

NEW SOUTH WALES

I. SALIENT GENERAL FEATURES

Capital	:	Sydney
Population (2006)	:	6,817,100
Area	:	801,600 Sq. km (309,433 Sq. mile)
GDP (2003)	:	Au \$ 39,950/US \$ 39,277
Language	:	English

The name New South Wales was applied to the entire East Coast of Australia when Capt. James Cook claimed the land for the British Crown on 23rd August, 1770. It is situated between the 29th and 38th parallels of South latitude and 141st and 154th meridians of East longitude. New South Wales federated with the Commonwealth of Australia in 1901. New South Wales comprises only 10.4% of the total area of Australia, and inhabits about 33.7% of the Australian population.

II. MINING LEGISLATIVE FRAMEWORK

A. SHORT TITLE, COMMENCEMENT AND PURPOSES

This Act may be cited as the "Mining Act 1992". This Act commences on a day or days to be appointed by proclamation. It binds the crown in right of New South Wales and in so far as the legislative power of Parliament permits and all its other capacities.

This Act includes provision with respect to prospecting and mining minerals; to repeal the Mining Act 1973 and Coal Mining Act 1973 and other purposes. This Act does not apply to any area to which the Offshore Minerals Act 1999 applies.

B. DEFINITIONS

"access arrangement" means an access arrangement under the Act.

"access management area" means an access management area constituted under the Act.

"allocated mineral", in relation to a mineral allocation area, means a mineral or group of minerals in respect of which the mineral allocation area is constituted.

"appropriate lodgment fee" means the fee determined for the time being in accordance with the Act with respect to the matter to which the fee relates.

"approved" means approved by the Minister.

"Arbitration Panel" means the Arbitration Panel established by the Act.

"arbitrator" means an arbitrator appointed under the Act.

"assessment area" means land the subject of an assessment lease.

"assessment lease" means an assessment lease granted under the Act.

"authority" means an exploration licence, an assessment lease or a mining lease.

"block" means a graticular Section referred to in the Act or, if the Minister so directs in a particular case, part of such a graticular Section.

"Chief Inspector of coal mines" means the Chief Inspector of coal mines appointed under the Coal Mines Regulation Act 1982.

"Chief Warden" means the Chief Warden appointed under the Act.

"claim area" means land the subject of a mineral claim.

"colliery holding" means a colliery holding registered in accordance with the Act.

"Commonwealth Native Title Act" means the Native Title Act 1993 of the Commonwealth.

"consent authority" has the same meaning as it has in the Environmental Planning and Assessment Act 1979.

"consolidated mining lease" means a lease granted under the Act.

"controlling body", in relation to an exempted area, means

- a) in the case of land referred to in paragraph (a) or (c) of the definition of "exempted area" as the person having the control and management of the land, or
- in the case of land referred to in paragraph (b) of that definition the holder of the lease referred to in that paragraph, or
- in the case of land referred to in paragraph (d) of that definition the person prescribed by the regulations as the controlling body for that land for the purposes of this definition.

"council" has the same meaning as it has in the Local Government Act 1993.

"Crown Lands Acts" has the same meaning as it has in the Crown Lands Act 1989.

"dam" includes the water or other material impounded by the dam.

"Dams Safety Committee" means the Dams Safety Committee constituted by the Dams Safety Act 1978.

"Department" means the Department of Mineral Resources.

"Deputy Mining Registrar" means a Deputy Mining Registrar referred to in the Act.

"development consent" has the same meaning as it has in the Environmental Planning and Assessment Act 1979.

"Director-General" means the Director-General of the Department.

"environmental planning instrument" has the same meaning as it has in the Environmental Planning and Assessment Act 1979.

"exclusion order" means an exclusion order referred to in the Act.

"exempted area" means an area constituted by land

- (a) reserved, dedicated, appropriated, resumed or acquired for public purposes (except land reserved for a temporary common or a commonage), whether vested in the Crown or in any person as trustee for public purposes, or (b) held under a lease for water supply by virtue of a special lease or otherwise, or (c) transferred, granted or vested in trust by the Crown for the purpose of a race-course, cricket-ground, recreation reserve, park or permanent common or for any other public purpose, or (d) prescribed by the regulations for the purposes of this definition.

"exercise a function" includes perform a duty.

"exploration area" means land the subject of an exploration licence.

"exploration licence" means an exploration licence granted under the Act.

"fossicking district" means a fossicking district constituted under the Act.

"function" includes power, authority and duty.

"Government agency" means

- (a) a Government Department, or (b) an Administrative Office, or (c) a Corporation designated by the Minister under the Act.

"group of minerals" means any minerals prescribed by the regulations as a group of minerals for the purposes of this definition.

"Inspector" means an Inspector appointed under the Act.

"Landholder" means, in relation to any land

- (a) the owner of an estate who paid the fee of the land, or (b) a native title holder of the land, or (c) the holder of a lease or licence granted under the Crown Lands Act 1989 over the land, or the holder of a tenure referred to Schedule 1 to the Crown Lands (Continued Tenures) Act 1989 in the land, or (e) the holder of a permissive occupancy granted over the land, or (f) the holder of a lease granted under the Western Lands Act 1901 over the land, or (g) a person identified in any register or record kept by the Registrar General as a person having an interest in the land, or (h) a person of a class prescribed by or determined in accordance with the regulations to be landholders for the purposes of this definition, but does not include a person of a class prescribed as outside the scope of this definition.

"local government area" has the same meaning as "area" has in the Local Government Act 1993.

"mine"

- (a) when used as a noun means any place, pit, shaft, drive, level or other excavation, drift, gutter, lead, vein, lode, reef or salt-pan (whether occurring naturally or artificially created) in, on or by means of which, any mining operation is carried on, and (b) when used as a verb means to extract material from land for the purpose of recovering minerals from the material so extracted or to rehabilitate land from which material has been so extracted, but does not include any Activity declared not to be mining by a regulation under the Act.

"mineral" means any substance prescribed by the regulations as a mineral for the purposes of this definition, and includes coal and oil shale, but does not include uranium or petroleum.

"mineral allocation area" means a mineral allocation area constituted under the Act.

"mineral claim" means a mineral claim granted under the Act.

"mineral claims district" means a mineral claims district constituted under the Act.

"minerals representative", in relation to an access management plan over land, means, a person or body prescribed by the regulations, or nominated as prescribed by the regulations, to represent the interests of holders (and potential holders) of small-scale titles with respect to the land.

"mining area" means land the subject of a mining lease.

"mining division" means a mining division constituted under the Act.

"mining improvement" includes
(a) any machinery used for or in connection with prospecting or mining, and (b) any race, drain, dam or reservoir so used.

"mining lease" means a mining lease granted under the Act, and includes a consolidated mining lease.

"mining operations" mean operations carried out in the course of mining.

"mining purpose" means any purpose prescribed by the regulations as a mining purpose for the purposes of this definition.

"mining registrar" means
(a) a Mining Registrar referred to, or (b) in relation to a mining division, a Mining Registrar exercising and performing in that division the functions of a Mining Registrar under this Act.

"mining land" means any land the subject of a mining lease or mineral claim.

"native title holder" has the same meaning as it has in the Commonwealth Native Title Act.

"notification area", in relation to a prescribed dam, means, the land for the time being declared under the Act to be the notification area for the dam.

"opal prospecting area" means an opal prospecting area constituted under the Act.

"opal prospecting block" means an opal prospecting block constituted under the Act.

"owner" in relation to a mine or mining land, means a person who is authorised (whether under a mining lease or mineral claim or otherwise) to mine for minerals in or on the mine or mining land, or (b) who is entitled to receive any minerals recovered from the mine or mining land.

"party" means in relation to a hearing before an arbitrator, a person who is entitled to appear and be heard at the hearing pursuant to the Act, or (b) in relation to an access arrangement, the holder of a prospecting title to whom, or a landholder of land to which, the arrangement relates.

"permissive occupancy" has the same meaning as in the Crown Lands (Continued Tenures) Act 1989.

"permit" means a permit in force under the Act.

"petroleum" has the same meaning as it has in the Petroleum (Onshore) Act 1991.

"prescribed dam" has the same meaning as it has in the Dams Safety Act 1978.

"preserved mining field" means a preserved mining field constituted by an order referred to the Act.

"privately owned mineral" means a mineral that is not owned by, or reserved to, the Crown.

"prospect" means to carry out works on, or to remove samples from, land for the purpose of testing the mineral bearing qualities of the land, but does not include any Activity declared not to be prospecting by a regulation under the Act.

"prospepecting operations" mean operations carried out in the course of prospecting.

"publicly owned mineral" means a mineral that is owned by, or reserved to, the Crown.

"registered access management plan" means an access management plan registered under the Act.

"registered native title body corporate" has the same meaning as in the Commonwealth Native Title Act.

"registered native title claimant" has the same meaning as in the Commonwealth Native Title Act.

"registered surveyor" means a person who is registered as a land surveyor or mining surveyor under the Surveying Act 2002.

"reserve" means a reserve constituted under the Act.

"Royalty Officer" means a Royalty Officer referred to the Act.

"small-scale title" means a mineral claim or an opal prospecting licence.

"special conditions"

- (a) in relation to a mineral claims districts mean the conditions specified under the Act to which mineral claims registered over land within the district are to be subject, or (b) in relation to opal prospecting areas means the conditions specified under the Act to which opal prospecting licenses granted over land within the area are to be subject.

"unit" means a unit into which a block is divided as referred to or, if the Minister so directs in a particular case, part of such a unit.

"Warden" means any Warden appointed, and includes the Chief Warden.

"Warden's as Court" means a Wardens as Court established under the Act.

