

TASMANIA

MINERAL RESOURCES DEVELOPMENT AMENDMENT BILL 2013

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MINERAL RESOURCES DEVELOPMENT AMENDMENT BILL 2013

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
18 April 2013

*(Brought in by the Minister for Energy and Resources, the
Honourable Bryan Alexander Green)*

A BILL FOR

An Act to amend the *Mineral Resources Development Act 1995*

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

1. Short title

This Act may be cited as the *Mineral Resources Development Amendment Act 2013*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

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3. Principal Act

In this Act, the *Mineral Resources Development Act 1995** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *Agency*:

annual report guidelines means
guidelines issued under
section 204A for the preparation
of annual reports by licensees or
lessees;

- (b) by omitting “and oil shale” from the definition of *Category 2 mineral* and substituting “, oil shale and coal seam gas”;

- (c) by inserting the following definition after the definition of *Category 6 mineral*:

coal seam gas means the gas known as
coal bed methane and includes
any naturally occurring
hydrocarbon, or mixture of
hydrocarbons, that is within a
deposit of coal or oil shale;

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- (d) by inserting the following definition after the definition of *Crown licensee*:

development plan, in relation to a geothermal production licence, means a plan of development that is approved in relation to the licence;

- (e) by inserting the following definition after the definition of *Director*:

environment means components of the earth, including –

- (a) land, air and water; and
- (b) any organic matter and inorganic matter and any living organism; and
- (c) human-made or human-modified structures and areas –

and includes interacting natural ecosystems that include components referred to in paragraphs (a), (b) and (c);

- (f) by inserting “for the purposes of this paragraph” after “approved” in paragraph (f) of the definition of *explore*;
- (g) by inserting the following definition after the definition of *explore*:

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field development plan, in relation to a petroleum production licence, means a plan of field development that is approved in relation to the licence;

- (h) by inserting the following definitions after the definition of *Geoscientific Trust Fund*:

geothermal energy means thermal energy that was contained in subsurface rock or other subterranean substances;

geothermal production licence means a geothermal production licence in force under Part 3A;

geothermal reservoir means part of a geological structure, including such a structure that has been modified by human activity, which part is suitable for the transmission of a geothermal substance;

geothermal resource, in relation to a geothermal production licence, means the amount, determined in accordance with an approved method by the person who holds or has applied for the licence, of geothermal energy that may be produced from geothermal substances within the area of land

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to which the licence relates or is
to relate;

- (i) by inserting the following definition after the definition of *geothermal substance*:

group prospecting licence means a
group prospecting licence in force
under Part 5;

- (j) by inserting the following paragraph after paragraph (a) in the definition of *licence*:

(ab) in Part 2A, a special exploration
licence in force under that Part;
and

- (k) by inserting the following paragraph after paragraph (b) in the definition of *licence*:

(ba) in Part 3A, a production licence
in force under that Part; and

- (l) by inserting “and a group prospecting licence,” after “licence” in paragraph (c) of the definition of *licence*;

- (m) by omitting “other” second occurring from paragraph (d) of the definition of *licence*;

- (n) by omitting “or retention licence” from the definition of *licence area* and substituting “, a special exploration licence, a production licence or a retention licence”;

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- (o) by inserting the following paragraph after paragraph (a) in the definition of *licensee*:
 - (ab) in Part 2A, the holder of a special exploration licence; and
- (p) by inserting the following paragraph after paragraph (b) in the definition of *licensee*:
 - (ba) in Part 3A, the holder of a production licence; and
- (q) by inserting “or group prospecting licence” after “licence” in paragraph (c) of the definition of *licensee*;
- (r) by omitting “other” second occurring from paragraph (d) of the definition of *licensee*;
- (s) by inserting “petroleum,” after “gas,” in the definition of *mineral*;
- (t) by inserting the following definition after the definition of *mineral*:

Mineral Exploration Code of practice
means the Code of practice of that name approved from time to time under section 204;

- (u) by inserting “or a group prospecting licence” after “prospecting licence” in the definition of *mineral tenement*;

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- (v) by inserting “or another lease area” after “area” in paragraph (b) of the definition of *mining operations*;
- (w) by omitting “mining;” from paragraph (c) of the definition of *mining operations* and substituting “mining –”;
- (x) by inserting the following after paragraph (c) in the definition of *mining operations*:

“and includes production activities in relation to a Category 4 mineral or a Category 6 mineral;”

- (y) by inserting the following definition after the definition of *mining operations*:

mining plan, in relation to a lease or an application for a lease, means a plan that sets out information required by the Director including, but not limited to including, the following:

- (a) the name of the minerals, or category of minerals, to which the lease or application relates;
- (b) the site plan, which is to include –
 - (i) the means by which access to

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- the area of land comprised in the lease is to be obtained; and
 - (ii) the infrastructure proposed to be situated on the area of land comprised in the lease; and
 - (iii) surface hydrology for the area of land comprised in the lease; and
 - (iv) other matters related to activities under the lease;
- (c) the proposals for treatment of, transport of, handling of, and storage of, waste from –
- (i) minerals obtained under the lease; or
 - (ii) the substances from which minerals are to be obtained under the lease;

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- (d) the requirements for water to be used in mining operations under the lease;
 - (e) the proposed stages of development under the lease and of any proposed rehabilitation of land in the area of land comprised in the lease;
 - (f) the provision to be made in relation to closure of the mine on the lease area after mining under the lease ceases;
 - (g) a description of the potential geological and environmental risks associated with mining operations under the lease;
- (z) by inserting “and” after “hydrogen;” in paragraph (b) of the definition of *oil*;
- (za) by inserting the following paragraph after paragraph (b) in the definition of *oil*:
- (c) coal seam gas;
- (zb) by omitting “gas;” from paragraph (b) of the definition of *petroleum* and substituting “gas –”;

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- (zc) by inserting the following after paragraph (b) in the definition of *petroleum*:

“but does not include coal seam gas;”

- (zd) by inserting the following definitions after the definition of *petroleum*:

petroleum production licence means a petroleum production licence in force under Part 3A;

petroleum reservoir means part of a geological structure (including such a structure that has been modified by human activity) –

- (a) in which gas or petroleum has accumulated; and
- (b) that is suitable for the storage and transmission of gas or petroleum;

petroleum resource, in relation to a petroleum production licence, means an amount, determined in an approved manner by the person who holds or has applied for the licence, of petroleum contained in a petroleum reservoir to which the licence relates or is to relate;

plan of development, in relation to an application for a geothermal production licence, means a plan that sets out information required by the Director in relation to –

- (a) the geothermal resource to which the licence is to relate; and
- (b) how access to geothermal substances is to be obtained under the licence; and
- (c) how geothermal energy that is produced under the licence is to be used; and
- (d) how geothermal resources are to be managed under the licence; and
- (e) how geothermal reservoirs are to be managed under the licence; and
- (f) any other matter the Director thinks fit;

plan of field development, in relation to an application for a petroleum production licence, means a plan that sets out information required by the Director in relation to –

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- (a) the petroleum resources to which the licence is to relate; and
 - (b) how access to the petroleum resources is to be obtained under the licence; and
 - (c) how the petroleum resources are to be managed under the licence; and
 - (d) how petroleum reservoirs are to be managed under the licence; and
 - (e) any other matter, in relation to production activities under the licence, that the Director thinks fit;
- (ze) by inserting the following definitions after the definition of *private land*:

produced –

- (a) in relation to geothermal energy – see section 3A(2); and
- (b) in relation to petroleum – see section 3B(4);

production activities – see section 3B;

production licence means a petroleum production licence or a geothermal production licence;

- (zf) by inserting “prospecting” after “a” in the definition of *prospecting licence*;
- (zg) by omitting the definition of *special exploration licence* and substituting the following definition:

special exploration licence means a licence in force under Part 2A;

5. Sections 3A and 3B inserted

After section 3 of the Principal Act, the following sections are inserted in Part 1:

3A. Meaning of *obtaining minerals*, and *produced*, in relation to geothermal energy

- (1) A reference in this Act to ***obtaining minerals*** includes a reference to producing geothermal energy.
- (2) For the purposes of this Act, geothermal energy is produced when the energy reaches the surface of the earth as a result of production activities.

3B. Meaning of *production* and of *production activities*

- (1) In this Act, ***production activities***, in relation to a Category 4 mineral, means –

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- (a) the carrying out of an activity to release, or recover, petroleum from a petroleum reservoir in which it is contained and the execution of the works necessary to carry out that activity; and
 - (b) the injection of petroleum, carbon dioxide, water or some other product into a petroleum reservoir; and
 - (c) any other kind of activity that is prescribed by the regulations to be a production activity in relation to a Category 4 mineral.
- (2) In this Act, ***production activities***, in relation to a Category 6 mineral, means –
- (a) the carrying out of an activity to produce geothermal energy relating to the mineral and the carrying out of the activities, and the execution of the works, necessary for that purpose; and
 - (b) the injection of water, or another substance, into a geothermal reservoir; and
 - (c) any other kind of activity that is prescribed by the regulations to be a production activity in relation to a Category 6 mineral.

- (3) In this Act, *production activities*, in relation to a Category 4 mineral or a Category 6 mineral, does not include producing petroleum or geothermal energy as a by-product of mining operations for the purpose of obtaining any other mineral.
- (4) For the purposes of this Act, a Category 4 mineral is produced when it reaches the surface of the earth.

6. Section 5 amended (Application of Act)

Section 5(5) of the Principal Act is amended by inserting “or a special exploration licence” after “exploration licence”.

7. Section 6 amended (Ownership of minerals and substances)

Section 6 of the Principal Act is amended as follows:

- (a) by inserting in subsection (4) “geothermal substance, petroleum,” after “helium,”;
- (b) by inserting the following subsection after subsection (5):
 - (6) Subsection (5) does not affect the operation of subsection (3).

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8. Section 11 amended (Application for exploration licence)

Section 11 of the Principal Act is amended as follows:

- (a) by inserting in subsection (2)(b) “, or category of minerals,” after “minerals”;
- (b) by inserting in subsection (2)(c)(i) “on activities under the licence sought” after “out”;
- (c) by inserting in subsection (2)(c)(iv) “on activities under the licence” after “expenditure”;
- (d) by inserting in subsection (2)(c)(v) “of activities under the licence” after “environment”;
- (e) by omitting subsections (4) and (5) and substituting the following subsections:
 - (4) The holder of a special exploration licence may only apply for a licence in relation to an area of land that is, in whole or in part, specified in the special exploration licence, if –
 - (a) the application is in relation to a mineral, or a category of minerals, to which that special exploration licence relates; and

- (b) the area of land does not exceed the area of land specified in section 21(1) in respect of the mineral or the category of minerals.
- (5) If a relevant licence, within the meaning of section 161E(1), ceases to be in force in relation to an area of land, a person may not, until a date specified by the Director, in accordance with section 161E(2)(c), in a notice under section 161E(2) in relation to the licence, apply for a licence that is to relate to both –
- (a) all or part of the area of land that is specified in the notice; and
 - (b) a mineral, or the category of minerals, specified in the notice.

9. Section 12 amended (Priority of applications)

Section 12 of the Principal Act is amended by omitting subsection (1A) and substituting the following subsection:

- (1A) If a notice has been published under section 161E in relation to an exploration licence or retention licence, applications –

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(a) for a licence that is to relate to both –

(i) all or part of the area of land that is specified in the notice; and

(ii) a mineral, or the category of minerals, specified in the notice; and

(b) that are received up to and including 4 working days after the date specified in the notice –

are to be taken to be received on the same day.

10. Section 13 amended (Pending application)

Section 13(2) of the Principal Act is amended as follows:

(a) by inserting in paragraph (a) “or withdrawn” after “determined”;

(b) by inserting in paragraph (b)(ii) “, in the opinion of the Director,” after “is”.

11. Section 14 amended (Recommendation of application for exploration licence)

Section 14 of the Principal Act is amended by omitting subsection (4).

12. Section 15A inserted

After section 15 of the Principal Act, the following section is inserted in Division 1:

15A. Alteration of application, &c., before notice published

- (1) A person who has applied for a licence may, by notice to the Director, alter –
 - (a) the application for the licence; or
 - (b) the statement accompanying, in accordance with section 11(2)(c), the application for the licence.
- (2) The alterations to an application for a licence that may be specified in a notice under subsection (1) include, but are not limited to including, alterations of –
 - (a) the minerals, or the category of minerals, in respect of which the application is made; and
 - (b) the area of land in respect of which the licence is sought.
- (3) A notice may only be given to the Director under subsection (1) before notice of the application is published under section 14(2)(b), including publication of such a notice in accordance with section 17(2)(a).
- (4) An application altered under subsection (1) is, as so altered, to be

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taken to be the application as lodged under section 11.

13. Section 16 substituted

Section 16 of the Principal Act is repealed and the following section is substituted:

16. Alteration of application after objection

- (1) If the Mining Tribunal upholds an objection relating to any part of the land in respect of which an application for a licence is made, it may allow the applicant to alter the application by excluding that part.
- (2) An application for a licence altered under subsection (1) is, as so altered, to be taken to be the application as lodged under section 11.

14. Section 17 amended (Granting application for exploration licence)

Section 17(2)(b) of the Principal Act is amended by inserting “in respect of which the licence is sought” after “land”.

15. Section 17A inserted

After section 17 of the Principal Act, the following section is inserted in Division 1:

17A. When application for licence may be granted or refused

- (1) The Minister may only grant an application for a licence if the Minister is satisfied that the applicant –
 - (a) intends to do work for the purposes of the licence; and
 - (b) intends to comply with this Act; and
 - (c) has an appropriate program of work; and
 - (d) has provided sufficient information relating to the likely impact on the environment of activities under the licence; and
 - (e) has provided a security deposit.
- (2) The Minister may only grant an application for a licence if the Minister is satisfied that the applicant –
 - (a) has –
 - (i) sufficient technical and financial resources; or
 - (ii) obtained an agreement, contract, or other arrangement, with another person to ensure the provision of sufficient

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technical and financial
resources –

to enable the carrying out of the
program of work in relation to the
application for the first 2 years
after the application is granted;
and

- (b) is likely to have sufficient
technical and financial resources
to enable the carrying out of the
program of work for the
remainder of the period of the
licence after the first 2 years after
the application is granted.
- (3) The Minister may refuse to grant an
application for a licence by an applicant
if the Minister is of the opinion that the
application ought to be refused because –
- (a) of significant, or repeated,
breaches of this Act or the
regulations by –
 - (i) the applicant; or
 - (ii) a person, authorised or
employed by the
applicant, who committed
the breach, or breaches, in
relation to activities under
a licence of any kind, or a
lease, of the applicant; or

- (b) the applicant has failed to comply with the conditions subject to which an application under this Act by the applicant for a licence of any kind, or a lease, was granted; or
- (c) the applicant has failed to substantially carry out as much of a work program, development plan, field development plan, or mining plan, in relation to a licence of any kind, or a lease, of the applicant, as ought reasonably be expected to have been carried out at the time the application is made.

