry of the licence, to remain in force after the commencement of the amending Act, subject to this Act, as if peat was still a mineral.
- (3) The licence may be renewed after the commencement of the amending Act in accordance with this Act as if peat was still a mineral.

3 Peat exploration licences to continue

- (1) In this clause *licence* means—
 - (a) Exploration Licence No. 4115 granted on 22 July 1997;
 - (b) Exploration Licence No. 4387 granted on 12 May 2000;
 - (c) Exploration Licence No. 4451 granted on 12 May 2000.
- (2) A licence continues, until the expiry of the licence, to remain in force after the commencement of the amending Act, subject to this Act, as if peat was still a mineral subject to the following exceptions—

- (a) the holder of the licence is not entitled to apply for a mining licence in respect of peat; and
- (b) the Minister must not renew the licence for a period that allows the licence to remain in force on or after 12 May 2012.

4 Inconsistent permits and authorities not to be granted

The Minister administering the **Extractive Industries Development Act 1995** must not grant under that Act—

- (a) a permit that allows any searching for, or the carrying out of any survey or other operation for the purpose of searching for, peat; or
- (b) a work authority that allows the carrying out of any extractive industry involving peat—

over, in or from any area of land covered by a licence to which clause 2 or 3 applies while that licence remains in force.

Schedule 7—Saving and transitional provisions arising from the Resources Industry Legislation Amendment Act 2009

Sch. 7
(Heading and
cls 1–5)
inserted by
No. 6/2009
s. 40.

1 Definitions

In this Schedule—

amending Act means the **Resources Industry Legislation Amendment Act 2009**;

old Act means the **Extractive Industries Development Act 1995** as in force before its repeal.

2 Work authorities granted under the old Act to continue

Despite the repeal of the old Act, a work authority granted under that Act and in force immediately before the repeal of the old Act, continues in force as if it were an extractive industry work authority granted under this Act.

3 Variation of work plans

- (1) If the holder of a work authority, that is continued in operation under clause 2, made an application under section 18 of the old Act to vary the work plan relating to that work authority and that application has not been determined before the commencement of the amending Act, the application must be determined in accordance with this Act.
- (2) Despite anything to the contrary in this Act, the holder of a work authority granted under the old Act and continued in operation under clause 2 must not make an application to vary the work plan relating to that authority if the extractive industry—

- (a) is carried out on land that has an area of less than 5 hectares and a depth of less than 5 metres; and
 - (b) does not require blasting or the clearing of native vegetation.
- (3) The holder of a work authority to which subclause (2) applies may apply, in writing, to the Minister for a determination of the Minister that the holder is not required to comply with the work plan relating to that authority.
- (4) If the holder of a work authority makes an application under subclause (3), the Minister—
- (a) may determine that the holder is not required to comply with the work plan relating to that authority; and
 - (b) may impose a condition on that authority requiring compliance with a Code of Practice.

4 Chief Inspector of quarries

On the commencement of the amending Act the person who was, immediately before the commencement of that Act, the Chief Inspector of Quarries within the meaning of the old Act—

- (a) is deemed to be the Chief Inspector within the meaning of this Act; and
- (b) is deemed to be substituted as a party to any proceedings pending in any court to which the Chief Inspector of Quarries was a party immediately before the repeal of the old Act.

5 Inspectors of quarries

On the commencement of the amending Act a person who was, immediately before the commencement of that Act, an inspector within the meaning of the old Act—

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Industry Legislation Amendment Act 2009

- (a) is deemed to be an inspector within the meaning of this Act; and
- (b) is deemed to be substituted as a party to any proceedings pending in any court to which that inspector was a party immediately before the repeal of the old Act.

Sch. 8
inserted by
No. 59/2010
s. 30 (as
amended by
No. 29/2011
s. 3(Sch. 1
item 61).

Schedule 8—Savings and transitional provisions arising from the Mineral Resources Amendment (Sustainable Development) Act 2010

Section 137

1 Definitions

In this Schedule—

amending Act means the **Mineral Resources Amendment (Sustainable Development) Act 2010**;

specified licence means an exploration licence to which clause 7 or 8 applies.

2 Mining licence applications

- (1) To avoid doubt, Part 2, as amended by Part 2 of the amending Act, applies to—
 - (a) an application for a mining licence made on and after the commencement of section 7 of the amending Act; and
 - (b) subject to subclause (2), an application for the renewal of a current mining licence made on or after the commencement of that section.
- (2) Despite anything to the contrary in Part 2, an application for a mining licence or for the renewal of a current mining licence that is made within 12 months after the commencement of section 7 of the amending Act is not required to include a mineralisation report at the time the application is made.
- (3) However, a mineralisation report must be provided to the Minister within 12 months after the application is made.

(4) Despite anything to the contrary in this Act, the Minister—

- (a) cannot make a decision on the application until the Minister receives a mineralisation report under subclause (3); and
- (b) may refuse the application if the Minister is not provided a mineralisation report within the time specified under subclause (3).

(5) In this clause—

current mining licence means a mining licence that is in effect immediately before the commencement of section 7 of the amending Act;

mineralisation report means a report referred to in section 15(1BE).