"authorisation" means an exploration licence, assessment lease, mining lease, mineral claim, opal prospecting licence or environmental assessment permit.

"compensable loss", in relation to the assessment of compensation payable under the Act, has the same meaning as it has in that Division.

C. OWNERSHIP RIGHTS AND ADMINISTRATIVE CONTROL

1. Administration

(a) The Minister may constitute a board of management for the whole or any part of New South Wales. (b) A board of management may exercise, in respect of the area for which it is constituted, such of the functions of the Minister or of the Director-General as are delegated to it under this Act. (c) The regulations may provide for the constitution of a board of management and may regulate, or provide for the regulation of, its procedure. (d) Mining Registrars, Deputy Mining Registrars, Royalty Officers and such other staff as may be necessary for the purposes of this Act may be employed of the Public Sector Management Act 1988. (e) The Minister may, by instrument in writing, appoint a person to be an Inspector for the purposes of this Act. (f) The Minister may delegate any function under this Act (except this power of delegation) to any person. (g) The Director-General may delegate any function under this Act (except this power of delegation or any function delegated to the Director-General by the Minister) to any person. (h) A Mining Registrar may delegate any function under this Act or the regulations (except this power of delegation or any function delegated to the Mining Registrar by the Minister or the Director General) to a Deputy Mining Registrar. (i) A reference in this Section to a function under this Act includes a reference to a function under the regulations and a function under a condition of an authority, a mineral claim or an opal prospecting licence.

2. Powers of Inspectors

(a) For the purposes of this Act, an Inspector (i) may enter any land the subject of an authority or a mineral claim, or an application for an authority or a mineral claim, and any land in an opal prospecting area, and (ii) may inspect that land and any mine, work, operation, building or structure on that land, and (iii) may remove samples of ore or other mineral deposits from that land.

(b) An Inspector may direct the person in charge of any mine, work, operation, building or structure on any such land to provide the Inspector with all reasonable facilities and assistance.

(c) A person to whom such a direction is given must not fail to comply with the direction.

3. Bindings on the Minister

(a) Neither the Minister nor any person employed in the Department may be the holder of an authority, a mineral claim or an opal prospecting licence.

(b) This Section does not prevent the Director-General from being the holder, on behalf of the Crown, of an exploration licence for an allocated mineral in respect of land within a mineral allocation area.

4. Powers of Royalty Officers

(a) For the purposes of this Act, a Royalty Officer (i) may enter any premises occupied by the holder of an authority or mineral claim, or any premises where the Royalty Officer reasonably believes documents of the kind referred to in paragraph (b), of or relating to the holder are kept, and (ii) may inspect, and take extracts or copies from, any documents that are found on those premises and that appear to the Royalty Officer to relate to minerals recovered under the authority or mineral claim.

(b) A Royalty Officer may direct the person in charge of any such premises to provide the Royalty Officer with all reasonable facilities and assistance.

(c) A person to whom such a direction is given must not fail to comply with the direction.

D. MINERAL CONCESSION FOR

General Prospecting and Mining

1. Mining of publicly-owned Minerals

A person must not prospect for or mine any publicly owned mineral on any land otherwise than in accordance with an authority, mineral claim or opal prospecting licence that is in force in respect of that mineral and that land.

2. Mining for Privately owned Minerals

(a) A person must not prospect for or mine any privately owned mineral on any land over which some other person is the holder of an authority or mineral claim.

(b) This Section applies whether or not the mineral for which the person prospects or mines is a mineral to which the authority or mineral claim relates.

3. Regulations for Mining Privately-owned Minerals

(a) A person must not, on any land, prospect for or mine any privately - owned mineral unless

- (i) the person has caused notice of intention to do so to be given to the Director-General, and (ii) the person has caused security, in a form and an amount determined in accordance with the regulations, to be lodged with the Director-General, and (iii) the person prospects for or mines the mineral in accordance with the conditions (if any) prescribed by the regulations.

4. Mining Work Privately - owned Coal

A person must not prospect for or mine privately - owned coal on any land otherwise than in accordance with an authority for coal in force in respect of the land.

5. Reserves

(a) The Governor may, by order published in the Gazette, constitute any land as a reserve and may, by the same or a subsequent order so published, name the reserve and fix its boundaries.

(b) The Governor may, by an order under this Section, give any one or more of the following directions (i) that no exploration licence is to be granted over land in the reserve, (ii) that no assessment lease is to be granted over land in the reserve, (iii) that no mining lease is to be granted over land in the reserve, (iv) that no mineral claim is to be granted over land in the reserve.

(c) In an order constituting land as a reserve, the Governor may stipulate that the reserve is to extend only to the surface of the land, to the surface of the land and the subsoil below the surface, to the surface of the land and the subsoil to a specified depth below the surface, or to the subsoil below or between any specified depth or depths below the surface of the land.

(d) If (i) an application for an exploration licence is made or pending in respect of land that is the subject of a direction under Subsection (b) (i); or (ii) an application for an assessment lease is made or pending in respect of land that is the subject of a direction under Subsection (b) (ii); or (iii) an application for a mining lease is made or pending in respect of land that is the subject of a direction under Subsection (b) (iii); or (iv) an application for a mineral claim is made or pending in respect of land that is the subject of a direction under Subsection (b) (iv), the application is a nullity to the extent to which it is made in respect of the land the subject of the direction, but, if the application is also made in respect of other land, the application is taken to have been made in respect of that other land.

6. Mineral Allocation Areas

- (a) The Governor may, by order published in the Gazette, constitute any land as a mineral allocation area and may, by the same or a subsequent order so published, name the area and fix its boundaries.
- (b) A mineral allocation area may be constituted for all minerals, for specified minerals or groups of minerals or for all minerals other than specified minerals or groups of minerals.
- (c) More than one mineral allocation area may be constituted in respect of any land.

7. Fossicking Districts

The Minister may, by order published in the Gazette, constitute any land as a fossicking district and may, by the same or a subsequent order so published, name the district and fix its boundaries.

1. EXPLORATION LICENCE

1. Applications and Tenders

a) Application

- (i) Any person may apply for an exploration licence.
- (ii) An application for an exploration licence
- must specify the group or groups of minerals in respect of which it is made, and
 - must be lodged with a Mining Registrar, and
 - must be accompanied by the required particulars, and
 - must be accompanied by the appropriate lodgment fee.
- (iii) The required particulars are as follows -
- a description, prepared in the manner prescribed by the regulations, of the land over which the exploration licence is sought,
 - particulars of the financial resources available to the applicant,
 - particulars of the technical advice available to the applicant,
 - particulars of the program of work proposed to be carried out by the applicant on the land over which the exploration licence is sought,
 - particulars of the estimated amount of money that the applicant proposes to expend on prospecting.
- (iv) An application that relates to land within a mineral allocation area may not be made, except with the consent of the Minister, in relation to any group of minerals that includes an allocated mineral.

b) Invitations for tenders

- (i) This Section applies only in relation to allocated minerals in land within a mineral allocation area.
- (ii) The Minister by notice published -
- in a newspaper circulating generally throughout the State, and
 - in one or more newspapers circulating in the locality in which the land concerned is situated may invite tenders for an exploration licence for an allocated mineral.
- (iii) An invitation -
- must describe the land to which it relates, and
 - must identify the allocated mineral to which it relates, and
 - must specify the place at which, and the date on or before which, tenders for the exploration licence should be lodged.

c) Tenders

- (i) A tender for an exploration licence -
- must be lodged with the Director-General in accordance with the invitation for the tender,
 - must be accompanied by the required particulars, and

- must be accompanied by the appropriate lodgment fee.
- (ii) The required particulars are as follows -
 - particulars of the financial resources available to the tenderer,
 - particulars of the technical advice available to the tenderer,
 - particulars of the program of work proposed to be carried out by the tenderer on the land over which the exploration licence is sought,
 - particulars of the estimated amount of money that the tenderer proposes to expend on prospecting.
- (iii) A tender may specify that, in the event that the tender is successful, the tenderer will pay a specified amount in addition to the cash reserve price (if any) specified in the invitation for the tender.
- (iv) A tender may be made in respect of the whole or any part of the land described in the invitation for the tender.

d) Elicitation of further information

The Minister may require the applicant or tenderer to furnish further information in connection with the application or tender, including (if the applicant or tenderer is a corporation) information as to the extent of details of the actual authority that wields the controlling power in the corporations affairs whether it is-

- (a) at foreign company within the meaning of the Corporations Act 2001 of the Commonwealth, or
- (b) a company registered under that Act that is taken for the purposes of that Act to be registered in a State or Territory other than New South Wales, or (c) an individual who is a resident of a foreign country.

2. Restriction on the Grant of Exploration

a) Land reserve of opal prospecting area

- (i) Restriction on grant of exploration on any land within an opal prospecting area, or
- (ii) a reserve in respect of which an order prohibiting the granting of assessment leases is in force.

b) Land on which private mining operations being carried on

- (i) An exploration licence may not be granted over any land
 - if mining operations for a privately owned mineral are being carried out on the land by or with the consent of the owner of the mineral, and
 - if the notice referred to the Act (a) and the security referred (b) have each been duly lodged with the Director-General, except with the written consent of the owner of the mineral.
- (ii) A written consent given under this Section is irrevocable.
- (iii) Any dispute as to whether or not this Section applies in any particular case is to be referred to a warden for inquiry and report and is to be decided by the Director-General on the basis of the warden's report.

3. Granting of Exploration Licence

a) Power of Minister in disposing to applications

After considering an application for an exploration licence, the Minister-

- (i) may grant an exploration licence to the applicant, or
- (ii) may refuse the application. Without limiting the generality of an application may be refused on the ground that the applicant has been convicted of an offence against this Act or the regulations or any other offence relating to mining or minerals.