16. Section 18 amended (Conditions of exploration licence)

Section 18 of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (2):
 - (2A) Without limiting the generality of subsection (1), the conditions that may be imposed include –
 - (a) a condition as to the minimum amount of money that is to be expended –

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(i) during the period
in which the
licence is in force;
or

(ii) during one or
more periods, in
which the licence
is in force,
specified in the
licence –

or both, for the purposes
of, or in relation to,
exploration under the
licence; and

(b) a condition requiring the
completion of work
programs in relation to the
licence –

(i) during the period
in which the
licence is in force;
or

(ii) during one or
more periods, in
which the licence
is in force,
specified in the
licence –

or both, for the purposes
of, or in relation to,

exploration under the
licence.

- (b) by omitting from subsection (3) “any condition” and substituting “the conditions”;
- (c) by omitting from subsection (4) “any condition” and substituting “the conditions”;
- (d) by omitting from subsection (4)(a) “condition” and substituting “conditions”;
- (e) by omitting from subsection (5) “the condition” and substituting “the conditions of a licence”;
- (f) by omitting from subsection (6) “a condition” and substituting “the conditions”.

17. Section 19 substituted

Section 19 of the Principal Act is repealed and the following section is substituted:

19. Restriction on exploration in relation to private land

The holder of a licence, a person authorised by the holder of a licence, and a person acting under a contract of service, or a contract for services, with the holder of a licence, must not explore on private land within 100 metres of –

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(a) the surface of any natural lake, artificial lake, dam, reservoir, water-producing well, or artificial pond, part or all of which is on the land; or

(b) any dwelling, or substantial building, on the land –

unless the holder of the licence has the consent of the owner and of the occupier of the land to do so.

Penalty: Fine not exceeding 100 penalty units.

18. Section 20 amended (Exploration licence)

Section 20 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “and on payment of the prescribed fee”;
- (b) by omitting from subsection (2)(b)(i) “over which it is granted” and substituting “comprised in the licence”;
- (c) by omitting from subsection (2)(b)(iii) “in respect of which it is granted” and substituting “, or category of minerals, to which the licence relates”;
- (d) by omitting from subsection (3) “over which the licence is granted” and substituting “comprised in the licence”.

19. Section 21 amended (Area of land comprised in exploration licence)

Section 21 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “5 and 6” and substituting “3 and 5”;
- (b) by omitting from subsection (1)(b) “3” and substituting “6”;
- (c) by omitting subsections (2) and (3) and substituting the following subsections:
 - (2) Land comprised in a licence may be either or both of the following:
 - (a) the same size as, or smaller than, the area of land in respect of which the licence was sought;
 - (b) different in shape from the area of land in respect of which the licence was sought.
 - (3) An area of land comprised in a licence (*the relevant licence*) in respect of a mineral, or category of minerals, must not include an area which –
 - (a) is the subject of a licence of any kind in respect of the same mineral, or

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category of minerals,
other than a special
exploration licence held
by the person to whom
the application for the
relevant licence is
granted; or

(b) is the subject of a lease or
an application for a lease;
or

(c) is the subject of an
application for a retention
licence in respect of the
same mineral or category
of minerals.

20. Section 22 amended (Exploration licence for small areas)

Section 22 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “, under section 17,” after “may”;
- (b) by inserting in subsection (2) “to which subsection (1) applies” after “A licence”;
- (c) by inserting in subsection (2) “, or category of minerals,” after “mineral”;
- (d) by omitting subsection (3);

- (e) by omitting from subsection (4) “under this section.” and substituting “to which subsection (1) applies.”.

21. Section 23 amended (Authority of exploration licence)

Section 23(1) of the Principal Act is amended as follows:

- (a) by omitting “licensee” and substituting “holder of the licence, a person authorised by the holder of the licence, and a person acting under a contract of service, or a contract for services, with the holder of the licence”;
- (b) by inserting in paragraph (a) “, in accordance with the conditions of the licence,” after “explore”;
- (c) by inserting in paragraph (a) “, or minerals within the category of minerals,” after “minerals”;
- (d) by inserting in paragraph (b) “, in accordance with the conditions of the licence” after “purpose”;
- (e) by inserting in paragraph (c) “, in accordance with the conditions of the licence,” after “land”.

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22. Section 24 amended (Term of exploration licence)

Section 24 of the Principal Act is amended as follows:

- (a) by inserting “or unless the term of the licence is extended under section 25” after “earlier”;
- (b) by omitting from paragraph (b) “minerals.” and substituting “minerals; or”;
- (c) by inserting the following paragraph after paragraph (b):
 - (c) for a period of 5 years from the date on which the application for the licence is granted, in respect of Category 5 minerals or Category 6 minerals.

23. Section 25 amended (Extension of term of licence)

Section 25 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “an exploration licence” and substituting “a licence”;
- (b) by omitting from subsection (4)(c) “work program” and substituting “program of work”;

- (c) by inserting in subsection (7) “to which an application under subsection (1) relates” after “A licence”;
- (d) by omitting from subsection (7)(b) “appeal.” and substituting “appeal; or”;
- (e) by inserting the following paragraph after paragraph (b) in subsection (7):
 - (c) if the date on which the licence would, if the application were not granted, expire is a date later than the date on which a decision or order referred to in paragraph (a) or (b) occurs – the date on which the licence would expire.

24. Section 26 substituted

Section 26 of the Principal Act is repealed and the following section is substituted:

26. Minimum expenditure

- (1) The Minister may, in relation to a licence, determine the minimum amount of money that the Director may require the holder of the licence to expend, in each 12-month period for which the licence is in force, in relation to exploration activities that are required by the work program in respect of the licence to be carried out.

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- (2) The Director, by notice served on the holder of a licence, may specify –
 - (a) the minimum amount determined by the Minister under subsection (1) in relation to the licence; and
 - (b) that the holder of the licence is required to expend, in each 12-month period for which the licence is in force, in relation to exploration activities that are required by the work program in respect of the licence to be carried out, at least the amount specified in the notice under paragraph (a).
- (3) The holder of a licence on whom a notice is served under subsection (2) must, in each 12-month period for which the licence is in force, expend, in relation to exploration activities that are required by the work program in respect of the licence to be carried out, at least the amount of money that is specified in the notice.
- (4) The Director may not specify in a notice under subsection (2) in relation to the holder of a licence a period, if the period is a period specified in a condition, of the kind referred to in section 18(2A), that is imposed on the licence.

25. Section 28 amended (Annual report)

Section 28 of the Principal Act is amended as follows:

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

(1) The holder of a licence is, in each year, to submit to the Director, by –

(a) the anniversary, in that year, of the day on which the application for the licence was granted; or

(b) a day, after that anniversary, specified under subsection (1A) in relation to the licence –

a report (an *annual report*) in relation to the 12-month period immediately before that anniversary.

(1A) The Director may, by notice in writing to the holder of a licence, specify a day for the purposes of subsection (1)(b) in relation to the licence.

(b) by omitting paragraph (a) from subsection (2) and substituting the following paragraph:

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- (a) be in accordance with the annual report guidelines; and
- (c) by omitting from subsection (2)(b) “financial year” and substituting “12-month period to which the report relates”;
- (d) by omitting paragraph (d) from subsection (2) and substituting the following paragraph:
 - (d) give details of any work that is proposed to be undertaken under the licence in the future; and
- (e) by omitting from subsection (2)(e) “the Director requires” and substituting “that is specified in the annual report guidelines, or by the Director by notice in writing to the holder of the licence, as being required to be contained in the report”;
- (f) by omitting subsection (3).

26. Section 28A inserted

After section 28 of the Principal Act, the following section is inserted in Division 2:

28A. Returns

- (1) A licensee is to submit to the Director, within 28 days after the end of a quarter, a return (a *quarterly return*) in relation to the quarter.

- (2) A quarterly return is to be in the approved form, if any.
- (3) A quarterly return in relation to a licence is to –
 - (a) specify the expenditure, during the quarter to which the return relates, on each category of exploration, under the licence, that is listed in the approved form, if any; and
 - (b) specify the progress of the exploration program under the licence during the quarter; and
 - (c) specify any rehabilitation, of the area of land comprised in the licence, that was undertaken during the quarter; and
 - (d) contain any other information that is specified in the form, or by the Director by notice in writing to the lessee, as being required to be contained in the return.
- (4) A licensee, by the anniversary, in each year, of the date on which the application for the licence is granted, is to submit to the Director a return (an *annual return*) in relation to the 12-month period before that anniversary.
- (5) An annual return is to be in the approved form, if any.

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- (6) The Director, by notice to a licensee, may require the licensee to submit to the Director, by the date or dates specified in the notice, the information specified in the notice as required to be submitted by the licensee.
- (7) A licensee is to submit to the Director, by the date or dates specified in a notice to the licensee under subsection (6), the information specified in the notice as required to be submitted by the licensee.

Penalty: Fine not exceeding 50 penalty units.

- (8) The information specified in an approved form, or a notice under this section, as required to be submitted by the licensee, may include an audited report.

27. Section 30 substituted

Section 30 of the Principal Act is repealed and the following section is substituted:

30. Exploration without licence

A person must not, on an area of land comprised in a licence, explore for minerals to which the licence relates, unless the person –

- (a) is the holder of the licence; or

- (b) is authorised by the holder of the licence to explore for the minerals; or
- (c) is exploring for the minerals under a contract of service, or a contract for services, with the holder of the licence; or
- (d) has obtained the written consent of the holder of the licence.

Penalty: Fine not exceeding 100 penalty units.

28. Section 32 amended (Application for transfer of exploration licence)

Section 32 of the Principal Act is amended as follows:

- (a) by omitting subsection (4) and substituting the following subsection:
 - (4) The Registrar, by notice in writing, is to notify of an application lodged under this section in relation to a licence any person who has lodged a caveat under Part 10 in relation to the licence.
- (b) by omitting from subsection (5) “so as to be received at least 14 days before the approval takes effect” and substituting

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“within 14 days after the application is lodged”;

(c) by omitting subsection (6) and substituting the following subsection:

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

29. Section 33 amended (Approval of transfer of exploration licence)

Section 33 of the Principal Act is amended as follows:

(a) by omitting from subsection (1)(a) “, with or without conditions”;

(b) by inserting the following paragraph after paragraph (a) in subsection (1):

(ab) refuse to approve the application until conditions specified by the Minister are satisfied; or

(c) by inserting the following paragraph after paragraph (a) in subsection (2):

- (ab) the conditions, if any, that must be satisfied before the Minister will approve the transfer; or

30. Section 35 amended (Surrender of exploration licence)

Section 35 of the Principal Act is amended by inserting after subsection (4) the following subsections:

- (5) If the Director approves an application on conditions, the Director, by notice in writing, is to notify the applicant when the Director is satisfied that all the conditions have been fulfilled.
- (6) If the Director approves an application, the licence, or the part of the licence, to which the application relates –
 - (a) is, if the application is approved without conditions, surrendered on the date on which the Director gives to the applicant notice under subsection (4) of the approval; or
 - (b) is, if the application is approved with conditions, surrendered on the date on which the Director gives to the applicant notice under subsection (5) that the Director is satisfied that all the conditions have been fulfilled.

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31. Section 37 amended (Term of consolidated exploration licence)

Section 37(1) of the Principal Act is amended by inserting “application for the” after “which the”.

32. Part 2, Division 4: Heading repealed

Part 2 is amended by omitting the heading “*Division 4 — Special exploration licences*”.

33. Part 2A: Heading inserted

The Principal Act is amended by inserting the following heading after section 37:

PART 2A – SPECIAL EXPLORATION LICENCES

34. Part 2A, Division 1: Heading inserted

Part 2A of the Principal Act is amended by inserting the following heading before section 38:

Division 1 – Applications

35. Section 38 amended (Application for special exploration licence)

Section 38 of the Principal Act is amended as follows:

- (a) by inserting in subsection (2)(b) “, or category of minerals,” after “minerals”;

- (b) by inserting in subsection (2)(e) “of activities under the licence” after “environment”;
- (c) by inserting the following subsection after subsection (3):
 - (4) A person may not apply for a licence in relation to an area of land –
 - (a) to which a notice published under section 161E relates; or
 - (b) if the person holds or held a special exploration licence in relation to the area of land for the same mineral, or category of minerals, as the mineral, or category of minerals, to which the application relates.

36. Sections 38A and 38B inserted

After section 38 of the Principal Act, the following sections are inserted in Division 1:

38A. Priority of applications

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

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- (a) for applications received on different days, an application received on an earlier day has priority over an application received on a later day;
 - (b) for applications received on the same day, the order of priority is as determined by the Director according to the relative merits of the applications;
 - (c) for applications received on the same day which are determined by the Director to be of equal merit, the order of priority is as determined by a ballot conducted in an approved manner.
- (2) An application that has priority over any other application is to be determined without reference to any other application.
- (3) The Director is to notify an applicant –
- (a) that the application of the applicant has priority over any other application; or
 - (b) that the application of another applicant has priority; or
 - (c) if the priority of an application of the applicant has altered because another application is withdrawn

or refused or has lapsed under section 38B.

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

38B. Pending application

- (1) An application for a licence is pending from the day on which it is lodged until whichever of the following happens first:
- (a) the application is granted;
 - (b) the application is refused;
 - (c) the application lapses;
 - (d) the application is withdrawn.
- (2) An application for a licence lapses –
- (a) 12 months after it is lodged, if it is not determined or withdrawn by that time; or
 - (b) at a later date fixed by the Director, and notified to the applicant, if –
 - (i) the failure to determine the application was not caused by a default of the applicant; or

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- (ii) there is, in the opinion of the Director, a sufficient reason for fixing a later date.

37. Section 39 amended (Recommendation of application for special exploration licence)

Section 39 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “special exploration”;
- (b) by omitting from subsection (4) “special exploration”;
- (c) by inserting in subsection (4)(e) “of activities under the licence” after “environment”.

38. Section 40 amended (Objection to special exploration licence)

Section 40(1) of the Principal Act is amended by omitting “special exploration”.