3 Mining licensees and others may apply for retention licence in certain cases

(1) This clause applies to—

- (a) a holder of a mining licence who wishes to apply for a retention licence over land that is covered by the mining licence; or
- (b) an applicant for a mining licence who wishes to apply for a retention licence over land that is covered by the application for the mining licence; or
- (c) a person who—
 - (i) wishes to apply for a retention licence over land that is covered by a mining licence or that is the subject of an application for a mining licence; and
 - (ii) has the consent of the holder of that mining licence or the applicant for that mining licence to apply for the retention licence.

- (2) Despite anything to the contrary in Part 2, a person to whom this clause applies may apply for the retention licence (the *retention licence application*) within 12 months after the commencement of section 7 of the amending Act.
- (3) A retention licence application is not required to include a mineralisation report at the time the retention licence application is made.
- (4) However, a mineralisation report must be provided to the Minister within 12 months after the retention licence application is made.
- (5) Despite anything to the contrary in this Act, the Minister—
 - (a) cannot make a decision on the retention licence application until the Minister receives a mineralisation report under subclause (4); and
 - (b) may refuse the retention licence application if the Minister is not provided with a mineralisation report within the time specified under subclause (4).
- (6) On the taking of effect of a retention licence that is granted on a retention licence application—
 - (a) the land to which the retention licence application relates is taken to be covered by that retention licence, if the land does not constitute the whole of the land covered by the mining licence or the application for the mining licence;
 - (b) the mining licence is taken to be cancelled if the land to which the retention licence application relates constitutes the whole of the land covered by the mining licence;

- (c) the application for the mining licence is taken to be ineffective if the land to which the retention licence application relates constitutes the whole of the land covered by the application for the mining licence—

as the case requires.

- (7) Subclauses (6)(a) and (6)(b) apply despite anything to the contrary in the mining licence.

4 Exploration licences in effect that have not been renewed

- (1) This clause applies—

- (a) to an exploration licence (other than a specified licence)—

- (i) that is in effect on the commencement of section 19 of the amending Act; but

- (ii) has not been renewed before that commencement; and

- (b) whether or not an application has been made to renew that licence before the commencement of section 19 of the amending Act.

- (2) Despite anything to the contrary in the exploration licence, sections 31 and 32 apply to an application for any renewal of the exploration licence.

5 Exploration licences in effect for 10 years or less and that have been renewed at least once

- (1) This clause applies—

- (a) to an exploration licence (other than a specified licence)—

- (i) that is in effect on the commencement of section 19 of the amending Act; and

Sch. 8 cl. 5
(Heading)
amended by
No. 64/2012
s. 40(1).

Sch. 8
cl. 5(1)(a)(ii)
substituted by
No. 64/2012
s. 40(2).

- (ii) that has been, at the time of that commencement, in effect for a period of 10 years or less and renewed at least once; and
- (b) whether or not an application has been made to renew that licence before the commencement of section 19 of the amending Act.
- (2) Subject to subclause (3), sections 31 and 32 apply to an application for the renewal of the exploration licence.
- (3) Despite section 31(5) and (6), and the periods specified in section 32(2) or (2A), the Minister may renew the exploration licence—
 - (a) for one period that does not exceed 2 years; and
 - (b) after that, for another period not exceeding 2 years but only if the Minister—
 - (i) considers there are exceptional circumstances to warrant that renewal; and
 - (ii) is satisfied that there is a likelihood of the licensee identifying minerals in the land covered by the licence during the period for which the licence may be renewed.

6 Exploration licences in effect for more than 10 years

- (1) This clause applies—
 - (a) to an exploration licence (other than a specified licence)—
 - (i) that is in effect on the commencement of section 19 of the amending Act; and

(ii) that has been, before or at the time of that commencement, in effect for a period of more than 10 years; and

Sch. 8
cl. 6(1)(a)(ii)
amended by
No. 64/2012
s. 40(3).

(b) whether or not an application has been made to renew that licence before the commencement of section 19 of the amending Act.

(2) Subject to subclause (3), sections 31 and 32 apply to an application for the renewal of the exploration licence.

(3) Despite section 31(5) and (6), and the periods specified in section 32(2) or (2A), the Minister may renew the exploration licence—

(a) as many times as is necessary so that the aggregate number of years that the exploration licence is renewed does not exceed 2 years; and

(b) after that, for a period not exceeding 2 years but only if the Minister—

(i) considers there are exceptional circumstances to warrant that renewal; and

(ii) is satisfied that there is a likelihood of the licensee identifying minerals in the land covered by the licence during the period for which the licence may be renewed.