- (iii) The Minister may grant a single exploration licence in respect of two or more applications or two or more exploration licenses in respect of a single application.

b) Land over which Exploration Licence is Granted

An exploration licence may be granted over land of any title or tenure. An exploration licence may be granted in respect of any group or groups of minerals, regardless of whether the minerals in any such group are publicly-owned, privately - owned or partly publicly-and partly privately - owned.

An exploration licence may be granted over the surface of land, over the surface of land and the subsoil below the surface, over the surface of land and the subsoil down to a specified depth below the surface or over the subsoil below or between any specified depth or depths below the surface of land.

c) Shape and Dimension of Land over which Exploration Licence Granted

The land over which an exploration licence is granted must be at least 1, but not more than 100 units in area unless the Minister determines that it is appropriate, in the particular circumstances of the case, for the licence to be granted over a larger area of land. The land over which an exploration licence is granted may differ in size or shape from but may not include land other than the land over which the licence was sought. Land that, by operation of the Act, is excluded from the land over which an exploration licence is granted because, when the licence is granted, the land is the subject of an assessment lease, a mining lease or a mineral claim becomes subject to the exploration licence (i) if the assessment lease, mining lease or mineral claim ceases to have effect in respect of the land, and (ii) if, when it does so, the land is not then subject to a further assessment lease, mining lease or mineral claim. Land that, by operation of the Act, is excluded from the land over which an exploration licence is granted because, when the licence is granted, the land is subject to a pending application for an assessment lease, mining lease or mineral claim becomes subject to the exploration licence (i) if the application is subsequently refused or withdrawn, or (ii) if, when the assessment lease, mining lease or mineral claim is granted, the land does not become subject to the lease or claim.

d) Conditions with respect to Exploration Licence

(i) An exploration licence is subject to such conditions as the Minister may, when granting the licence, impose.

(ii) Without limiting the generality of Subsection (i), conditions of the following kind may be imposed on an exploration licence

(i-a) conditions requiring the holder of the licence to pay royalty to the Minister on any minerals recovered under the licence, (i-b) conditions requiring the holder of the licence to give and maintain security (in such amount and form, and on or before such date, as the Minister may determine) for the fulfilment of the obligations arising under this Act in respect of the licence. The Act applies to royalty payable under a condition referred to in Subsection (ii) (i-a) in the same way as it applies to royalty payable on a mineral recovered under a mining lease. A condition requiring security to be given and maintained by the holder of an exploration licence (the "new exploration licence") may be expressed so as to require the security given and maintained in relation to some other exploration licence or licences, whether under this Section or the Act, to be extended to the new exploration licence.

(iii) If the Minister proposes to grant an exploration licence to a person on the condition that the person gives and maintains security, the Minister may cause a written notice to be served on the person requiring the person to lodge the security with the Minister on or before the date specified in the notice.

e) Term of exploration licence

(i) An exploration licence takes effect on the date on which it is granted or on such later date as the Minister may determine, and (ii) ceases to have effect at the expiration of such period (not exceeding 5 years) as the Minister may determine.

4. Rights under the Exploration Licence

a) Rights under Exploration Licence

(i) The holder of an Exploration Licence may, in accordance with the conditions of the licence, prospect on the land specified in the licence for the group or groups of minerals so specified.

(ii) If an application for an assessment lease, mining lease or mineral claim made by the holder of an Exploration Licence is not finally dealt with before the date on which the licence would otherwise cease to have effect, the licence continues to have effect, in relation only to the land to which the application relates, until the application is finally dealt with.

(iii) Subsection (ii) does not operate to extend an Exploration Licence for more than 2 years, or such further period as the Minister may approve in a particular case, after the date on which it would otherwise expire.

b) Amendment of Exploration Licence in respect of certain conditions

(i) The Minister may amend an Exploration Licence that does not contain a condition requiring the holder to give and maintain security for the fulfilment of the obligations of the holder arising under this Act so as to include such a condition. The Minister may amend an exploration licence that contains such a condition so as to vary the amount and form of the security that is required to be given and maintained. The Minister may amend any two or more exploration licences held by the same holder that contain such a condition so as to require a single security to be given and maintained. The amendment of an exploration licence takes effect on the date on which written notice of the amendment is served on the holder of the exploration licence or on such later date as may be specified in the notice.

c) Exempted areas

(i) The holder of an Exploration Licence may not, except with the consent of the Minister, exercise any of the rights conferred by the licence within land in an exempted area.

(ii) Such consent may be given either unconditionally or subject to condition.

d) Exploration areas over which authority is subsequently granted

Land over which an Exploration Licence is granted and over which some other authority (other than an Exploration Licence for some other group or groups of minerals) is subsequently granted ceases to be part of the exploration area when the other authority takes effect.

2. ASSESSMENT LEASE

1. Application of Assessment Lease

a) Applications

(i) Any person may apply for an assessment lease.

(ii) An application for an assessment lease

- must specify the mineral or minerals in respect of which it is made, and
- must be lodged with a mining registrar, and
- must be accompanied by the required particulars, and
- must be accompanied by the appropriate lodgment fee.

(iii) The required particulars are as follows

- a description, prepared in the manner prescribed by the regulations, of the land over which the assessment lease is sought,
- an assessment of the mineral bearing capacity of that land and of the extent of any mineral deposits in that land,

- particulars of the financial resources available to the applicant,
 - particulars of the technical advice available to the applicant,
 - particulars of the program of work proposed to be carried out by the applicant on the land over which the assessment lease is sought,
 - particulars of any program of marketing or environmental study proposed to be carried out by the applicant,
 - particulars of the estimated amount of money that the applicant proposes to expend on prospecting.
- (iv) An application that relates to land within a mineral allocation area may not be made in relation to a mineral or group of minerals for which the mineral allocation area is constituted except
- by the holder of an Exploration Licence or mining lease over that land in respect of that mineral or group of minerals, or
 - with the consent of the Minister.

b) Elicitation of further information

The Minister may require the applicant to furnish further information in connection with the application, including (if the applicant is a corporation) information as to the extent and details of the actual authority that wields the controlling power in the corporations affairs whether it is (i) a foreign company within the meaning of the Corporations Act 2001 of the Commonwealth, or (ii) a company registered under that Act that is taken for the purposes of that Act to be registered in a State or Territory other than New South Wales, or (iii) an individual who is a resident of a foreign country.

c) Exclusion of Land from Application

- (i) The Minister may, by order in writing, direct that any part of the land to which an application relates be excluded from the application.
- (ii) A direction takes effect on the date on which written notice of the direction is served on the applicant.

2. Restriction of Grant of Assessment Lease

a) Land reserve of opal prospecting area

An assessment lease may not be granted over any land within (i) an opal prospecting area, or (ii) a reserve in respect of which an order prohibiting the granting of assessment leases is in force under the Act.

b) Land subject to Exploration Licence

- (i) If an application for an assessment lease is made in respect of land that is wholly or partly subject to one or more exploration licenses (other than exploration licenses that include any mineral or minerals in respect of which the assessment lease is sought), the Minister must cause notice of the application to be served on the holder of every such exploration licence.
- (ii) The holder of an exploration licence served with such a notice may object to the Granting of the assessment lease by lodging with the Director-General, on or before the date specified in the notice, a written notice stating the grounds of the objection.
- (iii) If such an objection is made, the Minister must refer the application and the objection to an Inspector for investigation and report and must determine the objection on the basis of the Inspector's report.
- (iv) This Section does not apply to an application that is made with the written consent of the holder of every exploration licence over the land concerned.
- (v) A written consent given under this Section is irrevocable.

3. Granting of Assessment Leases

a) *Land over which assessment lease may be granted*

- (i) An assessment lease may be granted over land of any title or tenure.
- (ii) An assessment lease may be granted in respect of any mineral or minerals, regardless of whether the mineral or minerals are publicly owned, privately owned or partly publicly and partly privately owned.
- (iii) An assessment lease may be granted over the surface of land; the subsoil below the surface; and the subsoil down to a specified depth below the surface or over the subsoil below or between any specified depth or depths below the surface of land.

b) *Shape and Dimension of Land over which Assessment Lease is Granted*

The land over which an assessment lease is granted may differ in size or shape, but may not include land other than the land over which the lease was sought.

c) *Conditions with respect to Assessment Lease*

- (i) An assessment lease is subject to such conditions as the Minister may, when granting the lease, impose.
- (ii) Without limiting the generality of Subsection (i), conditions of the following kind may be imposed on an assessment lease
 - (ii-a) conditions requiring the holder of the lease to pay royalty to the Minister on any minerals recovered under the lease,
 - (ii-b) conditions requiring the holder of the lease to give and maintain security (in such amount and form, and on or before such date, as the Minister may determine) for the fulfillment of the obligations arising under this Act in respect of the lease.
- (iii) The Act applies to royalty payable under a condition referred to in Subsection (ii) (ii-a) in the same way as it applies to royalty payable on a mineral recovered under a mining lease.
- (iv) A condition requiring security to be given and maintained by the holder of an assessment lease (the "new assessment lease") may be expressed so as to require the security given and maintained in relation to some other assessment lease or leases, whether under this Section or under the Act, to be extended to the new assessment lease.
- (v) If the Minister proposes to grant an assessment lease to a person on the condition that the person gives and maintains security, the Minister may cause a written notice to be served on the person requiring the person to lodge the security with the Minister on or before the date specified in the notice.

d) *Term of an assessment lease*

An assessment lease -

- (i) takes effect on the date on which it is granted or on such later date as the Minister may determine, and
- (ii) ceases to have effect at the expiration of such period (not exceeding 5 years) as the Minister may determine.