39. Sections 40A and 40B inserted

After section 40 of the Principal Act, the following sections are inserted in Division 1:

40A. Alteration of application, &c., before notice published

- (1) A person who has applied for a licence may, by notice to the Director, alter –
 - (a) the application for the licence; or
 - (b) the statement accompanying, in accordance with section 38(2)(c) or (e), the application for the licence.
- (2) The alterations to an application for a licence that may be specified in a notice under subsection (1) include, but are not limited to including, alterations of –
 - (a) the minerals, or the category of minerals, in respect of which the application is made; and
 - (b) the area of land in respect of which the licence is sought.
- (3) A notice may only be given to the Director under subsection (1) before notice of the application is published under section 39(2)(b) (including publication of such a notice in accordance with section 41(2)(a)).
- (4) An application altered under subsection (1) is, as so altered, to be taken to be the application as lodged under section 38.

40B. Alteration of application after objection

- (1) If the Mining Tribunal upholds an objection relating to a part of the land in respect of which an application for a licence is made, it may allow the applicant to alter the application by excluding that part.
- (2) An application for a licence altered under subsection (1) is, as so altered, to be taken to be the application as lodged under section 38.

40. Section 41 amended (Granting application for special exploration licence)

Section 41 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “special exploration”;
- (b) by inserting in subsection (2)(b) “in respect of which the licence is sought” after “land”.

41. Section 41A inserted

After section 41 of the Principal Act, the following section is inserted in Division 1:

41A. When Minister may grant application

- (1) The Minister may only grant an application for a licence if the Minister is satisfied that the applicant –
 - (a) has –
 - (i) sufficient technical and financial resources; or
 - (ii) obtained an agreement, contract, or other arrangement, with another person to ensure the provision of sufficient technical and financial resources –

to enable the carrying out of the program of work in relation to the application for the first 2 years after the application for the licence is granted; and
 - (b) is likely to have sufficient technical and financial resources to enable the carrying out of the program of work for the remainder of the period of the licence after the first 2 years after the application for the licence is granted.
- (2) The Minister may refuse to grant an application for a licence by an applicant

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if the Minister is of the opinion that the application ought to be refused because –

- (a) of significant, or repeated, breaches of this Act or the regulations by –
 - (i) the applicant; or
 - (ii) a person, authorised or employed by the applicant, who committed the breach, or breaches, in relation to activities under a licence of any kind, or a lease, of the applicant; or
- (b) the applicant has failed to comply with the conditions subject to which an application under this Act by the applicant for a licence of any kind, or a lease, was granted; or
- (c) the applicant has failed to substantially carry out as much of a work program, development plan, field development plan, or mining plan, in relation to a licence of any kind, or a lease, of the applicant, as ought reasonably be expected to have been carried out at the time the application is made.

42. Section 42 amended (Conditions of special exploration licence)

Section 42 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “special exploration”;
- (b) by inserting the following subsection after subsection (1):

(1A) Without limiting the generality of subsection (1), the conditions that may be imposed include –

- (a) a condition as to the amount of money that is to be expended –

- (i) during the period in which the licence is in force; or

- (ii) during one or more periods, in which the licence is in force, specified in the licence –

or both, for the purposes of, or in relation to, exploration under the licence; and

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(b) a condition requiring the completion of work programs in relation to the licence –

(i) during the period in which the licence is in force; or

(ii) during one or more periods, in which the licence is in force, specified in the licence –

or both, for the purposes of, or in relation to, exploration under the licence.

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

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

43. Section 42A inserted

After section 42 of the Principal Act, the following section is inserted in Division 1:

42A. Restriction on exploration on private land

The holder of a licence, a person authorised by the holder of a licence, and a person acting under a contract of service, or a contract for services, with the holder of a licence, must not explore on private land within 100 metres of –

- (a) the surface of any natural lake, artificial lake, dam, reservoir, water-producing well, or artificial pond, part or all of which is on the land; or
- (b) any dwelling, or substantial building, on the land –

unless the holder of the licence has the consent of the owner and of the occupier of the land to do so.

Penalty: Fine not exceeding 100 penalty units.

44. Part 2A, Division 2: Heading inserted

Part 2A of the Principal Act is amended by inserting the following heading after section 42A:

Division 2 – Special exploration licences

45. Section 42B inserted

Before section 43 of the Principal Act, the following section is inserted in Division 2:

42B. Special exploration licence

- (1) On granting an application for a licence, the Minister is to issue a special exploration licence.
- (2) A licence is to –
 - (a) be in an approved form; and
 - (b) include the following particulars:
 - (i) a description of the area of land comprised in the licence;
 - (ii) the total area of that land;
 - (iii) the minerals, or category of minerals, to which the licence relates;
 - (iv) the terms and conditions to which it is subject;
 - (v) the period for which it is in force.
- (3) A licensee is to pay rent to the Crown in respect of the land to which the licence

relates at a prescribed rate and in a prescribed manner.

46. Section 43 substituted

Section 43 of the Principal Act is repealed and the following sections are substituted:

43. Authority of special exploration licence

A licence authorises the holder of the licence, a person authorised by the holder of the licence, and a person acting under a contract of service, or a contract for services, with the holder of the licence, to explore, in accordance with the conditions of the licence, in the area of land comprised in the licence, for minerals, or minerals within the category of minerals, specified in the licence.

43A. Duties under special exploration licence

A licensee must –

- (a) carry out any exploration efficiently and effectively; and
- (b) carry out any exploration and rehabilitation of land consistent with the standards specified in any relevant Code of practice.

43B. Annual report

- (1) A holder of a licence is, in each year, to submit to the Director, by –

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- (a) the anniversary, in that year, of the day on which the application for the licence was granted; or
- (b) a day, after that anniversary, specified under subsection (2) in relation to the licence –

a report (an *annual report*) in relation to the 12-month period immediately before that anniversary.

- (2) The Director may, by notice in writing to a holder of a licence, specify a day for the purposes of subsection (1)(b) in relation to the licence.
- (3) The annual report is to –
 - (a) be in accordance with the annual report guidelines; and
 - (b) specify the amounts of money expended in respect of any exploration carried out during the 12-month period to which the report relates; and
 - (c) contain a summary of the matters specified in section 187(2); and
 - (d) give details of any work that is proposed to be undertaken under the licence in the future; and
 - (e) contain any other matter relating to the licence that is specified in

the annual report guidelines, or by the Director by notice in writing to the holder of the licence, as being required to be contained in the report.

43C. Returns

- (1) A licensee is to submit to the Director, within 28 days after the end of a quarter, a return (a *quarterly return*) in relation to the quarter.
- (2) A quarterly return is to be in the approved form, if any.
- (3) A quarterly return in relation to a licence is to –
 - (a) specify the expenditure, during the quarter to which the return relates, on each category of exploration, under the licence, that is listed in the approved form, if any; and
 - (b) specify the progress of the exploration program under the licence during the quarter; and
 - (c) specify any rehabilitation, of the area of land comprised in the licence, that was undertaken during the quarter; and
 - (d) contain any other information that is specified in the form, or by the

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Director by notice in writing to
the licensee, as being required to
be contained in the return.

- (4) A licensee, by the anniversary, in each year, of the date on which the application for the licence is granted, is to submit to the Director a return (an *annual return*) in relation to the 12-month period before that anniversary.
- (5) An annual return is to be in the approved form, if any.
- (6) The Director, by notice to a licensee, may require the licensee to submit to the Director, by the date or dates specified in the notice, the information specified in the notice as required to be submitted by the licensee.
- (7) A licensee is to submit to the Director, by the date or dates specified in the notice to the licensee under subsection (6), the information specified in the notice as required to be submitted by the licensee.

Penalty: Fine not exceeding 50 penalty
units.

- (8) The information specified in an approved form, or a notice under this section, as required to be submitted by the licensee may include an audited report.

47. Section 44 amended (Term of special exploration licence)

Section 44 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “special exploration”;
- (b) by inserting in subsection (1) “, unless revoked or unless the term of the licence is extended under section 44A,” after “A licence is”;
- (c) by omitting from subsection (1) “it is granted” and substituting “the application for the licence is granted.”;
- (d) by omitting subsection (2) and substituting the following subsection:
 - (2) The Minister, under section 44A, may extend the term of the licence for any period, as long as the total term of the licence from the date on which the application for the licence is granted (including any period, after the licence expires, for which the licence remains in force under section 44A(7)) does not exceed 10 years.

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48. Section 44A inserted

After section 44 of the Principal Act, the following section is inserted in Division 2:

44A. Extension of term of licence

- (1) A person may apply to the Minister for an extension of the term of a licence.
- (2) An application is to be –
 - (a) in an approved form; and
 - (b) accompanied by the prescribed fee; and
 - (c) lodged with the Registrar before the licence ceases to be in force.
- (3) The Minister may –
 - (a) subject to section 44(2), grant the application for any further period the Minister determines and with or without conditions; or
 - (b) refuse to grant the application.
- (4) The Minister must grant the application if the Minister is satisfied that –
 - (a) the exploration to be carried out during the term of the licence has been completed; and
 - (b) the licensee has submitted any report or return as required; and

- (c) the licensee has submitted a suitable program of work for the period of extension; and
 - (d) further detailed exploration is justified because substantiated results indicate the probability of a discovery leading to profitable mining operations.
- (5) The Minister, by notice in writing, must notify the applicant of –
 - (a) the grant of the application; or
 - (b) the refusal to grant the application and the reasons for the refusal.
- (6) A licensee may, within 28 days after receipt of a notice under subsection (5)(b) in relation to an application, appeal to the Mining Tribunal against the Minister's refusal to grant the application.
- (7) Subject to section 44(2), a licence to which an application under subsection (1) relates remains in force until –
 - (a) the Minister makes a decision under subsection (3); or
 - (b) if an appeal is made under subsection (6), the Mining

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Tribunal makes an order in relation to the appeal; or

- (c) if the date on which the licence would, if the application were not granted, expire is a date later than the date on which a decision or order referred to in paragraph (a) or (b) occurs – the date on which the licence would expire.

49. Section 45 amended (Area of land comprised in special exploration licence)

Section 45 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:

- (1) The area of land comprised in a special exploration licence in respect of a mineral or category of minerals is to be the area determined by the Minister and specified in the licence, which area may exceed the area specified in section 21(1) in respect of the category of minerals to which the mineral belongs, or the category of minerals, respectively.
- (1A) An area of land comprised in a licence in respect of a mineral must not include an area which –
 - (a) is the subject of a licence of any kind in respect of the same mineral or category of minerals; or

- (b) is the subject of a lease or an application for a lease; or
 - (c) is the subject of an application for a retention licence in respect of the same mineral or category of minerals.
- (1B) Land comprised in a licence may be either or both of the following:
- (a) the same size as, or smaller than, the area of land in respect of which the licence was sought;
 - (b) different in shape from the area of land in respect of which the licence was sought.

50. Section 45A inserted

After section 45 of the Principal Act, the following section is inserted in Division 2:

45A. Exploration without licence

A person must not, on an area of land comprised in a licence, explore for minerals to which the licence relates, unless the person –

- (a) is the holder of the licence; or
- (b) is authorised, by the holder of the licence to explore for the minerals; or

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(c) is exploring for the minerals under a contract of service, or a contract for services, with the holder of the licence; or

(d) has obtained the written consent of the holder of the licence.

Penalty: Fine not exceeding 100 penalty units.

51. Part 2A, Division 3: Heading inserted

Part 2A of the Principal Act is amended by inserting the following heading after section 45A:

Division 3 – Dealings with special exploration licences

52. Sections 45B, 45C and 45D inserted

Before section 46 of the Principal Act, the following sections are inserted in Division 3:

45B. Variation of special exploration licence

(1) The Minister, by notice in writing, with the approval of the licensee, may vary the licence by adding to, or reducing, the area of land comprised in the licence.

(2) On the application of a licensee, the Minister, by notice in writing, may vary the licence by adding to, or reducing, the area of land comprised in the licence.

- (3) If a licensee fails to comply with, or contravenes, a provision of this Act or a condition of the licence, the Minister may vary the licence by –
 - (a) changing or adding any condition; or
 - (b) reducing the area of land comprised in the licence.
- (4) Before varying a licence, the Minister, by notice in writing served on the licensee, is to notify the licensee of –
 - (a) the intent to vary the licence; and
 - (b) the nature of the variation; and
 - (c) the right of the licensee to make submissions in relation to the matter within a period specified in the notice.
- (5) A licensee may, within 28 days after the date of the Minister's decision to vary the licence, appeal to the Mining Tribunal against the decision.
- (6) The variation of the licence takes effect –
 - (a) if an appeal is not made under subsection (5), 28 days after service of a notice under subsection (4); or
 - (b) if an appeal is made under subsection (5) and the Mining

Tribunal makes an order affirming the decision, 10 days after the date of the order.

45C. Application for transfer of special exploration licence

- (1) A licensee may apply to the Minister for approval to transfer a licence.
- (2) An application is to be –
 - (a) in an approved form; and
 - (b) accompanied by the executed instrument of transfer; and
 - (c) accompanied by the prescribed fee; and
 - (d) lodged with the Registrar within 28 days after the transfer is executed.
- (3) The Registrar may extend the period referred to in subsection (2)(d) if the Registrar is satisfied that it is reasonable to do so.
- (4) The Registrar, by notice in writing, is to notify of an application lodged under this section in relation to a licence any person who has lodged a caveat under Part 10 in relation to the licence.
- (5) A notice under subsection (4) is to be sent by certified mail within 14 days after the application is lodged.

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

45D. Approval of transfer of special exploration licence

- (1) The Minister may –
- (a) approve the application for the transfer of a licence; or
 - (b) refuse to approve the application until conditions specified by the Minister are satisfied; or
 - (c) refuse to approve the application.
- (2) The Minister, by notice in writing, must notify the applicant of –
- (a) the approval of the application; or
 - (b) the conditions, if any, that must be satisfied before the Minister will approve the transfer; or
 - (c) the refusal to approve the application and the reasons for the refusal.
- (3) A transfer –

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- (a) is of no effect unless approved by the Minister; and
- (b) takes effect, if approved, on the date of the approval.

53. Section 46 amended (Revocation of special exploration licence)

Section 46 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “special exploration” twice occurring;
- (b) by omitting from subsection (2) “special exploration” twice occurring.