7 Applications relating to specified exploration licences

(1) This clause applies to the following exploration licences (whether or not an application has been made to renew any of the licences before the commencement of section 19 of the amending Act)—

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- (a) exploration licence No. 3327 granted on 16 September 1982 to the extent that the licence covers land not within the outer boundaries of the land described in mining licences No. 5344 granted on 10 August 1987 and No. 5364 granted on 16 November 1989;
- (b) exploration licence No. 3008 granted on 16 December 1988 to the extent that the licence covers land not within the outer boundaries of the land described in the mining licence No. 5260 granted on 31 May 1985;
- (c) exploration licence No. 3018 granted on 5 September 1989 to the extent that the licence covers land not within the outer boundaries of the land described in any of the following mining licences—
 - (i) No. 4847 granted on 3 November 1989;
 - (ii) No. 5396 granted on 5 October 1988;
 - (iii) No. 5444 granted on 5 April 2006;
- (d) exploration licence No. 3310 granted on 17 September 1993 to the extent that the licence covers land not within the outer boundaries of the land described in the mining licence No. 4644 granted on 25 February 1986;
- (e) exploration licence No. 3539 granted on 3 June 1994 to the extent that the licence covers land not within the outer boundaries of the land described in the mining licence No. 5404 granted on 24 August 1990;

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Resources Amendment (Sustainable Development) Act 2010

- (f) exploration licence No. 3903 granted on 4 October 1996 to the extent that the licence covers land not within the outer boundaries of the land described in mining licences No. 5458 granted on 9 August 2006 and No. 5497 granted on 26 August 2009;
- (g) exploration licence No. 4282 granted on 30 April 1998 to the extent that the licence covers land not within the outer boundaries of the land described in mining licences No. 5367 granted on 24 May 2002 and No. 5506 granted on 17 December 2008; **Sch. 8
cl. 7(1)(g)
amended by
No. 64/2012
s. 40(4).**
- (h) exploration licence No. 3242 granted on 24 April 1987 to the extent that the licence covers land not within the outer boundaries of the land described in the mining licence No. 4470 granted on 14 August 1979; **Sch. 8
cl. 7(1)(h)
inserted by
No. 64/2012
s. 40(5).**
- (i) exploration licence No. 3422 granted on 31 January 1994 to the extent that the licence covers land not within the outer boundaries of the land described in the mining licence No. 5146 granted on 17 December 1996; **Sch. 8
cl. 7(1)(i)
inserted by
No. 64/2012
s. 40(5).**
- (j) exploration licence No. 3640 granted on 15 September 1994 to the extent that the licence covers land not within the outer boundaries of the land described in the mining licence No. 4756 granted on 17 January 1989. **Sch. 8
cl. 7(1)(j)
inserted by
No. 64/2012
s. 40(5).**
- (2) Subject to subclause (3), sections 31 and 32 apply to an application for the renewal of an exploration licence to which this clause applies.
- (3) Despite section 31(5) and (6), and the periods specified in section 32(2) or (2A), the Minister may renew an exploration licence to which this clause applies—

- (a) as many times as is necessary so that the aggregate number of years that the exploration licence is renewed does not exceed 5 years; and
- (b) after that, as many times as is necessary so that the aggregate number of years that the exploration licence is renewed does not exceed 2 years but only if the Minister, each time—
 - (i) considers there are exceptional circumstances to warrant that renewal; and
 - (ii) is satisfied that there is a likelihood of the licensee identifying minerals in the land covered by the licence during the period for which the licence may be renewed.

(4) In addition, section 38A(2A) and (2B) do not apply to the exploration licence.

8 Specified exploration licences with parts within outer boundaries of mining licences

- (1) This clause applies to the following exploration licences (whether or not an application has been made to renew any of the licences before the commencement of section 19 of the amending Act)—
 - (a) exploration licence No. 3327 granted on 16 September 1982 to the extent that the licence covers land within the outer boundaries of the land described in mining licences No. 5344 granted on 10 August 1987 and No. 5364 granted on 16 November 1989;

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- (b) exploration licence No. 3008 granted on 16 December 1988 to the extent that the licence covers land within the outer boundaries of the land described in the mining licence No. 5260 granted on 31 May 1985;
- (c) exploration licence No. 3018 granted on 5 September 1989 to the extent that the licence covers land within the outer boundaries of the land described in any of the following mining licences—
 - (i) No. 4847 granted on 3 November 1989;
 - (ii) No. 5396 granted on 5 October 1988;
 - (iii) No. 5444 granted on 5 April 2006;
- (d) exploration licence No. 3242 granted on 24 April 1987 to the extent that the licence covers land within the outer boundaries of the land described in mining licence No. 4470 granted on 14 August 1979;
- (e) exploration licence No. 3422 granted on 31 January 1994 to the extent that the licence covers land within the outer boundaries of the land described in the mining licence No. 5146 granted on 17 December 1996;
- (f) exploration licence No. 3539 granted on 3 June 1994 to the extent that the licence covers land within the outer boundaries of the land described in the mining licence No. 5404 granted on 24 August 1990;
- (g) exploration licence No. 3640 granted on 15 September 1994 to the extent that the licence covers land within the outer boundaries of the land described in the mining licence No. 4756 granted on 17 January 1989.

Sch. 8
cl. 8(1)(d)
amended by
No. 64/2012
s. 40(6).

- (2) Sections 31 and 32, as in force immediately before the commencement of section 19 of amending Act, apply to an application for the renewal of an exploration licence to which this clause applies.
- (3) In addition, section 38A(2A) and (2B) do not apply to the exploration licence.