4. Rights Amendment and Other Conditions under the Assessment Leases

a) *Rights under assessment lease*

- (1) The holder of an assessment lease may, in accordance with the conditions of the lease, prospect on the land specified in the lease for the mineral or minerals so specified.
- (2) If an application for a mining lease or mineral claim made by the holder of an assessment lease is not finally dealt with before the date on which the assessment lease would otherwise cease to

have effect, the lease continues to have effect, in relation only to the land to which the application relates, until the application is finally dealt with.

b) Amendment of assessment lease in respect of certain conditions

- (i) The Minister may amend an assessment lease that does not contain a condition requiring the holder to give and maintain security for the fulfilment of the obligations of the holder arising under this Act so as to include such a condition.
- (ii) The Minister may amend an assessment lease that contains such a condition so as to vary the amount and form of the security that is required to be given and maintained.
- (iii) The Minister may amend any 2 or more assessment leases held by the same holder that contain such a condition so as to require a single security to be given and maintained.
- (iv) The amendment of an assessment lease takes effect on the date on which written notice of the amendment is served on the holder of the assessment lease or on such later date as may be specified in the notice.

c) Exempted areas

- (i) The holder of an assessment lease may not, except with the consent of the Minister, exercise any of the rights conferred by the lease on land in an exempted area.
- (ii) Such consent may be given either unconditionally or subject to conditions.

3. MINING LEASE

1. Applications and Tenders

a) Applications

- (i) Any person may apply for a mining lease.
- (ii) An application for a mining lease
 - must specify the mineral or minerals, or the mining purpose or mining purposes, in respect of which it is made,
 - must be lodged with a mining registrar,
 - must be accompanied by the required particulars, and
 - must be accompanied by the appropriate lodgment fee.
- (iii) The required particulars, in the case of an application that specifies a mineral or minerals, are as follows
 - a description, prepared in the manner prescribed by the regulations, of the land over which the mining lease is sought,
 - an assessment of the mineral bearing capacity of the land and of the extent of any mineral deposits in that land,
 - particulars of the financial resources available to the applicant,
 - particulars of the technical advice available to the applicant, and
 - particulars of the programme of work proposed to be carried out by the applicant on the area of land over which the mining lease is sought.
- (iv) An application that relates to land within a mineral allocation area may not be made in relation to an allocated mineral except
 - by the holder of an Exploration Licence or assessment lease over that land in respect of that mineral, or
 - with the consent of the Minister.
- (v) The required particulars, in the case of an application that specifies a mining purpose or mining purposes, are as follows

- a description, prepared in the manner prescribed by the regulations, of the land over which the mining lease is sought,
- a description of the nature and extent of the mining purpose or mining purposes to be carried out.

b) Invitations for tenders

- (i) This Section applies only to allocated minerals in land within a mineral allocation area.
- (ii) The Minister may invite tenders for a mining lease for an allocated mineral, by notice published-
 - in a newspaper circulating generally throughout the State, and
 - in one or more newspapers circulating in the locality in which the land concerned is situated
- (iii) An invitation-
 - must describe the land to which it relates, must identify the allocated mineral to which it relates, and
 - must specify the place at which, and the date on or before which, tenders for the mining lease should be lodged.
- (iv) Tenders may not be invited under this Section otherwise than in accordance with the Act.

c) Tenders

- (i) A tender for a mining lease -
 - (i-a) must be lodged with the Director-General in accordance with the invitation for the tender, and
 - (i-b) must be accompanied by the required particulars, and
 - (i-c) must be accompanied by the appropriate lodgment fee.
- (ii) The required particulars are as follows-
 - particulars of the financial resources available to the tenderer,
 - particulars of the technical advice available to the tenderer,
 - particulars of the programme of work proposed to be carried out by the tenderer on the land over which the mining lease is sought.
- (iii) A tender may specify that, in the event that the tender is successful, the tenderer will pay-
 - a specified amount, or
 - royalty, at a specified rate, over and above the royalty payable under the Act, or
 - both such an amount and royalty at such a rate, in addition to the cash reserve price (if any) specified in the invitation for the tender.
- (iv) A tender may also specify -
 - whether or not an amount referred to in Subsection (iii) will be paid by way of installments, and
 - if such an amount is to be paid by way of installments the period (not exceeding 5 years) within which the amount will be paid.
- (v) A tenderer is entitled to a refund of the fee referred to in Subsection (i) (i-c), if a mining lease is not granted to the tenderer as a consequence of the tenderer being refused development consent to the use of the land concerned, or any part of the land, for the purpose of obtaining minerals.

d) Elicitation of further information

The Elicitation of the applicant or tenderer to furnish further information in connection with the application of tender, including (if the applicant or tenderer is a corporation) information as to the extent to which the controlling power in the corporations affairs is held whether by -

- (i) a foreign company within the meaning of the Corporations Act 2001 of the Commonwealth, or (ii) a company registered under that Act that is taken for the purposes of that Act to be registered in a State or Territory other than New South Wales, or (iii) an individual who is a resident of a foreign country.

e) Application for mining lease may be dealt with as application for Exploration Licence or assessment lease

The Minister may, at the request of the applicant, deal with an application as if it were an application for an Exploration Licence or assessment lease.

2. Restriction on the Grant of Mining Leases

a) Land in reserve

A mining lease may not be granted over any land within a reserve in respect of which an order prohibiting the granting of mining leases is in force under the Act.

b) Land subject to Exploration Licence

(i) If an application for a mining lease is lodged in respect of land that is subject wholly or partly to one or more exploration licenses (other than exploration licenses that include any mineral or minerals in respect of which the mining lease is sought), the Minister must cause notice of the application to be served on the holder of every such Exploration Licence.

(ii) The holder of an Exploration Licence served with such a notice may object to the granting of the mining lease by lodging with the Director-General, on or before the date specified in the notice, a written notice stating the grounds of the objection.

(iii) If such an objection is made, the Director-General must refer the application and objection to an Inspector for investigation and report and must determine the objection on the basis of the Inspectors report.

(iv) This Section does not apply to an application that is made with the written consent of the holder of every Exploration Licence over the land concerned.

(v) A written consent given under this Section is irrevocable.

3. Granting of Mining Leases

a) Power of Minister in disposing to applications

(i) After considering an application for a mining lease, the Minister

(*) may grant a mining lease to the applicant, or

(*) may refuse the application.

(ii) Without limiting the generality of Subsection (1), an application may be refused on the ground that the applicant has been convicted of an offence against this Act or the regulations or any other offence relating to mining or minerals.

(iii) The Minister may grant a single mining lease in respect of more than one application.

(*) A mining lease may not be granted until the appropriate mining lease fee (as determined under the Act) has been paid for the grant of the lease.

(iv) A mining lease may not be granted under this Section otherwise than in accordance with the Act.

(v) A mining lease may not be granted, in respect of a mining purpose or mining purposes only, unless the Minister is satisfied that the mining purpose or mining purposes is or are to be carried out in connection with and in the immediate vicinity of -

- a mining lease in respect of a mineral or minerals, or
- a mineral claim, being a mining lease or mineral claim that has been or is proposed to be granted.

b) Power of Minister in disposing tenders

(i) After considering a tender in respect of which one tender only is lodged, the Minister -

- may grant a mining lease to the tenderer, or

- may refuse the tender.
- (ii) After considering all tenders in respect of land in respect of which more than one tender is lodged, the Minister
 - may grant a mining lease to any one of the tenderers, or
 - may refuse all of the tenders.
- (iii) Without limiting the generality of Subsections (i) and (ii), a tender may be refused on the ground that the tenderer has been convicted of an offence against this Act or the regulations or any other offence relating to mining or minerals.
- (iv) For the purposes of this Section, only one tender is lodged in respect of land if no other tender is lodged in respect of the land or any part of the land.
- (v) A mining lease may not be granted under this Section otherwise than in accordance with the act.

c) Development consents under the Environmental Planning and Assessment Act 1979

- (i) This Section applies -
 - in relation to mining lease for a mineral or minerals, to land for which development consent is required before the land may be used for the purpose of obtaining minerals, and
 - in relation to mining lease for a mining purpose or mining purposes only, to land for which development consent is required before the land may be used for that purpose or those purposes.
- (ii) The Minister must not grant a mining lease over land to which this Section applies unless an appropriate development consent is in force in respect of the land.
- (iii) If a mining lease is granted over land for which an appropriate development consent has been given then-
 - any condition, be it a special purpose condition within the meaning of the Act imposed on the development consent by a consent authority, or by a body hearing an appeal from a consent authority, is void, and
 - the development consent (to the extent only to which it relates to the use of the land concerned for the purpose of obtaining minerals) is taken to have been given free of the condition.

d) Survey of Land to a must

- (i) Before a mining lease is granted, the Director-General must ensure that the land over which the mining lease is to be granted has been properly surveyed.
- (ii) For the purpose of doing so, the Director-General may direct the applicant for the mining lease to cause a survey to be prepared in accordance with such requirements as may be specified in the direction.

e) Land over which Mining Lease may be Granted

- (i) A mining lease may be granted over land of any title or tenure.
- (ii) A mining lease may be granted in respect of any mineral or minerals, regardless of whether the mineral or minerals are publicly owned, privately owned or partly publicly and partly privately owned.
- (iii) A mining lease may be granted over the surface of land, over the surface of land and the subsoil below the surface; and over the surface of land & the subsoil down to a specified depth below the surface or over the subsoil between or below any specified depth or depths below the surface of land.

f) Shape & dimensions of land over which Mining Lease may be Granted

The land over which a mining lease is granted may differ in size or shape, but may not include land other than the land over which the lease was sought.