54. Section 46A inserted

After section 46 of the Principal Act, the following section is inserted in Division 3:

46A. Surrender of special exploration licence

- (1) A licensee may apply to the Director for approval to surrender a licence or part of a licence.
- (2) An application for approval to surrender a licence or part of a licence is to be –
 - (a) in an approved form; and
 - (b) accompanied by the licence; and

- (c) accompanied by the prescribed fee; and
 - (d) lodged with the Registrar.
- (3) The Director may –
- (a) approve the application, with or without any conditions; or
 - (b) refuse to approve the application.
- (4) The Director, by notice in writing, is to notify the applicant of –
- (a) the approval of the application; or
 - (b) the refusal to approve the application and the reasons for that refusal.
- (5) If the Director approves an application on conditions, the Director, by notice in writing, is to notify the applicant when the Director is satisfied that all the conditions have been fulfilled.
- (6) If the Director approves an application, the licence, or the part of the licence, to which the application relates –
- (a) is, if the application is approved without conditions, surrendered on the date on which the Director gives to the applicant notice under subsection (4) of the approval; or

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- (b) is, if the application is approved with conditions, surrendered on the date on which the Director gives to the applicant notice under subsection (5) that the Director is satisfied that all the conditions have been fulfilled.

55. Section 47 amended (Application for retention licence)

Section 47 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:

- (1) A person may apply to the Minister for a retention licence.
- (1A) A person may only apply under subsection (1) for a retention licence if –
 - (a) the licence is to relate to both –
 - (i) a mineral, or a category of minerals, specified in an exploration licence or lease; and
 - (ii) any area of land comprised in that exploration licence or lease; and
 - (b) the person is the holder of the exploration licence or lease or is a person to whom a consent under

section 48(1) in relation to that licence or lease has been given by the holder of the licence or lease.

56. Section 48 substituted

Section 48 of the Principal Act is repealed and the following section is substituted:

48. Holder of exploration licence or lease may permit other person to apply for retention licence

- (1) The holder of an exploration licence or a lease may, by notice in writing to another person, consent to the other person applying, either alone or in conjunction with the holder, for a retention licence that is to relate to both –
 - (a) a mineral, or a category of minerals, specified in an exploration licence or lease; and
 - (b) any area of land comprised in that exploration licence or lease.
- (2) A person to whom a notice of consent is given under subsection (1) is to provide the Registrar with a copy of that notice within 14 days of the date of the notice.

57. Section 49A inserted

After section 49 of the Principal Act, the following section is inserted in Division 1:

49A. Pending application

- (1) An application for a licence is pending from the day on which it is lodged until whichever of the following happens first:
 - (a) the application is granted;
 - (b) the application is refused;
 - (c) the application lapses;
 - (d) the application is withdrawn.
- (2) An application for a licence lapses –
 - (a) 12 months after it is lodged, if it is not determined or withdrawn by that time; or
 - (b) at a later date fixed, and notified to the applicant, by the Director, if –
 - (i) the failure to determine the application was not caused by a default of the applicant; or
 - (ii) there is, in the opinion of the Director, a sufficient reason for fixing a later date.

58. Section 52 substituted

Section 52 of the Principal Act is repealed and the following section is substituted:

52. Alteration of application after objection

- (1) If the Mining Tribunal upholds an objection relating to a part of the land in respect of which an application for a licence is made, it may allow the applicant to alter the application by excluding that part.
- (2) An application for a licence altered under subsection (1) is, as so altered, to be taken to be the application as lodged under section 47.

59. Section 53 amended (Granting application for retention licence)

Section 53 of the Principal Act is amended as follows:

- (a) by inserting in subsection (2)(a) “, or the category of minerals,” after “minerals”;
- (b) by inserting in subsection (3)(b) “in respect of which the licence is sought” after “land”.

60. Section 54 substituted

Section 54 of the Principal Act is repealed and the following section is substituted:

54. Restriction on exploration on private land

The holder of a licence, a person authorised by the holder of a licence, and a person acting under a contract of service, or a contract for services, with the holder of a licence, must not explore on private land within 100 metres of –

- (a) the surface of any natural lake, artificial lake, dam, reservoir, water-producing well, or artificial pond, part or all of which is on the land; or
- (b) any dwelling, or substantial building, on the land –

unless the holder of the licence has the consent of the owner and of the occupier of the land to do so.

Penalty: Fine not exceeding 100 penalty units.

61. Section 55 amended (Conditions of retention licence)

Section 55 of the Principal Act is amended as follows:

- (a) by omitting subsection (3) and substituting the following subsection:
 - (3) The Minister may vary the conditions of the licence by

rescinding, adding, substituting or amending a condition.

- (b) by omitting from subsection (4) “or rescinding any condition” and substituting “the conditions”;
- (c) by omitting from subsection (4)(a) “condition” and substituting “conditions”;
- (d) by omitting from subsection (5) “the condition” and substituting “the conditions of the licence.”;
- (e) by omitting from subsection (6) “a condition” and substituting “the conditions”.

62. Section 56 amended (Retention licence)

Section 56 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “and on payment of the prescribed fee”;
- (b) by omitting from subsection (2)(b)(i) “over which it is granted” and substituting “comprised in the licence”;
- (c) by omitting from subsection (2)(b)(iii) “type of minerals in respect of which it is granted” and substituting “minerals, or category of minerals, to which the licence relates”;

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- (d) by omitting from subsection (3) “over which the licence is granted” and substituting “comprised in the licence”.

63. Section 57 substituted

Section 57 of the Principal Act is repealed and the following section is substituted:

57. Area of land comprised in retention licence

- (1) The area of land comprised in a licence must not exceed –
 - (a) for a licence relating to Category 1, 3 or 5 minerals, 10 square kilometres; or
 - (b) for a licence relating to Category 2, 4 or 6 minerals, 50 square kilometres.
- (2) A licence of any kind or a lease is not affected by an application under section 47 for a licence.
- (3) On the granting of an application under section 47 for a licence in relation to a mineral, or a category of mineral, an area of land to which the application relates that is subject to an exploration licence in relation to the same mineral, or the same category of minerals, ceases to be subject to the exploration licence.

- (4) An area of land comprised in a licence in respect of a mineral or a category of minerals –
 - (a) must not include an area which is the subject of a lease in respect of the mineral or category of minerals; and
 - (b) must not include an area which is the subject of an application for a lease.
- (5) Land comprised in a licence may be either or both of the following:
 - (a) the same size as, or smaller than, the area of land in respect of which the licence was sought;
 - (b) different in shape from the area of land in respect of which the licence was sought.

64. Section 58 amended (Authority of retention licence)

Section 58(1) of the Principal Act is amended as follows:

- (a) by omitting “the licensee” and substituting “the holder of the licence, a person authorised by the holder of the licence, and a person acting under a contract of service, or a contract for services, with the holder of the licence”;

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- (b) by inserting in paragraph (a) “, in accordance with the conditions of the licence,” after “out”;
- (c) by inserting in paragraph (b) “, in accordance with the conditions of the licence,” after “to”.

65. Section 59 amended (Term of retention licence)

Section 59(1) of the Principal Act is amended by inserting “or extended under subsection (2)” after “earlier”.

66. Section 60A substituted

Section 60A of the Principal Act is repealed and the following sections are substituted:

60A. Annual report

- (1) A holder of a licence is, in each year, to submit to the Director, by –
 - (a) the anniversary, in that year, of the day on which the application for the licence was granted; or
 - (b) a day, after that anniversary, specified under subsection (2) in relation to the licence –

a report (an *annual report*) in relation to the 12-month period immediately before that anniversary.

- (2) The Director may, by notice in writing to a holder of a licence, specify a day for the purposes of subsection (1)(b) in relation to the licence.
- (3) The annual report is to –
 - (a) be in accordance with the annual report guidelines; and
 - (b) specify the amounts of money expended in respect of any exploration carried out during the 12-month period to which the report relates; and
 - (c) contain a summary of the matters specified in section 187(2); and
 - (d) give details of any work that is proposed to be undertaken under the licence in the future; and
 - (e) contain any other matter relating to the licence that is specified in the annual report guidelines, or by the Director by notice in writing to the holder of the licence, as being required to be contained in the report.

60AB. Returns

- (1) A licensee is to submit to the Director, within 28 days after the end of a quarter, a return (a *quarterly return*) in relation to the quarter.

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- (2) A quarterly return is to be in the approved form, if any.
- (3) A quarterly return in relation to a licence is to –
 - (a) specify the expenditure, during the quarter to which the return relates, on each category of exploration, under the licence, that is listed in the approved form, if any; and
 - (b) specify the progress of the exploration program under the licence during the quarter; and
 - (c) specify any rehabilitation, of the area of land comprised in the licence, that was undertaken during the quarter; and
 - (d) contain any other statistical information that is specified in the form, or by the Director by notice in writing to the licensee, as being required to be contained in the return.
- (4) A licensee, by the anniversary, in each year, of the date on which the application for the licence is granted, is to submit to the Director a return (an *annual return*) in relation to the 12-month period before that anniversary.

- (5) An annual return is to be in the approved form, if any.
- (6) The Director may, by notice to a licensee, require the licensee to submit to the Director, by the date or dates specified in the notice, the information specified in the notice as required to be submitted by the licensee.
- (7) A licensee is to submit to the Director, by the date or dates specified in the notice to the licensee under subsection (6), the information specified in the notice as required to be submitted by the licensee.

Penalty: Fine not exceeding 50 penalty units.

- (8) The information specified in an approved form, or a notice under this section, as required to be submitted by the licensee, may include an audited report.

67. Section 60C substituted

Section 60C of the Principal Act is repealed and the following section is substituted:

60C. Exploration without licence

A person must not, on an area of land comprised in a licence, explore for minerals to which the licence relates, unless the person –

- (a) is the holder of the licence; or

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- (b) is authorised by the holder of the licence to explore for the minerals; or
- (c) is exploring for the minerals under a contract of service, or a contract for services, with the holder of the licence; or
- (d) has obtained the written consent of the holder of the licence.

Penalty: Fine not exceeding 100 penalty units.

68. Section 61 amended (Variation of retention licence)

Section 61 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “, or a category of minerals,” after “mineral”;
- (b) by inserting in subsection (2)(b) “, or a category of minerals,” after “mineral”;
- (c) by inserting in subsection (3)(c) “, or a category of minerals,” after “mineral”.

69. Section 62 amended (Application for transfer of retention licence)

Section 62 of the Principal Act is amended as follows:

(a) by omitting subsection (4) and substituting the following subsection:

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

(b) by omitting from subsection (5) “so as to be received at least 14 days before the approval takes effect.” and substituting “within 14 days after the application is lodged.”;

(c) by omitting subsection (6) and substituting the following subsection:

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

70. Section 63 amended (Approval of transfer of retention licence)

Section 63 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (1)(a) “, with or without conditions”;
- (b) by inserting the following paragraph after paragraph (a) in subsection (1):
 - (ab) refuse to approve the application until conditions specified by the Minister are satisfied; or
- (c) by inserting the following paragraph after paragraph (a) in subsection (2):
 - (ab) the conditions, if any, that must be satisfied before the Minister will approve the transfer; or

71. Section 64 amended (Extension of term of retention licence)

Section 64(6) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “appeal.” and substituting “appeal; or”;
- (b) by inserting the following paragraph after paragraph (b):
 - (c) if the date on which the licence would, if the application were not granted, expire is a date later than the date on which a decision or order referred to in paragraph (a) or (b) occurs, the date on which the licence would expire.

72. Section 65 amended (Term of extended licence)

Section 65(1) of the Principal Act is amended by inserting “or unless the term of the licence is extended under this section,” after “earlier”.

73. Section 67 amended (Surrender of retention licence)

Section 67 of the Principal Act is amended by inserting after subsection (4) the following subsections:

- (5) If the Director approves an application on conditions, the Director, by notice in writing, is to notify the applicant when the Director is satisfied that all the conditions have been fulfilled.
- (6) If the Director approves an application, the licence, or the part of the licence, to which the application relates –
 - (a) is, if the application is approved without conditions, surrendered on the date on which the Director gives to the applicant notice under subsection (4) of the approval; or
 - (b) is, if the application is approved with conditions, surrendered on the date on which the Director gives to the applicant notice under subsection (5) that the Director is satisfied that all the conditions have been fulfilled.

74. Part 3A inserted

After section 67 of the Principal Act, the following Part is inserted:

PART 3A – PRODUCTION LICENCES

Division 1 – Applications

67A. Application for production licence

- (1) A person may apply to the Minister for a petroleum production licence or a geothermal production licence.
- (2) A person may only apply under subsection (1) for a petroleum production licence if –
 - (a) the licence is to relate to both –
 - (i) the minerals specified in an exploration licence, or a special exploration licence, for Category 4 minerals; and
 - (ii) any area of land comprised in that licence; and
 - (b) the person is the holder of the exploration licence or special exploration licence or is a person to whom a consent under section 67B in relation to that licence has been given by the holder of the licence.

- (3) A person may only apply under subsection (1) for a geothermal production licence if –
- (a) the licence is to relate to both –
 - (i) the minerals specified in an exploration licence, or a special exploration licence, for Category 6 minerals; and
 - (ii) any area of land comprised in the exploration licence or special exploration licence; and
 - (b) the person is the holder of the exploration licence or special exploration licence or is a person to whom a consent under section 67B in relation to that licence has been given by the holder of the licence.
- (4) An application under subsection (1) is to –
- (a) be in an approved form; and
 - (b) specify the minerals, or category of minerals, in respect of which it is made; and
 - (c) be accompanied by a statement specifying –

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- (i) the production activities to be carried out under the licence; and
 - (ii) a description of the area of land in respect of which the licence is sought; and
 - (iii) the financial and technical resources available to the applicant; and
 - (iv) an estimate of the proposed expenditure on activities under the licence; and
 - (v) the likely impact on the environment of activities under the licence; and
- (d) be accompanied by a fee determined by the Minister; and
 - (e) be accompanied by a plan of development or a plan of field development; and
 - (f) contain any other details the Director requires; and
 - (g) be lodged with the Registrar.
- (5) The Registrar or the Director or both may require an applicant to provide further information.

67B. Holder of licence may consent to other person applying for production licence

- (1) The holder of an exploration licence, or a special exploration licence, in relation to a Category 4 mineral may, by notice in writing to another person, consent to the other person applying, either alone or in conjunction with the holder, for a petroleum production licence that is to relate to both –
 - (a) the minerals, or category of minerals, specified in the exploration licence or special exploration licence; and
 - (b) any area of land comprised in that licence.