9 Decreases in area under current exploration licences—first renewal after amending Act

- (1) This clause applies—
 - (a) to an exploration licence to which clause 4 of this Schedule applies; and
 - (b) in respect of which an application is made after the commencement of section 21 of the amending Act for the first renewal of that licence.
- (2) Section 38A(2A) applies to the exploration licence.

10 Decreases in area under current exploration licences—second renewal after amending Act

- (1) This clause applies—
 - (a) to an exploration licence to which clause 4 of this Schedule applies; and
 - (b) in respect of which an application is made after the commencement of section 21 of the amending Act for the second renewal of that licence.
- (2) Section 38A(2A) and (2B) apply to the exploration licence.

**11 Decreases in area under current exploration licences
that have been renewed at least once**

Sch. 8 cl. 11
(Heading)
amended by
No. 64/2012
s. 40(7).

- (1) This clause applies—
- (a) to an exploration licence to which clause 5 or 6 of this Schedule applies; and
 - (b) in respect of which an application is made after the commencement of section 21 of the amending Act for a renewal of that licence.
- (2) Section 38A(2A) and (2B) apply to the exploration licence.

Sch. 9
inserted by
No. 10/2014
s. 42.

Schedule 9—Savings and transitional provisions arising from the Mineral Resources (Sustainable Development) Amendment Act 2014

Section 139

1 Definition

In this Schedule—

amending Act means the **Mineral Resources (Sustainable Development) Amendment Act 2014**.

2 Grant or refusal of licence

The amendments made by section 8 of the amending Act do not apply to an application for a licence that was accepted before the commencement of that section in accordance with section 16 of this Act as in force before that commencement.

3 Work plans—licences

- (1) This clause applies to—
 - (a) a licensee who has an approved work plan immediately before the commencement of section 16 of the amending Act; or
 - (b) a licensee who, before that commencement, lodged a work plan or a variation of an approved work plan under section 40 or 41 as in force before that commencement.
- (2) Despite anything to the contrary in Part 3 of this Act, a person to whom this clause applies is not required to comply with the requirements for an approved work plan as in force after the commencement of section 16 of the amending Act if the approved work plan has not been varied after that commencement.

Sch. 9 cl. 3
(Heading)
substituted by
No. 47/2015
s. 15(1).

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- (3) Part 3 of this Act as in force immediately before the commencement of section 16 of the amending Act continues to apply to the approval of a work plan to which subclause (1)(b) applies. **Sch. 9 cl. 3(3) amended by No. 47/2015 s. 15(2).**
- (4) Despite subclauses (2) and (3), if the Department Head is satisfied that work set out in a work plan described in subclause (1)(a) or (b) may pose an unacceptable risk to the environment, to any member of the public, or to land, property or infrastructure in the vicinity of that work, the Department Head may direct that the work plan be varied so that it complies with section 40(3) as amended by section 16 of the amending Act. **Sch. 9 cl. 3(4) inserted by No. 47/2015 s. 15(3).**
- (5) On making a determination under subclause (4), the Department Head must give the licensee written notice of the proposed variation, and the reasons for it, and give the licensee an opportunity to comment on the proposal. **Sch. 9 cl. 3(5) inserted by No. 47/2015 s. 15(3).**
- (6) After considering any comments made by the licensee, the Department Head may direct the licensee to lodge an application under section 41 for approval of the variation. **Sch. 9 cl. 3(6) inserted by No. 47/2015 s. 15(3).**

3A Work plans—extractive industry work authorities

- (1) This clause applies—
- (a) to the holder of an extractive industry work authority who has an approved work plan immediately before the commencement of section 27 of the amending Act; or
- (b) to a person who, before the commencement of section 27 of the amending Act, lodged a work plan under section 77G as in force before that commencement; or

Sch. 9 cl. 3A inserted by No. 47/2015 s. 16.

- (c) to the holder of an extractive industry work authority who, before the commencement of section 27 of the amending Act, lodged an application for the variation of an approved work plan under section 77H as in force before that commencement.
- (2) Despite anything to the contrary in Part 6A of this Act, a person to whom this clause applies is not required to comply with the requirements for an approved work plan as in force after the commencement of section 27 of the amending Act if the approved work plan has not been varied after that commencement.
- (3) Part 6A of this Act as in force immediately before the commencement of section 27 of the amending Act continues to apply to the approval of a work plan to which subclause (1)(b) applies.
- (4) Despite subclauses (2) and (3), if the Department Head is satisfied that work set out in a work plan described in subclause (1)(a), (b) or (c) may pose an unacceptable risk to the environment, to any member of the public, or to land, property or infrastructure in the vicinity of that work, the Department Head may direct that the work plan be varied so that it complies with section 77G(3) as amended by section 27 of the amending Act.
- (5) On making a determination under subclause (4), the Department Head must give the person who holds the extractive industry work authority or lodged the work plan written notice of the proposed variation, and the reasons for it, and give the person an opportunity to comment on the proposal.

- (6) After considering any comments made by the person who holds the extractive industry work authority or lodged the work plan, the Department Head may direct the person to lodge an application under section 77H for approval of the variation.