g) Conditions of Mining Lease

- (i) A mining lease is subject to -

- a condition that the holder of the lease will not suspend mining operations in the mining area otherwise than in accordance with the written consent of the Minister.
- such other conditions as the Minister may, when granting the lease, impose.
- Subsection (i) (a) does not apply to a mining lease that is granted in relation to mining purpose or mining purposes only.
 - (ii) Without limiting the generality of Subsection (i), conditions of the following kind may be imposed on a mining lease
 - conditions requiring the holder of the mining lease to give and maintain security, in such amount and form as the Minister may determine, for the fulfilment of the obligations arising under this Act in respect of the lease,
 - conditions relating to mining or mining operations,
 - conditions relating to the transporting of any mineral or other thing for the purpose of mining,
 - conditions relating to the treatment or preparation for sale of any mineral,
 - conditions relating to the disposal or retention of material discarded from mining operations or from the treatment or preparation for sale of any mineral,
 - conditions relating to the use to which any mineral may be put, whether or not the condition relates to a matter to be carried out on, or in the vicinity of, the mining area.
 - (iii) A condition requiring security to be given and maintained by the holder of a mining lease (the "new mining lease") may be expressed so as to require the security given and maintained in relation to some other mining lease or leases, whether under this Section or under the Act, to be extended to the new mining lease.
 - (iv) If the Minister proposes to grant a mining lease to a person on the condition that the person gives and maintains security, the Minister may cause a written notice to be served on the person requiring the person to lodge the security with the Minister on or before the date specified in the notice.
 - (v) A mining lease granted on the basis of a tender lodged under the Act is taken to include a condition in the terms specified in the tender for the purposes of Subsection (3) of that Section.

h) Term of Mining Lease

A Mining Lease

- (a) takes effect on the date on which it is granted or on such later date as the Minister may determine, and
- (ii) ceases to have effect at the expiration of such period (not exceeding 21 years or such longer period as the Minister, with the concurrence of the Premier, may determine) as the Minister may determine.

4. Rights Amendments and Other Conditions under a Mining Lease

a) Rights under Mining Lease

- (i) The holder of a Mining Lease granted in respect of a mineral or minerals may, in accordance with the conditions of the lease -
 - prospect on the land specified in the lease for, and mine on that land, the mineral or minerals so specified, and
 - carry out on that land such primary treatment operations (such as crushing, sizing, grading, washing and leaching) as are necessary to separate the mineral or minerals from the material from which they are recovered, and
 - carry out on that land any mining purpose.
- (ii) The holder of a Mining Lease granted in respect of a mining purpose or mining purposes only may, in accordance with the conditions of the lease, carry out the mining purpose or mining purposes specified in the lease.
- (iii) If an application for an assessment lease made by the holder of a Mining Lease is not finally dealt with before the date on which the Mining Lease would otherwise cease to have effect, the lease

continues to have effect, in relation only to the land to which the application relates, until the application is finally dealt with.

b) Mining unaffected by Environmental Planning and Assessment Act 1979

- (i) While a Mining Lease has effect -
- nothing in, or done under, the Environmental Planning and Assessment Act 1979 or an environmental planning instrument operates so as to prevent the holder of the Mining Lease from carrying on mining operations in the mining area, and
 - to the extent to which anything in, or done under, that Act or any such instrument would so operate, it is of no effect in relation to the holder of the Mining Lease.
 - Subsection (i) ceases to apply to a Mining Lease over land for which development consent to the use of land for the purpose of obtaining minerals is required if mining operations under the lease have not begun within 5 years after the date on which the development consent is given.
- (iii) This Section does not exempt the holder of a Mining Lease from obtaining any consent under the Environmental Planning and Assessment Act 1979 that the person is required to obtain in connection with the erection of buildings, the opening of roads or the subdivision of land.

c) Mining purposes

- (i) The Minister may, by order in writing, direct that -
- a specified mining purpose be carried out in accordance with any condition specified in the order, or
 - the carrying out of a specified mining purpose be discontinued for such period as is specified in the order.

d) Addition of Mineral to Mining Lease

- (i) The holder of a Mining Lease granted in respect of a mineral or minerals may apply for the inclusion in the lease of a mineral additional to the mineral or minerals to which the lease relates.
- (ii) The application must be lodged with the Director-General.
- (iii) The holder of a Mining Lease over any land must, within 21 days after lodging the application, serve a copy of the application on each landholder.
- (iv) After considering the application, the Minister -
- may, by order in writing served on the applicant direct that the Mining Lease apply to the additional mineral specified in the direction, or
 - may refuse the application.
- (v) A direction may be given unconditionally or subject to such conditions as are specified in the direction.
- (vi) While a direction is in force, the Mining Lease concerned is taken to extend to the mineral the subject of the direction.

e) Amendment of Mining Lease in respect of certain conditions

- (i) The Minister may amend a Mining Lease so as to allow the holder of the lease to comply with a condition relating to expenditure instead of a condition relating to labour.
- (ii) The Minister may amend a Mining Lease that does not contain a condition requiring the holder of the lease to give and maintain security for the fulfilment of the obligations of the holder arising under this Act so as to include such a condition.
- (iii) The Minister may amend a Mining Lease that contains such a condition so as to vary the amount and form of the security that is required to be given and maintained.
- (iv) The Minister may amend any two or more Mining Leases held by the same holder that contain such a condition so as to require a single security to be given and maintained.

(v) The amendment of a Mining Lease takes effect on the date on which written notice of the amendment is served on the holder of the Mining Lease or on such later date as may be specified in the notice.

f) Mining areas over which an authority is subsequently granted

Land over which a Mining Lease is granted and over which some other authority is subsequently granted ceases to be part of the mining area when the subsequent authority takes effect.

5. Subleasing of Mining Leases

a) Conditions for subleasing in area

(1) A mining sublease that purports to have effect in relation to more than the prescribed area of the land the subject of its head lease is void for all purposes, both in relation to the land the subject of its head lease and any other land in respect of which the mining sublease purports to have effect.

(ii) This Section does not apply -

- if the holder of the head lease is a body corporate and the holder of the mining sublease is a subsidiary of the body corporate within the meaning of the Corporations Act 2001 of the Commonwealth, or
- if the mining sublease is exempt from the operation of this Section by an order in force under Subsection (iii), or
- if the mining sublease is exempt from the operation of this Section by the regulations.

(iii) The Minister may, by order in writing, exempt a mining sublease from the operation of this Section.

(iv) In this Section -

"head lease" means the Mining Lease under which a mining sublease is granted.

"mining sublease" means any instrument in the nature of a sublease or sub-licence by which the holder of a Mining Lease -

- assigns, or purports to assign, to another person for a limited period, or
- permits, or purports to permit another person to exercise for a limited period, any of the rights conferred by the Mining Lease.

"prescribed area", in relation to land the subject of a mining sublease, means -

- except as provided by paragraph (ii), 100 hectares, or (ii) if any other mining sublease has effect in relation to land the subject of the same head lease, 100 hectares less the total area of land in relation to which each other mining sublease has effect.

4. CONSOLIDATED MINING LEASE

1. General

a) Definitions

(i) In this Part

"existing lease" means a Mining Lease that is in force, including a Mining Lease that is in force by virtue of the Act.

"holder", in relation to a proposed lease, means the holder of the existing leases specified in the proposed lease as the existing leases to be consolidated.

"proposed lease" means a proposed consolidated Mining Lease prepared under this Part or, if the lease is amended under this Part, the lease as so amended.

(ii) A reference in this Part to the grant of a proposed lease is a reference to the grant of a consolidated Mining Lease in the same terms as those of the proposed lease.

b) Existing leases that may be consolidated

Any two or more existing leases may be consolidated, if the leases are held by the same person and relate to contiguous parcels of land or to parcels of land that are separated only by a road, stream or railway.

2. Preparation of Consolidated Mining Leases

a) Preparation of Proposed Lease

(i) The Minister may (on the application of the holder of the leases concerned or otherwise) cause a proposed lease to be prepared for the purpose of consolidating two or more existing leases.

(ii) A proposed lease must specify -

- the existing leases to be consolidated,
- the mineral or minerals in respect of which the proposed lease is to be granted,
- the period for which the proposed lease is to be granted, and
- the conditions on which the proposed lease is to be granted, and must have attached to it a description, prepared in the manner prescribed by the regulations, of the land over which the lease is to be granted.

b) Amendment of Proposed Lease

(i) The Minister may, at any time after the preparation of a proposed lease, make such amendments to the lease as the Minister thinks fit.

(ii) The Minister may, by such an amendment, specify existing leases to be added to, or excluded from, those to be consolidated by the proposed lease.

(iii) The Minister may, at any time after the preparation of a proposed lease, determine that the consolidation should not proceed.

(iv) Such a determination does not prevent the Minister -

- from proceeding with the consolidation at a later time, or
- from causing a further proposed lease to be prepared for the purpose of consolidating all or any of the existing leases concerned.

3. Notification of Government Agencies

a) Conditions for Granting of Proposed Lease

(i) If an objection to the granting of a proposed lease is duly made, the lease must not be granted unless the objection is withdrawn or otherwise resolved or is rejected by the Premier.

(ii) A proposed lease must include -

- any condition proposed under this Division (unless the proposal for the inclusion of the condition is withdrawn or is rejected by the Premier) or, if such a condition is modified, the condition as so modified, and
- any condition directed by the Premier to be included in the lease.

(iii) The failure to include a condition in a proposed lease does not affect the validity of the lease, but the Minister may, by instrument in writing, amend the lease so as to include the condition omitted.

(iv) An amendment takes effect on the date on which written notice of the amendment is served on the holder of the consolidated Mining Lease or on such later date as may be specified in the notice.