- (2) The holder of an exploration licence, or a special exploration licence, in relation to a Category 6 mineral may, by notice in writing to another person, consent to the other person applying, either alone or in conjunction with the holder, for a geothermal production licence that is to relate to both –
 - (a) the minerals, or category of minerals, specified in the exploration licence or special exploration licence; and
 - (b) any area of land comprised in that licence.

- (3) A person to whom a notice of consent is given under subsection (1) or (2) is to provide the Registrar with a copy of that notice within 14 days of the date of the notice.

67C. Pending applications

- (1) An application for a licence is pending from the day on which it is lodged until whichever of the following happens first:
- (a) the application is granted;
 - (b) the application is refused;
 - (c) the application lapses;
 - (d) the application is withdrawn.
- (2) An application for a licence lapses –
- (a) 12 months after it is lodged, if it is not determined or withdrawn by that time; or
 - (b) at a later date fixed by the Director, if –
 - (i) the failure to determine the application was not caused by a default of the applicant; or
 - (ii) there is, in the opinion of the Director, a sufficient

reason for fixing a later date.

67D. Recommendation of application for production licence

- (1) The Director is to consider an application for a licence.
- (2) If the Director intends to recommend to the Minister that the application be granted, the Director is to –
 - (a) notify that intention by notice in writing –
 - (i) to the applicant; and
 - (ii) as required by section 29 of the *Native Title Act 1993* of the Commonwealth; and
 - (b) publish a notice of that intention in a newspaper circulating in the relevant area.
- (3) A notice under subsection (2)(b) is to specify –
 - (a) the name of the applicant; and
 - (b) the area of land in respect of which the application is made; and
 - (c) any other prescribed matter.

67E. Objection to production licence

- (1) Any person with an interest or estate in land within the area specified in a notice published under section 67D(2)(b) may object to the granting of the application for a licence in respect of that land.
- (2) An objection is to –
 - (a) be in writing; and
 - (b) specify the grounds; and
 - (c) be accompanied by the prescribed fee; and
 - (d) be lodged with the Registrar within 28 days after the date of the publication of the notice under section 67D(2)(b).
- (3) An objection is to be heard and determined by the Mining Tribunal.

67F. Alteration of application, &c., before notice published

- (1) A person who has applied for a licence may, by notice to the Director, alter –
 - (a) the application for the licence; or
 - (b) the statement accompanying, in accordance with section 67A(4)(c), the application for the licence.

- (2) The alterations to an application for a licence that may be specified in a notice under subsection (1) –
 - (a) include an alteration of the area of land in respect of which the licence is sought; but
 - (b) do not include an alteration of the minerals, or the category of minerals, in respect of which the application is made.
- (3) A notice may only be given to the Director under subsection (1) before notice of the application is published under section 67D(2)(b) (including publication of such a notice in accordance with section 67H(2)(a)).
- (4) An application altered under subsection (1) is, as so altered, to be taken to be the application as lodged under section 67A.

67G. Alteration of application after objection

- (1) If the Mining Tribunal upholds an objection relating to a part of the land in respect of which an application for a licence is made, it may allow the applicant to alter the application by excluding that part.
- (2) An application for a licence altered under subsection (1) is, as so altered, to be

taken to be the application as lodged under section 67A.

67H. Granting application for production licence

- (1) After considering an application for a licence and any recommendation of the Director (but subject to any decision of the Mining Tribunal), the Minister may –
 - (a) grant the application; or
 - (b) refuse to grant the application.
- (2) If the Minister intends to grant an application for a licence contrary to the recommendation of the Director –
 - (a) the Director is to notify that intention in accordance with section 67D(2); and
 - (b) a person with an interest or estate in the land in respect of which the licence is sought is entitled to object in accordance with section 67E.
- (3) The Minister, by notice in writing, must notify the applicant of –
 - (a) the grant of the application; or
 - (b) the refusal to grant the application and the reasons for the refusal.

67I. When Minister may grant application

- (1) The Minister may only grant an application for a licence if the Minister is satisfied that the applicant –
 - (a) intends to undertake production of Category 4 minerals or Category 6 minerals; and
 - (b) intends to comply with this Act; and
 - (c) has an appropriate plan of development or plan of field development; and
 - (d) has provided sufficient information relating to the likely impact on the environment of activities under the licence; and
 - (e) has provided a security deposit; and
 - (f) has provided any other information requested by the Director.
- (2) The Minister may only grant an application for a licence in respect of a Category 4 mineral if the applicant satisfies the Minister that the licence, if issued, would relate to a petroleum reservoir, or reservoirs, containing sufficient petroleum to enable the

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production of the petroleum, on the scale proposed, to be feasible.

- (3) The Minister may only grant an application for a licence in respect of a Category 6 mineral if the applicant satisfies the Minister that –
- (a) the geothermal resources to which the licence is to relate exist; and
 - (b) the production of geothermal energy on the scale proposed is feasible.
- (4) The Minister may only grant an application for a licence in respect of private land if the Minister is satisfied that –
- (a) the applicant has entered into a compensation agreement with the owner or occupier of the land; or
 - (b) the Mining Tribunal has determined under section 150 the rate at which compensation is payable to the owner or occupier of the land.
- (5) The Minister may only grant an application for a licence if the Minister is satisfied that the applicant has –
- (a) sufficient technical and financial resources; or

- (b) an agreement, contract, or other arrangement, with another person to ensure the provision of sufficient technical and financial resources –

to enable the carrying out of the proposed plan of development or proposed plan of field development.

- (6) The Minister may refuse to grant an application for a licence by an applicant if the Minister is of the opinion that the application ought to be refused because –

- (a) of significant, or repeated, breaches of this Act or the regulations by –

- (i) the applicant; or

- (ii) a person, authorised or employed by the applicant, who committed the breach, or breaches, in relation to activities under a licence of any kind, or a lease, of the applicant; or

- (b) the applicant has failed to comply with the conditions subject to which an application under this Act by the applicant for a licence of any kind, or a lease, was granted; or

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- (c) the applicant has failed to substantially carry out as much of a work program, development plan, field development plan, or mining plan, in relation to a licence of any kind, or a lease, of the applicant, as ought reasonably to be expected to have been carried out at the time the application is made.
- (7) The Minister may refuse to grant an application for a licence by an applicant if the Minister is of the opinion that the application ought to be refused because –
- (a) taking into account the risks and benefits to the State of allowing production activities under the licence to occur, it is in the best interests of the State not to grant the application for the licence; or
 - (b) it is desirable to preserve the minerals in the area of land to which the licence would relate so as to enable their exploitation in the future.

67J. Conditions of licence

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

(2) Without limiting the generality of subsection (1), the conditions that may be imposed include –

(a) a condition as to the amount of money that is to be expended –

(i) during the period in which the licence is in force; or

(ii) during one or more periods, in which the licence is in force, specified in the licence –

or both, for the purposes of, or in relation to, exploration or production activities under the licence; and

(b) a condition requiring the completion of work to be undertaken in accordance with a development plan or a field development plan –

(i) during the period in which the licence is in force; or

(ii) during one or more periods, in which the licence is in force, specified in the licence –

or both, for the purposes of, or in relation to, exploration or

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production activities under the
licence.

- (3) If a licence is held by 2 or more persons, those persons are jointly and severally liable for complying with the conditions of the licence.
- (4) The Minister may vary the conditions of the licence by rescinding, adding, substituting or amending a condition.
- (5) Before varying the conditions of a licence, the Minister, by notice in writing served on the licensee, is to notify the licensee of –
 - (a) the intention to vary the conditions; and
 - (b) the nature of the variation; and
 - (c) the right of the licensee to make submissions in relation to the matter within a period specified in the notice.
- (6) A licensee may, within 28 days after the date of the Minister's decision to vary the conditions of a licence, appeal to the Mining Tribunal against the decision.
- (7) The variation of the conditions of the licence takes effect –
 - (a) if an appeal is not made under subsection (6), 28 days after

service of a notice under subsection (5); or

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

67K. Restriction on exploration on private land

The holder of a licence, a person authorised by the holder of a licence, and a person acting under a contract of service, or a contract for services, with the holder of a licence, must not explore on private land within 100 metres of –

- (a) the surface of any natural lake, artificial lake, dam, reservoir, water-producing well, or artificial pond, part or all of which is on the land; or
- (b) any dwelling, or substantial building, on the land –

unless the holder of the licence has the consent of the owner and of the occupier of the land to do so.

Penalty: Fine not exceeding 100 penalty units.

Division 2 – Production licences

67L. Production licence

- (1) On granting an application for a licence, the Minister is to issue a petroleum production licence or a geothermal production licence.
- (2) A licence is to –
 - (a) be in an approved form; and
 - (b) include the following particulars:
 - (i) a description of the area of land comprised in the licence;
 - (ii) the total area of that land;
 - (iii) the minerals, or category of minerals, to which the licence relates;
 - (iv) the terms and conditions to which it is subject;
 - (v) the period for which it is in force.
- (3) A licensee is to pay rent to the Crown in respect of the land to which the licence relates at a prescribed rate and in a prescribed manner.

67M. Area of land comprised in production licence

- (1) The area of land comprised in a petroleum production licence is to be, in the opinion of the Minister, sufficient –
 - (a) to allow the activities set out in the field development plan in respect of the licence to be carried out; and
 - (b) to enable future petroleum production in relation to the petroleum field to which the field development plan relates; and
 - (c) to enable future storage in any petroleum reservoir to which the licence relates.
- (2) The area of land comprised in a geothermal production licence is to be, in the opinion of the Minister, sufficient –
 - (a) to allow the activities set out in the development plan in respect of the licence to be carried out; and
 - (b) to enable future development of the geothermal resource; and
 - (c) to cover the extent of any geothermal reservoir that is specified in the application; and

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- (d) to enable future storage in the geothermal reservoir.
- (3) Land comprised in a licence may be either or both of the following:
 - (a) the same size as, or smaller than, the area of land in respect of which the licence was sought;
 - (b) different in shape from the area of land in respect of which the licence was sought.
- (4) An area of land comprised in a licence must not include an area which –
 - (a) is subject to a licence of any kind in respect of the same minerals or category of minerals; or
 - (b) is the subject of an application for a retention licence or a lease; or
 - (c) is the subject of a retention licence or a lease.

67N. Authority of production licence

- (1) A licence authorises the holder of the licence, a person authorised by the holder of the licence, and a person acting under a contract of service, or a contract for services, with the holder of the licence –
 - (a) to explore, in accordance with the conditions of the licence, in the

area of land specified in the licence for minerals, or minerals within the category of minerals, specified in the licence; and

- (b) to carry out, in accordance with the conditions of the licence, in the area of land specified in the licence, production activities in relation to minerals, or minerals within a category of minerals, specified in the licence; and
 - (c) to enter on, and pass over, in accordance with the conditions of the licence, Crown land for the purposes referred to in paragraphs (a) and (b); and
 - (d) subject to subsection (2), to enter on, and pass over, in accordance with the conditions of the licence, private land for the purposes referred to in paragraphs (a) and (b).
- (2) A person may only enter on, or pass over, private land by giving written notice in an approved form to the owner or occupier of the land 14 days, or any shorter period the owner or occupier allows, before doing so.
- (3) A person must not hinder or obstruct a licensee from carrying out any activity under the licence.

Penalty: Fine not exceeding 100 penalty units.

67O. Term of production licence

A licence, unless revoked earlier or unless the term of the licence is extended under section 67P, is in force for a period of 10 years from the date on which the application for the licence is granted.

67P. Extension of term of production licence

- (1) A person may apply to the Minister for an extension of the term of a licence.
- (2) An application is to be –
 - (a) in an approved form; and
 - (b) accompanied by the prescribed fee; and
 - (c) lodged with the Registrar before the licence ceases to be in force.
- (3) The Minister may –
 - (a) grant the application for any further period, of not more than 10 years, that the Minister determines, and with or without any conditions; or
 - (b) refuse to grant the application.

- (4) The Minister may grant under this section more than one application in relation to a licence under this section.
- (5) The Minister, by notice in writing, must notify the applicant of –
 - (a) the grant of the application; or
 - (b) the refusal to grant the application and the reasons for the refusal.
- (6) A licensee may, within 28 days after receipt of a notice under subsection (5) in relation to an application, appeal to the Mining Tribunal against the Minister's refusal to grant the application.
- (7) A licence to which an application under subsection (1) relates remains in force until –
 - (a) the Minister makes a decision under subsection (3); or
 - (b) if an appeal is made under subsection (6), the Mining Tribunal makes an order in relation to the appeal; or
 - (c) if the date on which the licence would, if the application were not granted, expire is a date later than the date on which a decision or order referred to in paragraph (a)

or (b) occurs – the date on which the licence would expire.

67Q. Exemption from conditions of production licence

- (1) A licensee may apply to the Minister for an exemption from any condition of a licence.
- (2) An application is to be –
 - (a) in an approved form; and
 - (b) accompanied by the prescribed fee; and
 - (c) lodged with the Registrar.
- (3) The Minister may –
 - (a) grant the application; or
 - (b) refuse to grant the application.
- (4) If the Minister grants the application, the Minister is to issue the licensee with a certificate of exemption.
- (5) A certificate of exemption –
 - (a) remains in force for the period specified in the certificate; and
 - (b) is subject to any conditions specified in the certificate.

67R. Annual report

- (1) A licensee, by the relevant date after each 12-month period ending on the anniversary of the day on which the application for the licence is granted, is to submit to the Director a report (an *annual report*) in relation to that 12-month period.
- (2) The relevant date in relation to a 12-month period is –
 - (a) 30 days after the end of the period; or
 - (b) a date specified, by the Director in a notice to the licensee, as the relevant date for the purposes of this section.
- (3) The annual report is to –
 - (a) be in accordance with the approved form and accompanied by a statutory declaration as to its accuracy; and
 - (b) specify the amounts of money expended in respect of any exploration or production activities carried out during the year to which it relates; and
 - (c) contain a summary of the matters specified in whichever of

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section 187(4) or (5) applies in relation to the licence; and

- (d) give details of any exploration or production activities carried out under the development plan or the field development plan, as the case may be, during the year; and
- (e) give details of any proposed exploration or production activities to be carried out in the next calendar year under the development plan or the field development plan, as the case may be; and
- (f) contain any other matter relating to the licence that is specified in the annual report guidelines, or by the Director by notice in writing to the holder of the licence, as being required to be contained in the report.

67S. Returns

- (1) A licensee is to submit to the Director, within 28 days after the end of a quarter, a return (a *quarterly return*) in relation to the quarter.
- (2) A quarterly return is to be in the approved form, if any, and is to be accompanied by a statutory declaration as to its accuracy.