4 Endorsement of work plan or variation to approved work plan

Section 77TD(1) of this Act as in force immediately before the commencement of section 33(1) of the amending Act continues to apply to a work plan or variation of an approved work plan received but not endorsed before that commencement.

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 29 May 1990

Legislative Council: 27 November 1990

The long title for the Bill for this Act was "A Bill to provide a new legislative framework for the use of mineral resources in the State, to repeal the **Mines Act 1958**, to make consequential amendments to other legislation and for other purposes."

The **Mineral Resources Development Act 1990**, No. 92/1990 was assented to on 18 December 1990 and came into operation as follows:

Section 126(2) on 1 November 1990: section 3(3); Schedule 1 item 18 on 1 December 1987: section 3(4); sections 1–125, 126(1)(3), 127, 128 (*except* Schedule 1 items 17, 24), 129 (Schedule 2 items 1–12) on 6 November 1991: Government Gazette 30 October 1991 page 2970; section 126(5) on 1 November 1997: Government Gazette 23 October 1997 page 2899; section 126(4).

Section 126(4) not yet proclaimed.

Schedule 1 item 17 was never proclaimed, repealed by No. 29/2006 section 3(Schedule 1 item 23.1).

Schedule 1 item 24 was never proclaimed, repealed by No. 33/2014 section 12.

The title of this Act was changed from the **Mineral Resources Development Act 1990** to the **Mineral Resources (Sustainable Development) Act 1990** by section 4 of the **Mineral Resources Development (Sustainable Development) Act 2006**, No. 63/2006.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the

insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

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2 Table of Amendments

This publication incorporates amendments made to the **Mineral Resources (Sustainable Development) Act 1990** by Acts and subordinate instruments.

Extractive Industries (Further Amendment) Act 1991, No. 27/1991

Assent Date: 12.6.91
Commencement Date: All of Act (except s. 4 (3)–(6)) on 12.6.91: s. 2(1);
s. 4(3)–(6) on 18.12.90: s. 2(2)
Current State: All of Act in operation

Mineral Resources Development (Amendment) Act 1993, No. 86/1993

Assent Date: 3.11.93
Commencement Date: Ss 1–3, 32, 35, 42, 43 on 3.11.93: s. 2(1); ss 8, 11(1),
37 on 6.11.91: s. 2(2); ss 4, 5, 7, 9, 10, 11(2)(3),
12–17, 18(b), 19–25, 27–31, 33, 34, 36, 38–41, 44 on
17.1.94: Government Gazette 16.12.93 p. 3317;
ss 18(a), 26 on 1.2.94: Special Gazette (No. 3) 1.2.94
p. 1; s. 6 on 3.11.94: s. 2(4)
Current State: All of Act in operation

Building Act 1993, No. 126/1993

Assent Date: 14.12.93
Commencement Date: S. 264(Sch. 5 item 16) on 1.7.94: Special Gazette
(No. 42) 1.7.94 p. 1
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Mineral Resources Development (Further Amendment) Act 1994, No. 7/1994

Assent Date: 27.4.94
Commencement Date: All of Act (except s. 6) on 27.4.94: s. 2(1); s. 6 on
17.1.94: s. 2(2)
Current State: All of Act in operation

Valuation of Land (Amendment) Act 1994, No. 91/1994

Assent Date: 6.12.94
Commencement Date: S. 28 on 23.1.95: Government Gazette 19.1.95 p. 121
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Electricity Industry (Amendment) Act 1995, No. 56/1995

Assent Date: 20.6.95
Commencement Date: Ss 40, 42 on 20.6.95: Special Gazette (No. 52) 20.6.95
p. 1
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

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Extractive Industries Development Act 1995, No. 67/1995

Assent Date: 17.10.95
Commencement Date: S. 60(2) on 17.10.95: s. 2(1); s. 60(3) on 1.6.96:
Special Gazette (No. 60) 31.5.96 p. 4
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Heritage Act 1995, No. 93/1995 (as amended by No. 66/1997)

Assent Date: 5.12.95
Commencement Date: S. 218(1)(Sch. 2 items 5.1–5.3) on 23.5.96:
Government Gazette 23.5.96 p. 1248; s. 218(2)(Sch. 2
items 9.1, 9.2) on 23.5.98: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Heritage (Amendment) Act 1997, No. 18/1997

Assent Date: 6.5.97
Commencement Date: S. 4 on 5.12.95: s. 2(2); rest of Act on 6.5.97: s. 2(1)
Current State: All of Act in operation

Victorian Plantations Corporation (Amendment) Act 1998, No. 35/1998

Assent Date: 19.5.98
Commencement Date: S. 18 on 26.6.98: Government Gazette 25.6.98 p. 1561
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

**Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998,
No. 52/1998** (as amended by No. 101/1998)

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 item 64) on 1.7.98: Government Gazette
18.6.98 p. 1512
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

**Conservation, Forests and Lands (Miscellaneous Amendments) Act 1998,
No. 76/1998**

Assent Date: 10.11.98
Commencement Date: S. 31 on 15.12.98: s. 2(5)
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

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Transfer of Land (Single Register) Act 1998, No. 85/1998 (as amended by No. 74/2000)