4. Notification and Amendments

a) Notification to holder of existing leases

(i) Before granting a proposed lease, the Minister must cause notice of the proposal to be served on the holder of the existing leases.

(ii) Such a notice -

- must include a copy of the proposed lease, and
- must state that representations with respect to the granting of the proposed lease, or the conditions on which the proposed lease is to be granted, may be made to the Minister on or before the date specified in the notice.

(iii) The date specified in a notice under this Section must be a date occurring not less than 28 days after the date of service of the notice.

b) Subsequent amendment of proposed lease

(i) If -

- the Minister amends a proposed lease (otherwise than as a consequence of an objection or proposal made by the agency) after a copy has been served on a Government agency, and
- the Minister is of the opinion that the agency's attitude to the proposed lease might be materially affected if the agency were given a copy of the proposed lease as amended, the Minister must cause to be served on the agency a notice setting out details of the amendment and stating that objections to the amendment may be made to the Minister on or before the date specified in the notice.

(ii) The date specified in a notice under this Section must be a date occurring not less than 28 days after the date of service of the notice.

5. Granting of Consolidated Mining Leases

a) Grant of Consolidated Mining Lease

(i) After having complied with the requirements of this Part in respect of a proposed lease, the Minister may grant to the holder of the existing leases a consolidated Mining Lease in the same terms as those of the proposed lease.

(ii) When a consolidated Mining Lease takes effect, each existing lease is taken to have been cancelled.

(iii) The granting of a consolidated Mining Lease over land the subject of a Mining Lease in force by virtue of the Act does not constitute a renewal of that lease.

b) Land over which Consolidated Mining Lease may be Granted

The land over which a consolidated Mining Lease may be granted is the aggregate of all of the land the subject of the existing leases.

c) Conditions of consolidated Mining Lease

A consolidated Mining Lease is subject to -

- (i) a condition that the holder of the lease will not suspend mining operations in the mining area otherwise than in accordance with the written consent of the Minister, and (ii) such conditions as the Act requires to be included in the lease, and (iii) such other conditions as the Minister, when granting the lease, may impose.

d) Term of consolidated Mining Lease

A consolidated Mining Lease -

- (i) takes effect on the date on which it is granted or on such later date as the Minister may determine, and (ii) ceases to have effect at the expiration of such period (not extending beyond the first day by which all the existing leases that have been consolidated would, but for the consolidation, have expired) as the Minister may determine.

6. Liabilities of Consolidated Mining Leases

a) *Rights of Way*

Any right of way indicated or described as referred to the Act in respect of an existing lease continues to have effect in respect of a consolidated Mining Lease in the same way as it had effect in respect of the existing lease.

Renewal, Transfer and Cancellation Of Authorities

1. Renewal

a) *Applications of Renewal*

- (i) The holder of an authority may, from time to time, apply for the renewal of the authority.
- (ii) An application for the renewal of an Exploration Licence or assessment lease must be lodged with the Director-General not earlier than 2 months and not later than 1 month before the licence or lease ceases to have effect.
- (iii) An application for the renewal of a Mining Lease must be lodged with the Director-General not earlier than 5 years and not later than 1 year (or, if the term of the Mining Lease is for 1 year or less, not earlier than 2 months and not later than 1 month) before the Mining Lease ceases to have effect.
- (iv) An application for the renewal of an authority must be accompanied by the appropriate lodgment fee.
- (v) If an application for the renewal of an authority is in respect of part only of the land subject to the authority, the application must be accompanied by a description, prepared in the manner prescribed by the regulations, of the land over which renewal of the authority is sought.
- (vi) An application for the renewal of an exploration licence may be made in respect of one or more parts (but not more than such number of parts as may be prescribed by the regulations) of the exploration area.
- (vii) An application for the renewal of an assessment lease or a mining lease may be made in respect of the whole, or of any single part, of the assessment area or mining area.

b) *Power of Minister in disposing Applications*

- (i) After considering an application for the renewal of an authority, the Minister -
 - may renew the authority, or
 - may refuse the application.
- (ii) Without limiting the generality of Subsection (i), an application may be refused if the applicant has been convicted of an offence against this Act or the regulations or any other offence relating to mining or minerals.
- (iii) The period for which an authority is renewed may not on any one occasion exceed -
 - 5 years in the case of an exploration licence or assessment lease, or
 - 21 years (or such longer period as the Minister may, with the concurrence of the Premier, determine) in the case of a Mining Lease.
- (iv) On renewing an authority, the Minister may amend any of the conditions of the authority and may include further conditions in the authority.
- (v) The area of land over which an authority is renewed may differ from the area of land over which the renewal of the authority is sought, but not so as to include any land that was not subject to the authority immediately before the renewal.
- (vi) The number of units over which an exploration licence may be renewed is not to exceed half the number of units over which the licence was in force when the application for the renewal was made

unless the Minister is satisfied that special circumstances exist that justify the renewal of the licence over a larger number of units.

(vi) The Minister may defer dealing with an application for the renewal of a Mining Lease over any land if the Mining Lease is the subject of Action being taken under the Act in connection with the granting of a consolidated Mining Lease over that land.

c) Coming into Effect of Renewal of Authority

(i) The renewal of an authority takes effect on the date on which it is renewed or on such later date as may be specified in the renewal.

(ii) Any amendment of the conditions of an authority takes effect on the date on which the renewal of the authority takes effect.

d) Partial renewals

If an authority is renewed as to part only of the land to which the application for renewal relates, the authority ceases to have effect in relation to the remainder of the land on the date on which the renewal takes effect.

2. Transfer

a) Applications of Transfer

(i) The holder of an authority may apply for approval of the transfer of the authority to some other person.

(ii) An application for approval of the transfer of an authority -

- must be accompanied by the appropriate lodgment fee,
- must be accompanied by the consent of the proposed transferee,
- must be accompanied by the particulars prescribed by the regulations, and
- must be lodged with the Director-General.

b) Power of Minister in disposing to Applications of Transfer

(i) After considering an application for approval of the transfer of an authority, the Minister -

- may approve the transfer in accordance with the application, or
- may refuse the application.

(ii) Without limiting the generality of Subsection (i), an application may be refused if the proposed transferee has been convicted of an offence against this Act or the regulations or any other offence relating to mining or minerals.

(iii) In approving the transfer of an authority, the Minister may, subject to this Act, direct that any of the conditions of the authority be amended or that further conditions be included in the authority.

c) Partial Transfers

(i) If part of an authority is transferred under this Division -

- the authority (in this Section referred to as "the original authority") is taken to have been cancelled as to the area of the part transferred, and
- an authority over the part transferred (in this Section referred to as "the new authority") is taken to have been granted to the transferee for the period ending on the date of expiry of the original authority and to include the conditions determined by the Minister in granting approval of the transfer, and
- if the Minister considers that it is necessary to do so as a result of the transfer, the conditions to which the original authority is subject may be amended in the manner determined by the Minister in granting approval of the transfer.

(iii) Before part of an authority is transferred-

- the Minister and the proposed transferor must sign a document setting out the terms of any proposed amendments of the original authority, and
- the Minister and the proposed transferee must sign a document setting out the terms of the proposed new authority.

3. Cancellation

a) *Grounds of cancellation or operational suspension*

- (i) The Minister may cancel an authority as to the whole or any part of the land to which it relates -
- (i-a) if the holder of the authority requests the Minister to cancel the authority, or
 - (i-b) if the holder of the authority contravenes any condition of the authority or any provision of this Act or the regulations, whether or not the holder is prosecuted or convicted of any offence arising from the contravention, or
 - (i-c) if the holder of the authority fails to comply with the requirements of any agreement or assessment under the Act in relation to the payment of compensation, or
 - (i-d) if the holder of the authority is convicted of any offence relating to mining or minerals, or
 - (i-e) if the land is required for a public purpose, or
 - (i-f) if the holder of the authority fails to use the land comprised in the authority in good faith for the purposes for which the authority has been granted, or uses the land for a purpose other than that for which the authority has been granted.
- (ii) A request referred to in Subsection (i) (i-a) -
- must be lodged with the Director-General, and
 - if the application is for the cancellation of the authority as to part only of the land to which it relates must be accompanied by a description, prepared in the manner prescribed by the regulations, of the land in respect of which the authority is to be cancelled.

b) *Cancellations and operational suspensions*

(i) Before cancelling an authority on a ground referred to the Act, or suspending operations under an authority, the Minister -

- must cause written notice of the proposed cancellation or suspension, and of the grounds of the proposed cancellation or suspension, to be served on the holder of the authority, and
- must give the holder of the authority a reasonable opportunity to make representations with respect to the proposed cancellation or suspension, and
- must take any such representations into consideration.

(ii) Cancellation of or suspension of operations under an authority takes effect on the date on which written notice of the cancellation or suspension is served on the holder of the authority or on such later date as is specified in the notice.

(iii) Cancellation of or suspension of operations under an authority does not affect any liability incurred by the holder of the authority before the cancellation or suspension took effect.

(iv) A suspension of operations under an authority is revoked on the date on which written notice from the Minister is served on the holder of the authority or on such later date as is specified in the notice.

(v) While any operations under an authority are suspended, the authority confers no right on its holder to carry out the operations concerned.

c) *Compensation for cancellation or suspension of operations*

(i) The holder of an authority is not entitled to compensation merely because the authority is cancelled or operations under it are suspended.

(ii) However, if an authority is cancelled on the ground that the whole or any part of the land concerned is required for a public purpose, the holder of the authority is entitled to compensation, of an amount to be determined by the Minister, for any mining improvements made to the land.