- (3) A quarterly return in relation to a licence is to –
- (a) specify the nature, quantity and value of the minerals obtained, under the licence, during the quarter to which the return relates; and
 - (b) specify the average number of persons employed in relation to the licence during the quarter; and
 - (c) contain any other statistical information relating to the licence that is specified in the form, or by the Director by notice in writing to the licensee, as being required to be contained in the return.
- (4) A licensee, by the anniversary, in each year, of the date on which the application for the licence is granted, is to submit to the Director a return (an *annual return*) in relation to the 12-month period before that anniversary.
- (5) An annual return is to be in the approved form, if any, and is to be accompanied by a statutory declaration as to its accuracy.
- (6) The Director may, by notice to a licensee, require the licensee to submit to the Director, by the date or dates specified in the notice, the information

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specified in the notice as required to be submitted by the licensee.

- (7) A licensee is to submit to the Director, by the date or dates specified in the notice to the licensee under subsection (6), the information specified in the notice as required to be submitted by the licensee.
- (8) The information submitted to the Director under subsection (7) is to be accompanied by a statutory declaration as to its accuracy.
- (9) The information specified in an approved form, or a notice under this section, as required to be submitted by the licensee may include an audited report.

67T. Duties under production licence

- (1) A licensee must carry out any exploration or production activities under the licence efficiently and effectively.
- (2) A licensee is to carry out any exploration, production activities and rehabilitation of land consistently with the standards specified in any relevant Code of practice.
- (3) If production activities have not commenced within 24 months after the grant of the licence, the Minister may, by notice in writing to the licensee, require

the licensee to commence production activities under the licence.

- (4) If, in the Minister's opinion, production activities on the area of land comprised in a licence are practicable and commercially feasible, the Minister may, by notice in writing to the licensee, require the licensee to undertake or continue production activities in accordance with the requirements specified in the notice, until the licensee satisfies the Minister that the production activities are no longer practicable or commercially feasible.
- (5) A notice under subsection (4) may require petroleum, or geothermal energy, from the area comprised in the licence to be produced at a rate that is no less than the rate specified in the notice.
- (6) If the holder of a licence fails to proceed with production activities, or a rate of production, as required under the licence or by notice under this section, and has not entered into arrangements satisfactory to the Minister for production activities or a rate of production or use in the future, the Minister may, by written notice to the licensee, revoke the licence.

67U. Production without licence

A person must not carry out production activities for Category 4 minerals or Category 6 minerals unless the person –

- (a) is the holder of a production licence in relation to the minerals; or
- (b) is authorised by the holder of the licence to carry out production activities; or
- (c) is a person acting under a contract of services, or a contract for services, with the holder of the licence; or
- (d) has the written consent of the holder of the licence to do so.

Penalty: Fine not exceeding 100 penalty units.

Division 3 – Dealings with licence

67V. Variation of production licence

- (1) The Minister, by notice in writing, with the approval of the licensee, may vary the licence by adding to, or reducing, the area of land comprised in the licence.
- (2) On the application of a licensee, the Minister, by notice in writing, may vary

the licence by adding to, or reducing, the area of land comprised in the licence.

- (3) If a licensee fails to comply with, or contravenes, a provision of this Act or a condition of the licence, the Minister may vary the licence by –
- (a) varying or adding any condition; or
 - (b) reducing the area of land comprised in the licence.
- (4) Before varying a licence, the Minister, by notice in writing served on the licensee, is to notify the licensee of –
- (a) the intent to vary the licence; and
 - (b) the nature of the variation; and
 - (c) the right of the licensee to make submissions in relation to the matter within a period specified in the notice.
- (5) A licensee may, within 28 days after the date of Minister's decision to vary the licence, appeal to the Mining Tribunal against the Minister's decision.
- (6) The variation of the licence takes effect –
- (a) if an appeal is not made under subsection (5), 28 days after service of a notice under subsection (4); or

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

67W. Application for transfer of production licence

- (1) A licensee may apply to the Minister for approval to transfer a licence.
- (2) An application is to be –
 - (a) in an approved form; and
 - (b) accompanied by the executed instrument of transfer; and
 - (c) accompanied by the prescribed fee; and
 - (d) lodged with the Registrar within 28 days after the transfer is executed.
- (3) The Registrar may extend the period referred to in subsection (2)(d) if the Registrar is satisfied that it is reasonable to do so.
- (4) The Registrar, by notice in writing, is to notify of an application lodged under this section in relation to a licence any person who has lodged a caveat under Part 10 in relation to the licence.

- (5) A notice under subsection (4) is to be sent by certified mail within 14 days after the application is lodged.
- (6) A person who has lodged a caveat under Part 10 in relation to a licence may, within 14 days after receipt of the notice under subsection (5), object to the Mining Tribunal against an application for approval to transfer the licence.

67X. Approval of transfer of production licence

- (1) The Minister may –
 - (a) approve the application for the transfer of a licence; or
 - (b) refuse to approve the application until conditions specified by the Minister are satisfied; or
 - (c) refuse to approve the application.
- (2) The Minister, by notice in writing, must notify the applicant of –
 - (a) the approval of the application; or
 - (b) the conditions, if any, that must be satisfied before the Minister will approve the transfer; or
 - (c) the refusal to approve the application and the reasons for the refusal.

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- (3) A transfer –
 - (a) is of no effect unless approved by the Minister; and
 - (b) takes effect, if approved, on the date of the approval.

67Y. Revocation of production licence

- (1) The Minister may revoke a licence or part of a licence if –
 - (a) the licensee fails to comply with, or contravenes –
 - (i) any provision of this Act; or
 - (ii) any condition of the licence; or
 - (b) the Minister is satisfied that any area of land comprised in the licence is required for any public purpose.
- (2) Before revoking a licence or part of a licence under subsection (1)(a), the Minister –
 - (a) by notice in writing served on the licensee, is to notify the licensee of the intention to revoke the licence or part of the licence; and

- (b) is to give the licensee an opportunity to make submissions in relation to the matter.
- (3) If the Minister revokes a licence or part of a licence, the Minister, by notice in writing, is to notify the licensee.
- (4) If the Minister revokes a licence or part of a licence under subsection (1)(b), the licensee is entitled to compensation under Part 8.
- (5) The Minister, as soon as practicable after a licence or a part of a licence is revoked, is to give notice in the *Gazette* of the revocation.
- (6) A licensee may, within 28 days after the Minister's decision to revoke the licence, appeal to the Mining Tribunal against the decision.
- (7) The revocation of a licence or part of a licence takes effect –
 - (a) if an appeal is not made under subsection (6), 28 days after publication of a notice under subsection (5); or
 - (b) if an appeal is made under subsection (6) and the Mining Tribunal makes an order affirming the decision, 10 days after the date of the order.

67Z. Surrender of production licence

- (1) A licensee may apply to the Director for approval to surrender a licence or part of a licence.
- (2) An application for approval to surrender a licence or part of a licence is to be –
 - (a) in an approved form; and
 - (b) accompanied by the licence; and
 - (c) accompanied by the prescribed fee; and
 - (d) lodged with the Registrar.
- (3) The Director may –
 - (a) approve the application, with or without any conditions; or
 - (b) refuse to approve the application.
- (4) The Director, by notice in writing, is to notify the applicant of –
 - (a) the approval of the application; or
 - (b) the refusal to approve the application and the reasons for that refusal.
- (5) If the Director approves an application on conditions, the Director, by notice in writing, is to notify the applicant when

the Director is satisfied that all the conditions have been fulfilled.

- (6) If the Director approves an application, the licence, or the part of the licence, to which the application relates –
- (a) is, if the application is approved without conditions, surrendered on the date on which the Director gives to the applicant notice under subsection (4) of the approval; or
 - (b) is, if the application is approved with conditions, surrendered on the date on which the Director gives to the applicant notice under subsection (5) that the Director is satisfied that all the conditions have been fulfilled.

75. Section 70 amended (Applications for mining lease)

Section 70 of the Principal Act is amended as follows:

- (a) by inserting in subsection (2)(b) “, or category of minerals,” after “minerals”;
- (b) by inserting in subsection (2)(c)(i) “under the lease” after “out”;
- (c) by inserting in subsection (2)(c)(iv) “on mining operations under the lease” after “expenditure”;

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- (d) by inserting in subsection (2)(e) “, if any” after “fee”;
- (e) by omitting subsection (4) and substituting the following subsection:
 - (4) If a relevant licence, within the meaning of section 161E(1), ceases to be in force in relation to an area of land, a person may not, until a date specified by the Director, in accordance with section 161E(2)(c), in a notice published under section 161E(2) in relation to the licence, apply for a lease that is to relate to both –
 - (a) all or part of the area of land that is specified in the notice; and
 - (b) a mineral, or category of minerals, specified in the notice.

76. Section 71 amended (Exclusive right to mining lease)

Section 71 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “, a special exploration right” after “exploration licence”;

- (b) by omitting from subsection (1) “in respect of” and substituting “that is to relate to both”;
- (c) by inserting in subsection (1)(b) “, or category of minerals,” after “minerals”;
- (d) by inserting in subsection (2) “, a special exploration right” after “exploration licence”;
- (e) by inserting in subsection (4) “licence, a special exploration licence” after “exploration”;
- (f) by omitting from subsection (4) “exploration licence or retention”.

77. Section 72 amended (Marking out)

Section 72 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:

- (1) A person who intends to apply for a lease is to mark out in the prescribed manner the land to which the application is to relate.
- (2) A person who intends to apply for a lease may enter on, and pass over, land for the purpose of marking out the lease to which the application for the lease is to relate.
- (2A) A person who intends to apply for a lease and who marks out land is to, within 7

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days of marking out the land, notify the owner of the land –

- (a) of the marking out of the land; and
- (b) of the area of land that has been marked out; and
- (c) of the minerals, or category of minerals, to which it is intended the lease will relate.

78. Section 74 amended (Priority of applications for leases)

Section 74(1)(d) of the Principal Act is amended by omitting “under section 70(4) have equal priority and are to be determined without reference to any other application” and substituting “by the Director, in accordance with section 161E(2)(c), in a notice under section 161E(2) in relation to a relevant licence, within the meaning of that section, in respect of all or part of the land to which the application relates, are to be taken to be received on the same day”.

79. Section 74A inserted

After section 74 of the Principal Act, the following section is inserted in Division 1:

74A. Alteration of application, &c., before notice given

- (1) A person who has applied for a lease may, by notice to the Director, alter –
 - (a) the application for the lease; or
 - (b) the statement accompanying, in accordance with section 70(2)(c), the application for the lease.
- (2) The alterations to an application for a lease that may be specified in a notice under subsection (1) include, but are not limited to including, alterations of –
 - (a) the minerals, or the category of minerals, in respect of which the application is made; and
 - (b) the area of land in respect of which the lease is sought.
- (3) A notice may only be given to the Director under subsection (1) before notice of the application is given under section 75(2).
- (4) An application altered under subsection (1) is, as so altered, to be taken to be the application as lodged under section 70.

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80. Section 75 amended (Recommendation of application for mining lease)

Section 75 of the Principal Act is amended by omitting subsections (3) and (4).

81. Section 77 amended (Amendment of applications after objections)

Section 77(1) of the Principal Act is amended as follows:

- (a) by omitting “a portion” and substituting “a part”;
- (b) by omitting “that portion” and substituting “that part”.

82. Section 78 amended (Granting application for mining lease)

Section 78(2)(b) of the Principal Act is amended by inserting “in respect of which the lease is sought” after “land”.

83. Section 78A inserted

After section 78 of the Principal Act, the following section is inserted in Division 1:

78A. When Minister may grant application

- (1) The Minister may only grant an application for a lease if the Minister is satisfied that the applicant –

- (a) has demonstrated that there is a sufficient quantity of minerals to justify mining; and
 - (b) intends to carry out mining operations under the lease; and
 - (c) intends to comply with this Act; and
 - (d) has an appropriate mining plan; and
 - (e) is likely to have sufficient financial and technical resources to carry out the mining plan; and
 - (f) has provided the Director with sufficient information relating to the likely impact on the environment; and
 - (g) has provided a security deposit.
- (2) The Minister may only grant an application for a lease in respect of private land if the Minister is satisfied that –
- (a) the applicant has entered into a compensation agreement with the owner or occupier of the land; or
 - (b) the Mining Tribunal has determined under section 150 the rate at which compensation is

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payable to the owner or occupier of the land.

- (3) Subsection (2) does not apply to the prescribed area of land in the municipal area of West Tamar that is more than 15 metres from the surface of the land.
- (4) The Minister may refuse to grant an application for a lease by an applicant if the Minister is of the opinion that the application ought to be refused because –
- (a) of significant, or repeated, breaches of this Act or the regulations by –
 - (i) the applicant; or
 - (ii) a person, authorised or employed by the applicant, who committed the breach, or breaches, in relation to activities under a licence of any kind, or a lease, of the applicant; or
 - (b) the applicant has failed to comply with the conditions subject to which an application under this Act by the applicant for a licence of any kind, or a lease, was granted; or
 - (c) the applicant has failed to substantially carry out as much of a work program, development

plan, field development plan, or mining plan, in relation to a licence of any kind, or a lease, of the applicant, as ought reasonably to be expected to have been carried out at the time the application is made.

- (5) The Minister may refuse to grant an application for a lease by an applicant if the Minister is of the opinion that the application ought to be refused because –
- (a) taking into account the risks and benefits to the State of allowing mining operations under the lease to occur, it is in the best interests of the State not to grant the application for the lease; or
 - (b) it is desirable to preserve the minerals in the area of land to which the lease would relate so as to enable their exploitation at a period in the future other than the period in which mining by the applicant in respect of the area of land would occur.

84. Section 79 substituted

Section 79 of the Principal Act is repealed and the following section is substituted:

79. Mining lease over private land

The holder of a lease, a person authorised by the holder of a lease, and a person acting under a contract of service, or a contract for services, with the holder of a lease, must not explore, or carry out mining operations, on private land within 100 metres of –

- (a) the surface of any natural lake, artificial lake, dam, reservoir, water-producing well, or artificial pond, part or all of which is on the land; or
- (b) any dwelling, or substantial building, on the land –

unless the holder of the lease has the consent of the owner and of the occupier of the land to do so.

Penalty: Fine not exceeding 100 penalty units.

85. Section 80 amended (Conditions of mining lease)

Section 80 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

- (3) The Minister may vary the conditions of the lease by rescinding, adding, substituting or amending a condition.