Assent Date: 17.11.98
Commencement Date: S. 24(Sch. item 42) on 1.1.99: s. 2(3)
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Electricity Industry Legislation (Miscellaneous Amendments) Act 2000, No. 69/2000

Assent Date: 21.11.00
Commencement Date: S. 60 on 1.1.01: s. 2(4)
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Statute Law Revision Act 2000, No. 74/2000

Assent Date: 21.11.00
Commencement Date: S. 3(Sch. 1 item 83) on 22.11.00: s. 2(1)
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Mineral Resources Development (Amendment) Act 2000, No. 82/2000

Assent Date: 28.11.00
Commencement Date: Ss 60, 69 on 29.11.00: s. 2(1); ss 3–59, 61–68, 70–73 on 31.7.01: Government Gazette 26.7.01 p. 1703
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Corporations (Consequential Amendments) Act 2001, No. 44/2001

Assent Date: 27.6.01
Commencement Date: S. 3(Sch. item 82) on 15.7.01: s. 2
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Mineral Resources Development (Further Amendment) Act 2001, No. 71/2001

Assent Date: 7.11.01
Commencement Date: Ss 3(1), 4–6 on 8.11.01: s. 2
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Accident Compensation (Amendment) Act 2001, No. 82/2001

Assent Date: 11.12.01
Commencement Date: S. 34 on 28.10.02: Government Gazette 24.10.02 p. 2859
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

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National Parks (Marine National Parks and Marine Sanctuaries) Act 2002, No. 40/2002

Assent Date: 18.6.02
Commencement Date: S. 29 on 16.11.02: s. 2
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

National Parks (Box-Ironbark and Other Parks) Act 2002, No. 50/2002

Assent Date: 29.10.02
Commencement Date: Ss 20–24 on 30.10.02: s. 2
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Fisheries (Amendment) Act 2003, No. 56/2003

Assent Date: 16.6.03
Commencement Date: S. 11(Sch. item 12) on 17.6.03: s. 2
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

National Parks (Additions and Other Amendments) Act 2004, No. 64/2004

Assent Date: 12.10.04
Commencement Date: S. 34 on 13.10.04: s. 2(1)
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Primary Industries Legislation (Further Miscellaneous Amendments) Act 2004, No. 69/2004

Assent Date: 19.10.04
Commencement Date: S. 56 on 20.10.04: s. 2(1); s. 55 on 1.4.05: Government Gazette 24.3.05 p. 546
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 134) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Legal Profession (Consequential Amendments) Act 2005, No. 18/2005

Assent Date: 24.5.05
Commencement Date: S. 18(Sch. 1 item 69) on 12.12.05: Government Gazette 1.12.05 p. 2781
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

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Mineral Resources Development (Brown Coal Royalties) Act 2005, No. 89/2005

Assent Date: 29.11.05
Commencement Date: 1.1.06: s. 2
Current State: All of Act in operation

Aboriginal Heritage Act 2006, No. 16/2006 (as amended by No. 63/2006)

Assent Date: 9.5.06
Commencement Date: S. 198(Sch. 2 item 5) on 28.5.07: Government Gazette 24.5.07 p. 921
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Statute Law (Further Revision) Act 2006, No. 29/2006

Assent Date: 6.6.06
Commencement Date: S. 3(Sch. 1 item 23) on 7.6.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006

Assent Date: 13.6.06
Commencement Date: S. 94(Sch. item 33) on 1.7.06: Government Gazette 29.6.06 p. 1315
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

National Parks and Crown Land (Reserves) Acts (Amendment) Act 2006, No. 57/2006

Assent Date: 15.8.06
Commencement Date: S. 31 on 16.8.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Mineral Resources Development (Sustainable Development) Act 2006, No. 63/2006

Assent Date: 29.8.06
Commencement Date: Ss 4, 5, 6(1)(3), 7–25, 26(1)(3)(4), 27(1)–(3), 29–55, 57, 58 on 30.8.06: s. 2(1); ss 6(2), 26(2), 27(4), 28, 56 on 1.10.07: s. 2(3)
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 71) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

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Energy and Resources Legislation Amendment Act 2008, No. 25/2008

Assent Date: 3.6.08
Commencement Date: Ss 12–16 on 4.6.08: s. 2(1)
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

National Parks and Crown Land (Reserves) Acts Amendment Act 2008, No. 54/2008

Assent Date: 23.9.08
Commencement Date: S. 23 on 9.11.08: Government Gazette 6.11.08 p. 2574
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Resources Industry Legislation Amendment Act 2009, No. 6/2009

Assent Date: 3.3.09
Commencement Date: Ss 4–40 on 1.1.10: s. 2(2)
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Energy and Resources Legislation Amendment Act 2009, No. 57/2009

Assent Date: 21.10.09
Commencement Date: Ss 28, 30, 31 on 1.1.10: Government Gazette 10.12.09 p. 3215; ss 23, 24, 32 on 27.1.10: Special Gazette (No. 33) 27.1.10 p. 1; ss 25–27, 29 on 30.6.10: Special Gazette (No. 255) 30.6.10 p. 1
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Statute Law Amendment (Evidence Consequential Provisions) Act 2009, No. 69/2009