4. General Procedure of Authorities

a) Age Stipulation for Holder of Authority

An authority may not be granted to an individual who has not attained the age of 18 years.

b) Withdrawal of Application

(i) An application or objection in relation to the grant, renewal, transfer or cancellation of an authority may be withdrawn by means of a notice of withdrawal signed by the applicant or objector and lodged with the Director-General and ceases to have effect when the notice is lodged.

(ii) The withdrawal of an application or objection under this Section is irrevocable.

c) Applications Considered Pending

For the purposes of this Act, an application for an authority is pending from the time it is lodged until the time it is finally disposed of.

d) Disputes as to priority of Applications

Any dispute as to the priority of competing applications for authorities over the same land is to be determined by the Minister.

e) Nomination by applicant or tenderer

(i) An applicant or tenderer for an authority may, by notice in writing lodged with the Director-General, nominate a person to whom the authority is to be granted.

(ii) The person nominated in an application or tender as the person to whom an authority is to be granted is, for the purposes of this Act, taken to be the applicant or tenderer for the authority.

f) Status of Application in Adverse Situations

An application for an authority made by a person who subsequently dies, becomes bankrupt or becomes a mentally incapacitated person -

- subsists for the benefit of the applicant's estate, and
- may continue to be dealt with, if the applicant's legal representative or the manager of the applicant's estate so requests.

g) Joint Holders of Authorities

If there is more than one holder of an authority, each holder is jointly and severally liable for the fulfillment of the obligations arising under this Act in relation to the authority.

5. MINERAL CLAIM

1. Mineral Claims Districts

a) Constitution of Mineral Claims Districts

(i) The Governor may, by order published in the Gazette, constitute any land within a single mining division as a mineral claims district and may, by the same or a subsequent order so published, name the district and fix its boundaries.

(ii) Such an order -

- may not be made except on the recommendation of the Minister,
- may not be made over land within a reserve if an order under the Act directs that mineral claims are not to be granted over land in the reserve, and

- may not be made over land within an exempted area except in accordance with the consent of the controlling body for that area.

b) Notice of proposal to constitute mineral claims district

(i) The Minister must cause notice of any proposed recommendation to constitute a mineral claims district to be served on -

- each Government agency that, in the opinion of the Minister, would be materially affected by the recommendation, and
- each council within whose area is situated the land to which the proposed recommendation relates.

(ii) Such a notice-

- must identify the proposed boundaries of the mineral claims district, and
- must specify proposed conditions for inclusion in the order to be made under the Act with respect to the mineral claims district.

c) Special conditions

(i) The Minister may, by order published in the Gazette, specify the conditions that are to apply to mineral claims granted over land within any specified mineral claims district.

(ii) Without limiting the generality of Subsection (i), the conditions that may be specified in an order under this Section include conditions as to the following matters -

- the shape and size of mineral claims that may be granted,
- the minerals in respect of which mineral claims may be granted,
- the maximum number of mineral claims that may be held by any one person,
- the nature and extent of prospecting and mining operations that may be carried out in respect of mineral claims,
- the period for which a mineral claim is to have effect,
- the security deposits to be lodged in respect of the granting of mineral claims,
- the compensation payable in respect of the carrying out of prospecting and mining operations,
- the royalties payable in respect of minerals recovered under mineral claims,
- the levies payable in respect of mineral claims and the purposes for which those levies may be applied,
- the depth below the surface of the land to which prospecting or mining operations may be carried out,
- the obligations of the holders of mineral claims as to the rehabilitation of land on which prospecting or mining operations have been carried out.

(iii) The conditions may vary by reference to specified matters including, in particular, by reference to whether or not the proposed claim area is within a preserved mining field.

(iv) The Minister must have regard to, but (except as provided by Subsection (v)) is not bound by, any representations made by a person or body to whom notice has been given under the Act.

(v) To the extent to which an order under this Section applies to land within an exempted area, the order must include any conditions required by the controlling body for that area to be included in the order.

d) Area of Mineral Claim

This Section does not authorise the making of conditions that permit a mineral claim to be granted over land having an area of more than 2 hectares.

e) Period of Mineral Claim

The period of a mineral claim shall have a term of more than 5 years. A condition limiting the maximum number of mineral claims that may be held by any one person does not prevent a person from becoming the holder of further mineral claims that devolve on the person by operation of law.

2. Application of Mineral Claim

a) *Marking out of proposed claim area*

(i) Before applying for a mineral claim, a person must, in the manner prescribed by the regulations, mark out the area of land over which the person wishes the mineral claim to be granted.

(ii) The area marked out must be situated wholly within a single mining division and must comply with the regulations in relation to shape and size.

b) *Notice of intention to apply for mineral claim*

(i) A person may not apply for a mineral claim over any land until after the person has caused notice of the proposed application to be served on the landholder.

(ii) Such a notice must identify, in the manner prescribed by the regulations, the land to which the application relates.

c) *Application for granting of mineral claim*

(i) Any person may apply for a mineral claim.

(ii) An application -

- must identify, in the manner prescribed by the regulations, the land to which it relates, and
- must specify the mineral or minerals, or the mining purpose or mining purposes, in respect of which the mineral claim is sought, and
- must be accompanied by the appropriate lodgment fee, and
- must be lodged with the mining registrar for the mining division within which the land to which it relates is situated, and
- must be accompanied by a copy of the notice served on the landholder of the land concerned under the Act and a statutory declaration to the effect that the notice was so served.

(iii) An application for a mineral claim may not be lodged with respect to land over which the lodging of such an application is prohibited by an order in force under the Act.

3. Restriction of Mining Claim

a) *General restrictions*

(i) A mineral claim may not be granted over land having an area of more than 2 hectares.

(ii) A mineral claim over land that is not situated within a mineral claims district may not be granted in the name of a person who holds more than one other mineral claim over any such land within the same mining division.

(iii) Subsection (ii) does not prevent a person from becoming the holder of a mineral claim that has devolved on the person by operation of law.

(iv) A mineral claim may not be granted in respect of coal.

b) *Exempted areas*

(i) A mineral claim may not be granted over land within an exempted area (other than land within a mineral claims district) except with the written consent of the controlling body of that area.

(ii) A written consent given under this Section is irrevocable.

c) *Opal prospecting blocks, reserves and mineral allocation areas*

(i) A mineral claim may not be granted over any land within-

- an opal prospecting block that is the subject of an opal prospecting licence held by a person other than the applicant for the mineral claim, or
- a reserve in respect of which an order prohibiting the granting of mineral claims is in force under the Act.

(ii) Except with the approval of the Minister, a mineral claim may not be granted over any land within a mineral allocation area that is constituted in respect of any mineral or minerals to which the application for the mineral claim relates.

d) Mineral claim not to be re-granted to former holder

(i) A person who has been the holder of a mineral claim that has been cancelled pursuant to an order of a Wardens Court may not be granted a further mineral claim over any part of the land over which the earlier mineral claim was held until the expiration of the period of 12 months following the making of the order.

(ii) This Section is subject to any further order made by the Wardens Court by which the original order was made.

4. Granting of Mineral Claim

a) Land over which mineral claim may be granted

(i) A mineral claim may be granted in respect of any mineral or minerals, regardless of whether the mineral or minerals are publicly owned, privately owned or partly publicly and partly privately owned.

(ii) A mineral claim may be granted over the surface of land, over the surface of land and the subsoil below the surface, over the surface of land and the subsoil down to a specified depth below the surface or over the subsoil between or below any specified depth or depths below the surface of land.

b) Conditions of mineral claim

(i) A mineral claim is subject to-

- in the case of a mineral claim that is granted over land within a mineral claims district -
 - # any special conditions that apply to the land,
 - # the conditions imposed on the holder of the claim under the Act as to his or her exercise of any right of way under that Section in respect of the claim area,
 - # the conditions to which the holder of the claim is subject pursuant to any registered access management plan in force in respect of that land, and
 - # such other conditions (not inconsistent with the conditions referred to in subparagraphs #, # and # as the Mining Registrar may impose, and
- in any other cases such conditions as the Mining Registrar may (in accordance with the regulations) impose.

(ii) Without limiting the generality of Subsection (i), a condition may be imposed on a mineral claim requiring the holder of the claim to pay royalty to the Minister on any minerals recovered under the claim.

(iii) The Act applies to royalty payable under such a condition in the same way as it applies to royalty payable on a mineral recovered under a mining lease.

c) Term of mineral claim

A mineral claim (i) takes effect on the date on which it is granted or on such later date as the mining registrar may determine, and (ii) ceases to have effect at the expiration of such period (not exceeding 5 years or, in the case of a mineral claim over land that is situated within a mineral claims district, not exceeding such shorter period as the special conditions may specify) as the Mining Registrar may determine.

5. Rights under a Mineral Claim

a) Rights under mineral claim

(i) The holder of a mineral claim granted in respect of a mineral or minerals may, in accordance with the conditions of the claim, prospect for and mine the mineral or minerals in respect of which the claim is granted and may, in connection with any such prospecting or mining -

- erect buildings and structures, and
- exercise any rights in the nature of easements, and
- carry out mining purposes, and
- remove from the claim area any timber, stone or gravel.

(ii) The holder of a mineral claim granted in respect of a mining purpose or mining purposes only may, in accordance with the conditions of the claim, carry out the mining purpose or mining purposes specified in the certificate relating to the claim.

(iii) If an application for an assessment lease or Mining Lease is made by the holder of a mineral claim, the claim continues in force until the application is finally disposed of.

b) Amendment of mineral claim in respect of certain conditions

(i) A Mining Registrar may amend a mineral claim that does not contain a condition requiring the holder to give and maintain security for the fulfillment of the obligations of the holder arising under this Act so as to include such a condition.