86. Section 81 amended (Mining lease)

Section 81 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “and on payment of the prescribed fee”;
- (b) by omitting from subsection (2)(b)(i) “over which it is granted” and substituting “comprised in the lease”;
- (c) by omitting from subsection (2)(b)(iii) “the type of minerals in respect of which it is granted” and substituting “the minerals, or category of minerals, to which the lease relates”.

87. Section 83 amended (Area of land comprised in mining lease)

Section 83 of the Principal Act is amended by omitting subsections (2) and (3) and substituting the following subsections:

- (2) Land comprised in a lease may be either or both of the following:
 - (a) the same size as, or smaller than, the area of land in respect of which the lease was sought;
 - (b) different in shape from the area of land in respect of which the lease was sought.

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- (3) An area of land comprised in a lease must not include an area which –
- (a) is already a mineral tenement for the minerals, or a category of minerals, to which the lease is to relate, unless the mineral tenement is held by the person to whom the lease is to be issued; or
 - (b) is the subject of an application for a mineral tenement for the minerals, or a category of minerals, to which the lease is to relate, unless the application is made by the person to whom the lease is to be issued.

88. Section 84 amended (Authority of mining lease)

Section 84 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “, and a person acting under a contract of service, or a contract for services, with the holder of the lease” after “lessee”;
- (b) by inserting in subsection (1)(a) “, in accordance with the conditions of the lease,” after “out”;
- (c) by inserting in subsection (1)(a) “, or minerals within the category of minerals,” after “minerals”;

- (d) by inserting in subsection (1)(b) “, in accordance with the conditions of the lease,” after “to”;
- (e) by inserting in subsection (1)(c) “, in accordance with the conditions of the lease,” after “to”;
- (f) by omitting subsection (2) and substituting the following subsection:
 - (2) A person must not hinder, or obstruct from carrying out any mining operations under the lease –
 - (a) a lessee; or
 - (b) a person who has a contract of services, or a contract for services, with a lessee; or
 - (c) a person who is authorised, by a lessee or a person referred to in paragraph (b), to carry out any mining operations under the lease.

Penalty: Fine not exceeding 100 penalty units.

89. Section 87 substituted

Section 87 of the Principal Act is repealed and the following sections are substituted:

87. Returns

- (1) A licensee is to submit to the Director, within 28 days after the end of a quarter, a return (a *quarterly return*) in relation to the quarter.
- (2) A quarterly return is to be in the approved form, if any, and is to be accompanied by a statutory declaration as to its accuracy.
- (3) A quarterly return in relation to a lease is to –
 - (a) specify the nature, quantity and value of the minerals obtained, under the lease, during the quarter to which the return relates; and
 - (b) specify the average number of persons employed in relation to the lease during the quarter; and
 - (c) contain any other statistical information relating to the lease that is specified in the form, or by the Director by notice in writing to the lessee, as being required to be contained in the return.
- (4) The Director, by notice to a lessee, may require the lessee to submit to the Director, by the date or dates specified in the notice, the information specified in the notice as required to be submitted by the lessee.

- (5) The information specified in an approved form, or a notice under this section, as required to be submitted by the lessee may include an audited report.
- (6) A lessee is to submit to the Director, by the date or dates specified in the notice to the lessee under subsection (4), the information specified in the notice as required to be submitted by the lessee.
- (7) The information submitted to the Director under subsection (6) is to be accompanied by a statutory declaration as to its accuracy.

87A. Annual report

- (1) The Director, by notice served on a lessee, may require the lessee to submit to the Director, by the relevant date after each 12-month period ending on the anniversary of the day on which the lease is granted, a report (an *annual report*) in relation to that 12-month period.
- (2) If a notice is served on a lessee under subsection (1) the lessee, by the relevant date after each 12-month period ending on the anniversary of the day on which the lease is granted, is to submit an annual report to the Director in relation to that 12-month period.
- (3) The relevant date in relation to a 12-month period is –

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- (a) 30 days after the end of the period; or
 - (b) a date specified, by the Director in the notice to the lessee under subsection (1), as the relevant date for the purposes of this section.
- (4) The annual report is to –
- (a) be in accordance with the approved form and accompanied by a statutory declaration as to its accuracy; and
 - (b) specify the amount of money expended in respect of any exploration or mining carried out during the year to which it relates; and
 - (c) contain a summary of the matters specified in section 188(2); and
 - (d) give details of any mining operations to be carried out in the next calendar year under the mining plan; and
 - (e) contain any other matter relating to the lease that is specified in the annual report guidelines, or by the Director by notice in writing to the lessee, as being required to be contained in the report.

90. Section 89 amended (Sublease)

Section 89(2) of the Principal Act is amended by inserting “for approval to sublease a lease or part of a lease” after “application”.

91. Section 90 amended (Recommendation of application for sublease)

Section 90 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “a sublease” and substituting “approval to sublease a lease or part of a lease”;
- (b) by omitting from subsection (2) “for a sublease if satisfied that the person to whom a lease is to be subleased” and substituting “for approval to sublease a lease or a part of a lease if the Minister is satisfied that the person to whom the lease or part is to be subleased”.

92. Section 91 amended (Approval of sublease)

Section 91 of the Principal Act is amended as follows:

- (a) by omitting subsection (3) and substituting the following subsection:
 - (3) A sublease –
 - (a) is of no effect until the Minister has approved

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under subsection (1) an application in relation to the sublease; and

(b) takes effect, if the Minister has approved under subsection (1) an application in relation to the sublease, on the date on which the Minister notifies the lessee of the approval.

(b) by inserting in subsection (4) “to which an approval under subsection (1) relates” after “a sublease”.

93. Section 93 amended (Application for transfer of mining lease)

Section 93 of the Principal Act is amended as follows:

(a) by omitting subsection (4) and substituting the following subsection:

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

(b) by omitting from subsection (5) “so as to be received 14 days before the approval

takes effect” and substituting “within 14 days after the application is received”;

(c) by omitting subsection (6) and substituting the following subsection:

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

94. Section 94 amended (Recommendation of application for transfer)

Section 94(2) of the Principal Act is amended by omitting “applicant” and substituting “person to whom the applicant proposes to transfer the lease”.

95. Section 95 amended (Approval of transfer of mining lease)

Section 95 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “with or without conditions”;
- (b) by inserting the following paragraph after paragraph (a) in subsection (1):

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- (ab) refuse to approve the application until conditions specified by the Minister are satisfied; or
- (c) by inserting the following paragraph after paragraph (a) in subsection (2):
 - (ab) the conditions, if any, that must be satisfied before the Minister will approve the transfer; or

96. Section 100 amended (Surrender of mining lease)

Section 100 of the Principal Act is amended by inserting after subsection (4) the following subsections:

- (5) If the Director approves an application on conditions, the Director, by notice in writing, is to notify the applicant when the Director is satisfied that all the conditions have been fulfilled.
- (6) If the Director approves an application, the lease, or the part of the lease, to which the application relates –
 - (a) is, if the application is approved without conditions, surrendered on the date on which the Director approves the application; or
 - (b) is, if the application is approved with conditions, surrendered on the date on which the Director gives to the applicant notice

under subsection (5) that the Director is satisfied that all the conditions have been fulfilled.

97. Section 101 amended (Rent)

Section 101(4) of the Principal Act is amended by inserting “, or, if a day is prescribed for the purposes of this subsection, by that day,” after “year”.

98. Section 102 amended (Royalty)

Section 102 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1A) “other than a geothermal production licence” after “licence”;
- (b) by inserting the following subsection after subsection (1C):
 - (1D) The holder of a geothermal production licence must pay a royalty at a prescribed rate in respect of geothermal energy produced under the licence.
- (c) by omitting paragraph (a) from subsection (2) and substituting the following paragraph:
 - (a) in the case of –

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- (i) a lease or licence other than a geothermal production licence, from the date on which any mineral recovered under the lease or licence is sold; and
 - (ii) a geothermal production licence, from the date on which geothermal energy is produced under the licence; and
- (d) by inserting in subsection (3)(a) “recovered, or, in the case of a geothermal substance, produced from the substance” after “mineral”;
- (e) by inserting in subsection (5)(a) “, or any geothermal energy produced from a geothermal substance situated on,” after “from”;
- (f) by inserting in subsection (6)(a) “sold, or of geothermal energy produced from a geothermal substance,” after “minerals”;
- (g) by inserting in subsection (6)(b) “sold, or of geothermal energy produced from a geothermal substance,” after “minerals”;
- (h) by inserting in subsection (7) “, or in respect of any geothermal energy produced from a geothermal substance under,” after “under”;

- (i) by inserting in subsection (7)(a) “, or the geothermal substance from which geothermal energy is produced,” after “recovered”;
- (j) by inserting in subsection (7)(b) “recovered, or the geothermal energy produced from a geothermal substance,” after “mineral”.

99. Sections 102AA and 102AB inserted

After section 102 of the Principal Act, the following sections are inserted in Division 5:

102AA. Agreement to deferral of royalty

- (1) A person may apply to the Treasurer for a deferral of the obligation to pay an amount of royalty that the person would otherwise be liable, or become liable, to pay under this Act to the Crown.
- (2) The Treasurer, after consulting with the Minister in respect of an application made by a person under subsection (1), may –
 - (a) agree to defer the person’s obligation to pay an amount of royalty that the person would otherwise be liable, or become liable, to pay under this Act; or
 - (b) refuse to agree to defer the obligation.

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- (3) The Treasurer may only agree to defer a person's obligation to pay an amount of royalty under this Act if the relevant criteria for deferral specified in an order under subsection (4) have been satisfied.
- (4) The Treasurer may, by order, specify the criteria for deferral.
- (5) The Treasurer may agree to defer an obligation under subsection (2) unconditionally or on conditions.
- (6) The conditions on which the Treasurer may agree to defer under subsection (2) an obligation of a person to pay an amount of royalty include, but are not limited to including, any one or more of the following conditions:
 - (a) a condition that the person enter into a payment plan, whereby the amount of the royalty is paid back, in instalments, at intervals specified in the plan;
 - (b) a condition that the person pay, by a date, or dates, specified in the condition, interest, calculated in accordance with the rate specified in the condition, on the amount of royalty;
 - (c) a condition that the person pay the amount of the royalty by a date specified in the agreement.

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- (7) An agreement under subsection (2) is to specify –
- (a) the lease or licence to which the agreement relates; and
 - (b) the royalties to which the agreement relates or is to relate; and
 - (c) the period for which the agreement is in force; and
 - (d) any conditions on which the agreement is given.
- (8) Subject to section 102AB(3), an agreement under subsection (2) remains in force for the period specified in the agreement.

102AB. Effect of, and revocation of, agreement to defer royalty, &c.

- (1) If the Treasurer agrees under section 102AA(2) to defer an obligation of a person to pay an amount of royalty under this Act, then, despite section 102, the person is not liable to pay, except in accordance with the conditions of the agreement, the amount of royalty, until –
- (a) the end of the period for which the agreement is in force; or
 - (b) the date specified in a condition of the agreement as the date on

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which the amount of the royalty is due; or

- (c) the agreement is revoked under subsection (3) –

whichever occurs first.

- (2) If a person fails to comply with the conditions on which an agreement to defer his or her obligation to pay royalty is given under section 102AA(2), the Treasurer may issue a notice of demand notifying the person of the failure and asking the person to show cause within 14 days after the date on which the notice is given to the person why the Treasurer should not revoke the agreement.
- (3) The Treasurer may, after 14 days after the date on which a notice is given to a person under subsection (2), revoke an agreement under subsection (1).

100. Section 103 amended (Recovery and collection of royalty)

Section 103(1) of the Principal Act is amended as follows:

- (a) by inserting in paragraph (a) “to which the royalty relates” after “minerals”;
- (b) by inserting in paragraph (b) “to which the royalty relates” after “mineral”.

101. Section 106 amended (Lease for storage and other purposes)

Section 106 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsection:

- (1) A lessee or former lessee may, in an approved form, apply to the Minister for a lease in relation to land –
 - (a) to store any building, machinery, mining product or other property on the land; or
 - (b) to enable the land to be used to enable the applicant to access land to which a lease relates; or
 - (c) to enable work associated with mining on other land to be carried out; or
 - (d) to enable the rehabilitation of the land, where the land has been affected by mining operations on the other land.

102. Part 5: Heading amended

Part 5 of the Principal Act is amended by inserting in the heading to that Part “, **GROUP PROSPECTING LICENCES**” after “**LICENCES**”.

103. Part 5, Division 1: Heading amended

Division 1 of Part 5 of the Principal Act is amended by inserting in the heading to that Division “*and group prospecting*” after “*Prospecting*”.

104. Section 107 substituted

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

107. Prospecting without licence prohibited

A person must not prospect unless –

- (a) the person is the holder of a prospecting licence; or
- (b) the person is prospecting under and in accordance with a group prospecting licence; or
- (c) the person is a child who is supervised by the holder of a prospecting licence or a group prospecting licence.

Penalty: Fine not exceeding 100 penalty units.

105. Section 108 amended (Application for prospecting licence or group prospecting licence)

Section 108(1) of the Principal Act is amended by inserting “or a group prospecting licence” after “licence”.

106. Section 110 amended (Conditions of prospecting licence or group prospecting licence)

Section 110 of the Principal Act is amended by inserting after subsection (2) the following subsections:

- (3) Without limiting the generality of subsection (1), an application for a prospecting licence is granted subject to the condition that the holder of the licence must supervise the activities of any child who accompanies the holder while fossicking by the holder or the child occurs.
- (4) Without limiting the generality of subsection (1), an application for a group prospecting licence is granted subject to the conditions that the holder of the licence must supervise the activities of any person who accompanies the holder while fossicking occurs on the tour by the holder of the licence or persons on, or conducting, the tour.

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107. Section 111 amended (Prospecting licence and group prospecting licence)

Section 111(1) of the Principal Act is amended by omitting “and on payment of the prescribed fee”.

108. Section 112 amended (Authority of prospecting licence and group prospecting licence)

Section 112 of the Principal Act is amended by inserting before subsection (1) the following subsection:

- (1A) In this section, a reference to the holder of a licence includes a reference to –
- (a) a child who is supervised by the holder of such a licence; and
 - (b) in the case of a group prospecting licence, any person accompanying a tour operated by the holder of the licence.

109. Section 113 amended (Term of prospecting licence and group prospecting licence)

Section 113 of the Principal Act is amended by inserting “and specifies in the licence” after “determines”.