Assent Date: 24.11.09
Commencement Date: S. 54(Sch. Pt 1 item 37), (Sch. Pt 2 item 36) on 1.1.10: s. 2(2)
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Parks and Crown Land Legislation Amendment (River Red Gums) Act 2009, No. 82/2009

Assent Date: 8.12.09
Commencement Date: S. 42(1)(4) on 29.6.10: Government Gazette 24.6.10 p. 1274; s. 42(2)(3) on 30.9.10: s. 2(2)
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

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**Parks and Crown Land Legislation Amendment (East Gippsland) Act 2009,
No. 90/2009**

Assent Date: 15.12.09
Commencement Date: S. 25 on 20.8.10: Government Gazette 19.8.10 p. 1799
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Energy and Resources Legislation Amendment Act 2010, No. 55/2010

Assent Date: 14.9.10
Commencement Date: Ss 47–56 on 14.10.10: Government Gazette 14.10.10 p. 2404
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Mineral Resources Amendment (Sustainable Development) Act 2010,

No. 59/2010 (as amended by No. 29/2011)

Assent Date: 14.9.10
Commencement Date: Ss 37, 41, 42, 51 on 14.10.10: Government Gazette 14.10.10 p. 2405; ss 4–36, 38–40, 43–50 on 1.2.12: s. 2(2)
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Traditional Owner Settlement Act 2010, No. 62/2010

Assent Date: 21.9.10
Commencement Date: S. 140 on 23.9.10: Special Gazette (No. 382) 22.9.10 p. 1
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

**Personal Property Securities (Statute Law Revision and Implementation)
Act 2010, No. 74/2010**

Assent Date: 19.10.10
Commencement Date: S. 28 on 30.1.12: Special Gazette (No. 423) 21.12.11 p. 3
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Subordinate Legislation Amendment Act 2010, No. 78/2010

Assent Date: 19.10.10
Commencement Date: S. 24(Sch. 1 item 20) on 1.1.11: s. 2(1)
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990
Endnotes

Statute Law Revision Act 2011, No. 29/2011

Assent Date: 21.6.11
Commencement Date: S. 3(Sch. 1 items 60.1, 60.2) on 1.1.10: s. 2(2)(e);
s. 3(Sch. 1 item 60.3) on 22.6.11: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Resources Legislation Amendment Act 2011, No. 53/2011 (as amended by
No. 43/2012)

Assent Date: 18.10.11
Commencement Date: Ss 3–6 on 20.3.12: Special Gazette (No. 91) 20.3.12
p. 1
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Water Amendment (Governance and Other Reforms) Act 2012, No. 17/2012

Assent Date: 3.4.12
Commencement Date: S. 92 on 1.7.12: Special Gazette (No. 172) 29.5.12 p. 1
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Statute Law Revision Act 2012, No. 43/2012

Assent Date: 27.6.12
Commencement Date: S. 3(Sch. item 30) on 28.6.12: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Resources Legislation Amendment (General) Act 2012, No. 64/2012 (as amended
by No. 70/2013)

Assent Date: 30.10.12
Commencement Date: Ss 13–40 on 1.12.12: Special Gazette (No. 399)
27.11.12 p. 1
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

**Mineral Resources (Sustainable Development) Amendment Act 2012,
No. 84/2012** (as amended by No. 70/2013)

Assent Date: 18.12.12
Commencement Date: Ss 4–8 on 1.2.13: Special Gazette (No. 27) 29.1.13
p. 1
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990
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Statute Law Revision Act 2013, No. 70/2013

Assent Date: 19.11.13
Commencement Date: Ss 3(Sch. 1 item 34), 4(Sch. 2 item 32) on 1.12.13:
s. 2(1)
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

**Mineral Resources (Sustainable Development) Amendment Act 2014,
No. 10/2014** (as amended by No. 47/2015)

Assent Date: 25.2.14
Commencement Date: Ss 4(1)(2)(4)(5), 5, 6, 8–15, 17–26, 28–42 on 1.11.14:
s. 2(2); ss 4(3), 16, 27 on 8.12.15: Special Gazette
(No. 389) 8.12.15 p. 1; s. 7 on 31.12.16: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Legal Profession Uniform Law Application Act 2014, No. 17/2014

Assent Date: 25.3.14
Commencement Date: S. 160(Sch. 2 item 64) on 1.7.15: Special Gazette
(No. 151) 16.6.15 p. 1
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Sale of Land Amendment Act 2014, No. 33/2014

Assent Date: 13.5.14
Commencement Date: S. 12 on 1.10.14: Special Gazette (No. 282) 26.8.14
p. 1
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Treasury Legislation and Other Acts Amendment Act 2014, No. 44/2014

Assent Date: 27.6.14
Commencement Date: S. 33(Sch. item 16) on 30.6.14: s. 2(5)
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Inquiries Act 2014, No. 67/2014

Assent Date: 23.9.14
Commencement Date: S. 147(Sch. 2 item 26) on 15.10.14: Special Gazette
(No. 364) 14.10.14 p. 2
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990
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**Resources Legislation Amendment (BTEX Prohibition and Other Matters)
Act 2014, No. 68/2014**

Assent Date: 23.9.14
Commencement Date: Ss 14–24, 26–62, 65 on 1.9.15: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Resources Legislation Amendment Act 2015, No. 47/2015

Assent Date: 22.9.15
Commencement Date: Ss 5–16 on 23.9.15: s. 2
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

**Crown Land Legislation Amendment (Canadian Regional Park and Other
Matters) Act 2016, No. 12/2016**

Assent Date: 5.4.16
Commencement Date: Ss 11–13 on 5.8.16: Special Gazette (No. 239) 2.8.16
p. 1
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

State Taxation and Other Acts Amendment Act 2016, No. 40/2016

Assent Date: 28.6.16
Commencement Date: S. 31 on 29.6.16: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

**National Parks and Victorian Environmental Assessment Council Acts
Amendment Act 2016, No. 44/2016**

Assent Date: 23.8.16
Commencement Date: S. 30 on 7.9.16: Special Gazette (No. 278) 6.9.16 p. 1
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Heritage Act 2017, No. 7/2017

Assent Date: 15.3.17
Commencement Date: S. 304 on 1.11.17: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Resources Legislation Amendment (Fracking Ban) Act 2017, No. 8/2017

Assent Date: 15.3.17
Commencement Date: Ss 3–7 on 16.3.17: s. 2
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

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No. 92 of 1990
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Mineral Resources (Sustainable Development) Amendment (Latrobe Valley Mine Rehabilitation Commissioner) Act 2017, No. 22/2017 (as amended by No. 32/2019)

Assent Date: 30.5.17
Commencement Date: Ss 4, 5, 9, 10 on 15.6.17: Special Gazette (No. 195) 14.6.17 p. 1; ss 6(1), 7, 8 on 1.7.20: s. 2(2); s. 6(2) never proclaimed, repealed by No. 32/2019 s. 50
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Parks and Crown Land Legislation Amendment Act 2017, No. 53/2017

Assent Date: 24.10.17
Commencement Date: Ss 15–17 on 15.12.17: Special Gazette (No. 433) 12.12.17 p. 1
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Oaths and Affirmations Act 2018, No. 6/2018

Assent Date: 27.2.18
Commencement Date: S. 68(Sch. 2 item 89) on 1.3.19: s. 2(2)
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Parks Victoria Act 2018, No. 19/2018

Assent Date: 5.6.18
Commencement Date: S. 247 on 12.9.18: Special Gazette (No. 386) 21.8.18 p. 1
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Environment Protection Amendment Act 2018, No. 39/2018 (as amended by No. 11/2020)

Assent Date: 28.8.18
Commencement Date: Ss 24–27 on 1.7.19: s. 2(3) (as amended by No. 39/2018 s. 54)
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Flora and Fauna Guarantee Amendment Act 2019, No. 28/2019

Assent Date: 10.9.19
Commencement Date: S. 52 on 1.6.20: s. 2(2)
Current State: This information relates only to the provision/s amending the **Mineral Resources (Sustainable Development) Act 1990**

Mineral Resources (Sustainable Development) Act 1990
No. 92 of 1990
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**Mineral Resources (Sustainable Development) Amendment Act 2019,
No. 32/2019**

Assent Date: 17.9.19
Commencement Date: Ss 54–62 on 18.9.19: s. 2(1); ss 4–49 on 30.6.20:
s. 2(3)
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Transport Legislation Amendment Act 2019, No. 49/2019

Assent Date: 3.12.19
Commencement Date: S. 186(Sch. 4 item 29) on 1.1.20: Special Gazette
(No. 514) 10.12.19 p. 1
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

**Melbourne Strategic Assessment (Environment Mitigation Levy) Act 2020,
No. 1/2020**

Assent Date: 11.2.20
Commencement Date: Ss 140, 141 on 1.7.20: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

Parks and Crown Land Legislation Amendment Act 2020, No. 40/2020

Assent Date: 1.12.20
Commencement Date: S. 60 on 15.12.20: Special Gazette (No. 666) 15.12.20
p. 1
Current State: This information relates only to the provision/s
amending the **Mineral Resources (Sustainable
Development) Act 1990**

3 Amendments Not in Operation

This version does not contain amendments that are not yet in operation.

4 Explanatory details

¹ S. 4(1) def. of *petroleum*: See also **Petroleum Act 1998**, No. 96/1998.

² S. 15(5): See section 4(1) definition of *land affected*.

³ S. 43(1)(c): See note 2.

⁴ S. 43(1)(d)(ii): See note 2.

⁵ S. 43(1)(e): See note 2.

⁶ S. 43(1)(e)(i): See note 2.

⁷ S. 43(1)(e)(iv): See note 2.

⁸ S. 80(6): The amendment proposed by section 24(6) of the **Resources Industry Legislation Amendment Act 2009**, No. 6/2009 (*repealed*) is not included in this publication because the words "the licensee" do not appear in section 80(6).

Section 24(6) read as follows:

24 Rehabilitation bond

(6) In section 80(6) of the Principal Act, for
"the licensee" **substitute** "the authority holder".