110. Section 115 amended (Reports and work program)

Section 115 of the Principal Act is amended by omitting “prospecting” first occurring.

111. Section 116 substituted

Section 116 of the Principal Act is repealed and the following section is substituted:

116. Fossicking areas

- (1) The Minister, by order, may declare any area to be a fossicking area if the Minister is satisfied that –
 - (a) no mineral tenement exists in respect of that area; or
 - (b) if a mineral tenement exists in respect of that area, fossicking in that area is not likely to interfere to any substantial degree with anything done, or likely to be done, under that mineral tenement.
- (2) The Minister may, in an order under subsection (1) declaring an area to be a fossicking area, specify the conditions subject to which a person may fossick in the area.
- (3) Any person may fossick in an area that is declared by an order under subsection (1) to be a fossicking area.

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- (4) A person fossicking in an area declared by an order under subsection (1) to be a fossicking area must not, while in that area, contravene the conditions specified in the order.

Penalty: 100 penalty units.

112. Section 117 amended (Notification by licensee of drill core and cutting recovered)

Section 117(1) of the Principal Act is amended by inserting “, special exploration licence, production licence” after “exploration licence”.

113. Section 119 amended (Deposit by licensee of drill core or cutting)

Section 119 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(b) “a special exploration licence, a production licence,” after “licence,”;
- (b) by inserting in subsection (2) “, in an approved container or approved packaging,” after “deposit”.

114. Section 121 amended (Disposal and deposit by lessee)

Section 121(2) of the Principal Act is amended by inserting “, in an approved container or approved packaging,” after “deposit”.

115. Section 128 amended (Jurisdiction of Mining Tribunal)

Section 128 of the Principal Act is amended as follows:

- (a) by inserting in paragraph (q) “or a group prospecting licence” after “prospecting licence”;
- (b) by inserting the following paragraph after paragraph (u):
 - (ua) any dispute as to the amount of royalty payable under this Act;

116. Section 149 amended (Compensation for revocation due to public purpose)

Section 149(1) of the Principal Act is amended by inserting “or a production licence that is revoked under section 67Y(1)(b)” after “(b)”.

117. Section 150 amended (Determination of compensation)

Section 150(1) of the Principal Act is amended by omitting “the amount of compensation payable under this Part” and substituting “the rate of compensation that is payable, or the amount of compensation that is payable, under this Part”.

118. Sections 161E, 161F and 161G inserted

Before section 162 of the Principal Act, the following sections are inserted in Division 1:

161E. Director to publish notice where licence ceases to apply to land

(1) In this section –

Department means the department responsible, in relation to the administration of this Act, to the Minister to whom the administration of this Act is assigned;

relevant licence means an exploration licence, a special exploration licence or a retention licence.

(2) As soon as practicable after a relevant licence ceases to be in force, the Director must ensure that a notice, specifying –

- (a) that the licence has ceased to be in force on a date specified in the notice; and
- (b) the area of land to which the licence related; and
- (c) that applications may be made under this Act for a lease, or a licence, in relation to a mineral, or a category of minerals, to which the licence related, on or

after the date specified for that purpose in the notice –

is published on a website of the Department, and remains on that website until at least the expiry of the date specified in accordance with paragraph (c).

- (3) The date specified for the purposes of subsection (2)(c) in a notice in relation to a relevant licence is to be a day that is at least 2 months after the area of land to which the notice relates is no longer subject to the relevant licence.

161F. Authorisation to conduct geological investigation

- (1) An applicant for a licence, permit or lease under the *Crown Lands Act 1976* or the *Forestry Act 1920* may apply to the Director for an authorisation to conduct a geological investigation.
- (2) The Director may, on the application of a person under subsection (1) –
 - (a) issue to the person an authorisation to conduct a geological investigation; or
 - (b) refuse to issue such an authorisation to the person.
- (3) The Director may only issue an authorisation if the Director is satisfied

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that the authorisation is required to enable the carrying out of works for the purposes of collecting data to enable the determination by the Minister of whether all or part of the area of land has significant prospectivity.

- (4) An authorisation is issued subject to –
 - (a) the conditions specified in subsection (5); and
 - (b) any other conditions that the Director thinks fit and specifies on the authorisation.
- (5) It is a condition of an authorisation that –
 - (a) work is to be conducted under the authorisation in accordance with the Mineral Exploration Code of Practice; and
 - (b) work is only to be conducted under the authorisation if the work is approved by the Director under section 161G(3).
- (6) The conditions that the Director may specify on an authorisation include, but are not limited to including, a condition that the person must provide to the Director a security deposit in the form and the amount required by the Director.
- (7) An authorisation issued to a person in relation to an area of land specified in the

authorisation authorises the person, any employees or agents of the person and any other person authorised by the person, to, in accordance with the conditions of the authorisation –

- (a) conduct on that land, in accordance with the Mineral Exploration Code of Practice, works, specified in that code, that are approved by the Director under section 161G(3); and
 - (b) enter Crown land within that area for the purposes of conducting the works referred to in paragraph (a).
- (8) The holder of an authorisation must ensure that the conditions of the authorisation, and of any approval under section 161G(3), are complied with by the holder and a person acting under a contract of service, or a contract for services, with the holder of the authorisation.

Penalty: Fine not exceeding 100 penalty units.

161G. Works approval under authorisation to conduct geological investigation

- (1) In this section –

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authorisation means an authorisation issued under section 161F that is in force.

- (2) A person who holds an authorisation may, on the approved form, apply to the Director for approval to carry out works under the authorisation.
- (3) The Director may approve, unconditionally or on conditions, an application made under subsection (2).
- (4) The Director may only approve works under subsection (3) if –
 - (a) the works are of a kind specified in the Mineral Exploration Code of Practice; and
 - (b) the works are for the purposes of collecting data to enable the determination by the Minister of whether all or part of the area of land has significant prospectivity.

119. Sections 164A and 164B inserted

After section 164 of the Principal Act, the following sections are inserted in Division 1:

164A. Areas of geological significance

- (1) The Minister, by order, may declare any area to be an area of geological significance.

(2) A person must not fossick, prospect, explore or carry out mining operations in an area declared under subsection (1) to be an area of geological significance –

- (a) without the Director's written approval; or
- (b) otherwise than in accordance with that approval.

Penalty: Fine not exceeding 50 penalty units.

(3) The Director may give an approval subject to any terms and conditions.

164B. Director may require seller of minerals from construction activities to provide information

(1) The Director may issue to a person who sells minerals that have been obtained from construction activities, or works associated with construction activities, a notice requiring the person to provide to the Director, within the period specified in the notice, information, specified in the notice, in relation to the sale.

(2) A person to whom a notice is issued under subsection (1) must comply with the notice.

Penalty: 100 penalty units.

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120. Section 183 amended (Lodgment)

Section 183(2)(d) of the Principal Act is amended by omitting “within the State”.

121. Section 184 amended (Notice of lodgment)

Section 184(1) of the Principal Act is amended by omitting “inform” and substituting “give notice to”.

122. Section 185 amended (Duration of caveat)

Section 185(2) of the Principal Act is amended by omitting paragraph (c) and substituting the following paragraph:

- (c) if an application is made –
 - (i) to transfer a licence or lease and an appeal to the Mining Tribunal is not on foot in relation to the caveat, 14 days after the date on which a notice under section 32(4), section 45C(4), section 62(4), section 67W(4) or section 93(4) is received by the person to whom it is sent; or
 - (ii) to transfer a licence or lease and an appeal to the Mining Tribunal is on foot in relation to the caveat, on the date on which the Mining Tribunal orders the removal of the caveat, if at all.

123. Section 187 amended (Records kept by licensee)

Section 187 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “(other than the holder of a production licence)” after “licensee”;
- (b) by inserting in subsection (2) “(other than the holder of a production licence)” after “licensee”;
- (c) by inserting the following subsections after subsection (2):
 - (3) The holder of a production licence must keep up-to-date records of any exploration and production activities carried out under the licence.
 - (4) The holder of a geothermal production licence is to ensure that the records contain the following:
 - (a) the quantities of geothermal energy produced;
 - (b) the quantities of geothermal energy produced and sold;

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- (c) the sources of geothermal energy that has been produced;
 - (d) details of the disposal of any waste created in production activities;
 - (e) details of any development in relation to production activities;
 - (f) a breakdown of any capital expenditure;
 - (g) the operational costs of any exploration or production activities carried out;
 - (h) details of the workforce;
 - (i) details of exploration on the licence area, if required by the Director to keep such records;
 - (j) details of geothermal resources and geothermal reservoirs.
- (5) The holder of a petroleum production licence is to ensure that the records contain the following:

- (a) the quantities of petroleum sold or held in stock;
- (b) the quantities of petroleum produced;
- (c) the sources of petroleum produced and details of any waste disposed of;
- (d) details of any development in relation to production activities;
- (e) a breakdown of any capital expenditure;
- (f) the operational costs of any exploration or production activities carried out;
- (g) details of the workforce;
- (h) details of exploration on the licence area, if required by the Director to keep such records;
- (i) details of petroleum resources, as determined in accordance with approved standards, and petroleum reservoirs.

124. Section 188 amended (Records kept by lessee)

Section 188(2)(j) of the Principal Act is amended by omitting “Australian Institute of Mining and Metallurgy” and substituting “Australian Joint Ore Reserves Committee or another body that the Minister has nominated by notice in writing to the lessee”.

125. Section 188A inserted

After section 188 of the Principal Act, the following section is inserted in Division 4:

188A. Accurate plans of mines to be made and kept

- (1) A lessee must ensure that accurate plans of any mine that is established or used under the lease are prepared and kept by the lessee.
- (2) A lessee must ensure that an accurate plan of any additional working of, or extension to, a mine that is established, or used, under the lease is prepared and kept by the lessee.
- (3) If an underground mine has been established or used under a lease, the lessee must ensure that an accurate plan of the mine, and any additional working of, or extension to, the mine, is made before the mine is abandoned, filled or allowed to fall into disrepair.

- (4) The plan of a mine, and of any additional working of, or extension to, a mine, is to be drawn up in accordance with a survey carried out by a qualified surveyor.
- (5) A lessee must ensure that the original, or a copy, of a plan required to be made under this section is provided to the Director within 6 months after the plan is made or this section commences, whichever occurs last.
- (6) If the Director is of the opinion that a plan required to be made under this section has not been made or kept, or has not been accurately made, the Director may –
 - (a) cause a survey to be made of all or any part of the mine and accurate plans of the mine, based on that survey, to be drawn up; and
 - (b) charge the lessee the reasonable costs incurred in having the survey made and the plans drawn up.

126. Section 189 amended (Copies of records and plans)

Section 189 of the Principal Act is amended as follows:

- (a) by inserting in paragraph (a) “, plans, or information,” after “records”;

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- (b) by inserting in paragraph (a) “, and in the manner and form,” after “when”;
- (c) by inserting in paragraph (b) “, plans, or information, kept under this Part” after “record”.

127. Section 190 amended (Confidentiality of records)

Section 190 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “, returns or information” after “Any records”;
- (b) by omitting from subsection (1) “under this Part” and substituting “under this Act”;
- (c) by omitting from subsection (1)(a) “records” first occurring and substituting “records, returns or information”;
- (d) by inserting in subsection (1)(a) “or special exploration licence,” after “exploration licence”;
- (e) by omitting from subsection (1)(a)(i) “records” and substituting “records, returns or information”;
- (f) by omitting from subsection (1)(b) “records” and substituting “records, returns or information”;

- (g) by omitting from subsection (1)(c) “records” and substituting “records, returns or information”;
- (h) by inserting in subsection (1)(c) “or production licence” after “a lease”;
- (i) by inserting in subsection (1)(c) “or licence” after “the lease”;
- (j) by omitting from subsection (2) “Records” and substituting “Records, returns or information”;
- (k) by omitting from subsection (2)(b) “records” and substituting “records, returns or information”;
- (l) by omitting from subsection (3) “records” and substituting “records, returns or information”;
- (m) by inserting the following subsection after subsection (3):
 - (3A) Despite subsection (1), the Minister may provide records, returns, or information, in relation to the amount of minerals obtained under a licence or lease, to –
 - (a) the Director, within the meaning of the *Environmental Management and Pollution Control Act*

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1994, for use by the Director in the performance or exercise of the Director's functions or powers under any Act; or

(b) an officer of the Commonwealth for use in the performance or exercise of functions or powers of the officer under any Act of the Commonwealth.

(n) by inserting in subsection (4) "(apart from subsection (3A))" after "section";

(o) by omitting from subsection (4) "records" and substituting "records, returns or information";

(p) by omitting from subsection (5) "records" and substituting "records, returns or information".

128. Section 191 amended (Publication of records, returns and information)

Section 191 of the Principal Act is amended as follows:

(a) by omitting from subsection (1) "records" and substituting "records, returns or information";

- (b) by omitting from subsection (2) “records” twice occurring and substituting “records, returns or information”.

129. Section 196 amended (Use of security deposit)

Section 196(1) of the Principal Act is amended as follows:

- (a) by inserting the following paragraphs after paragraph (a):
 - (ab) to provide for the costs of depositing with the Director any drill core or cutting that has not been deposited with the Director as required by or under this Act;
 - (ac) to make safe any safety hazard caused by mining operations or exploration under a licence or lease held by the licensee or lessee;
- (b) by inserting in paragraph (b) “under a licence or lease held by the licensee or lessee” after “exploration”.

130. Section 199A inserted

After section 199 of the Principal Act, the following section is inserted in Division 7:

199A. Director may require purchaser to provide information

(1) In this section –

mining product means a mineral in the form in which it is obtained under a licence or lease or in a form produced by the holder of the licence or lease or a person acting on behalf of the holder of the licence or lease.

(2) The Director may, by notice in writing to a person who purchases, from the holder of a licence or lease, a mining product specified in the notice, require the person to submit to the Director a return specifying the nature, quantity, value and source of that mining product.

(3) A return submitted to the Director under subsection (2) is to be accompanied by a statutory declaration as to its accuracy.

(4) A person must not fail to comply with a requirement imposed on the person under subsection (2).

Penalty: 100 penalty units.

131. Section 204A inserted

After section 204 of the Principal Act, the following section is inserted in Division 7:

204A. Annual report guidelines

- (1) The Minister may issue guidelines for the preparation of annual reports under this Act by licensees or lessees.
- (2) The guidelines may specify –
 - (a) the form in which annual reports under this Act are to be prepared; and
 - (b) the matters that annual reports under this Act are to contain.

132. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.