(ii) A Mining Registrar may amend a mineral claim that contains such a condition so as to vary the amount and form of the security that is required to be given and maintained.

(iii) A Mining Registrar may amend any two or more mineral claims held by the same holder that contain such a condition so as to require a single security to be given and maintained.

(iii) A single security may be given and maintained in relation to both mineral claims and opal prospecting licenses held by the same person.

(iv) The amendment of a mineral claim takes effect on the date on which written notice of the amendment is served on the holder of the mineral claim or on such later date as may be specified in the notice.

c) Claim areas over which authority is subsequently granted

Land over which a mineral claim is granted and over which an authority or further mineral claim is subsequently granted ceases to be part of the claim area when the authority or further claim takes effect.

6. Renewal, Transfer and Cancellation or Operational Suspension of Mineral Claims

i) Renewal

a) Application for renewal

(i) The holder of a mineral claim may, from time to time, apply for renewal of the claim.

(ii) An application for renewal of a mineral claim -

- must be accompanied by the appropriate lodgment fee, and
- must be lodged, on or within 2 months before the day on which the claim would otherwise expire, with the Mining Registrar for the mining division within which the claim area is situated.

(iii) A mineral claim the subject of such an application remains in force until the application is finally disposed of.

b) Determination of application for renewal

(i) After considering an application for renewal of a mineral claim, the Mining Registrar -

- may renew the mineral claim, or
- may refuse the application.

(ii) Without limiting the generality of Subsection (i), an application may be refused if the applicant has been convicted of an offence against this Act or the regulations or any other offence relating to mining or minerals.

(iii) The Mining Registrar may, on renewing a mineral claim, vary the conditions of the claim-

- in the case of a mineral claim that is granted over land within a mineral claims districts in such manner as the Mining Registrar may (in accordance with the special conditions) determine, and
- in any other cases in such manner as the Mining Registrar may (in accordance with the regulations) determine.

c) Partial renewal

A mineral claim may be renewed as to the whole or any part of the claim area and, if it is renewed as to part only of the claim area, the remainder ceases to be part of the claim area when the renewal takes effect.

d) Term of renewal

- (i) A mineral claim that is renewed -
- takes effect on the date on which it is renewed or on such later date as the Mining Registrar may determine, and
 - ceases to have effect at the expiration of such period (not exceeding 5 years or, in the case of a mineral claim over land that is situated within a mineral claims district, not exceeding such shorter period as the special conditions may specify) as the Mining Registrar may determine.
- (ii) Any amendment of the conditions of a mineral claim takes effect on the date on which the renewal of the mineral claim takes effect.

ii) Transfer

a) Application for transfer

- (i) The holder of a mineral claim may apply for the transfer of the claim to some other person.
- (ii) An application for the transfer of a mineral claim-
- must be accompanied by the appropriate lodgment fee, and
 - must be lodged with the Mining Registrar for the mining division within which the claim area is situated, and
 - must be accompanied by the written consent of the proposed transferee, and
 - must be accompanied by a copy of the relevant notice served under Subsection (iii).
- (iii) Notice of an intention to make an application under this Section must be given by the applicant to the landholder of the land to which the mineral claim relates.
- (iv) The Mining Registrar may defer consideration of an application that is the subject of legal proceedings, or of an inquiry under this Act, pending the outcome of those proceedings or that inquiry.

b) Determination of application for transfer

- (i) After considering an application for transfer of a mineral claim, the Mining Registrar -
- may transfer the mineral claim, or
 - may refuse the application.
- (ii) Without limiting the generality of Subsection (i), an application may be refused if the applicant has been convicted of an offence against this Act or the regulations or any other offence relating to mining or minerals.
- (iii) The Mining Registrar may, on transferring a mineral claim, vary the conditions of the claim -
- in the case of a claim that is granted over land within a mineral claims districts in such manner as the mining registrar may (in accordance with the special conditions) determine, and
 - in any other cases in such manner as the Mining Registrar may (in accordance with the regulations) determine.
- (iv) A mineral claim may not be transferred to a person if the person would consequently become the holder of more mineral claims than the maximum number allowed by this Act.

iii) Cancellation and operational suspension

a) Grounds of cancellation or operational suspension

(i) A Mining Registrar may cancel a mineral claim, as to the whole or any part of the land to which it relates -

- if the holder of the claim requests the Mining Registrar to cancel the claim, or
- if, as a result of an objection made under the Act, it is determined in accordance with the Act that the land is agricultural land, or
- if the holder of the claim contravenes any condition of the claim or any provision of this Act or the regulations, whether or not the holder is prosecuted or convicted of any offence arising from the contravention, or
- if the holder of the claim fails to comply with the requirements of any agreement or assessment under the Act in relation to the payment of compensation, or
- if the holder of the claim is convicted of any offence relating to mining or minerals, or
- if the land is required for a public purpose, or
- if the Mining Registrar is ordered by a Wardens Court to cancel the claim, or
- if the holder of the claim fails to use the land comprised in the claim in good faith for the purposes for which the claim has been granted, or uses the land for a purpose other than that for which the claim has been granted.

(ii) A request referred to in Subsection (i)

- must be lodged with the Mining Registrar for the mining division within which the claim area is situated, and
- if the application is for the cancellation of the claim as to part only of the land to which it relates must be accompanied by a description, prepared in the manner prescribed by the regulations, of the land in respect of which the claim is to be cancelled.

(iii) The Mining Registrar may defer cancellation of a mineral claim that is the subject of legal proceedings, or of an inquiry under this Act, pending the outcome of those proceedings or that inquiry.

(iv) A Mining Registrar may suspend all or any specified operations under a mineral claim until further notice if the holder of the claim contravenes-

- a requirement under this Act to pay royalty, or to give or maintain security for the performance of the holders obligations under the claim, or
- any condition of the claim that is identified in the claim as a condition related to environmental management.

b) Cancellations and suspensions

(i) Before canceling a mineral claim on a ground referred to in Subsection (i), or suspending operations under a claim, the Mining Registrar -

- must cause written notice of the proposed cancellation or suspension, and of the grounds of the proposed cancellation or suspension, to be served on the holder of the claim, and
- must give the holder of the claim a reasonable opportunity to make representations with respect to the proposed cancellation or suspension, and
- must take any such representations into consideration.

(ii) Cancellation of or suspension of operations under a mineral claim takes effect on the date on which written notice of the cancellation or suspension is served on the holder of the claim or on such later date as is specified in the notice.

(iii) Cancellation of or suspension of operations under a mineral claim does not affect any liability incurred by the holder of the claim before the cancellation or suspension took effect.

(iv) A suspension of operations under a mineral claim is revoked on the date on which written notice from the Mining Registrar is served on the holder of the claim or on such later date as is specified in the notice.

(v) While any operations under a mineral claim are suspended, the claim confers no right on its holder to carry out the operations concerned.

c) Compensation for cancellation or suspension of operations

(i) The holder of a mineral claim is not entitled to compensation merely because the claim is cancelled or operations under it are suspended.

(ii) However, if a mineral claim is cancelled on the ground that the whole or any part of the land concerned is required for a public purpose, the holder of the claim is entitled to compensation, of an amount to be determined by the Mining Registrar, for any mining improvements made to the land.

d) Review of decisions concerning cancellation or suspension of operations

(i) Any person who is aggrieved by the decision of a Mining Registrar to cancel, or suspend operations under, a mineral claim held by the person, or as to the amount of compensation payable as a consequence of its cancellation, may apply to a Wardens Court for a review of the decision.

(ii) An application must be filed in a Wardens Court within 14 days after written notice of the decision is served on the person.

(iii) Subject to any order made by the Wardens Court, an application for a review does not operate to stay the decision to which the application relates.

(iv) The decision of the Wardens Court is to be given effect to as if it were the decision of the Mining Registrar.

7. Miscellaneous

a) Age Stipulation of a Holder of Mineral Claim

A mineral claim may not be granted to an individual who has not attained the age of 18 years.

b) Withdrawal of application

(i) An application or objection in relation to the grant, renewal, transfer or cancellation of a mineral claim may be withdrawn by means of a notice of withdrawal lodged by the applicant or objector with the Mining Registrar with whom the application or objection was lodged and ceases to have effect when the notice is lodged.

(ii) The withdrawal of an application or objection under this Section is irrevocable.

c) Applications Considered Pending

For the purposes of this Act, an application for a mineral claim is considered pending from the time it is lodged under this Act until the time it is finally disposed of.

d) Status of Application in Adverse Situations

An application for a mineral claim made by a person who subsequently dies, becomes bankrupt or becomes a mentally incapacitated person (i) subsists for the benefit of the applicants estate, and (ii) may continue to be dealt with, if the applicants legal representative or the manager of the applicants estate so requests.

e) Joint holders of mineral claims

If there is more than one holder of a mineral claim, each of the holders is jointly and severally liable for the fulfillment of the obligations arising under this Act in relation to the claim.

6. JPAL PROSPECTING AREAS

1. Opal Prospecting area

The Minister may, by order published in the Gazette, constitute any prescribed land as an opal prospecting area and may, by the same or a subsequent order so published, name the area and fix its boundaries.

a) Special conditions

(i) The Minister may, by order published in the Gazette, specify special conditions that are to apply to opal prospecting licenses granted over land within any specified opal prospecting area.

b) Opal prospecting blocks

(i) The Minister may, by order published in the Gazette, constitute any land within an opal prospecting area as an opal prospecting block.

(ii) Such an order -

- may give the opal prospecting block a designation and fix its boundaries, and
- may specify any periods during which an opal prospecting licence may not be granted in respect of the opal prospecting block.

(iii) An opal prospecting block may not exceed -

- an area of 500 hectares, or
- such smaller area as is prescribed by the regulations.

2. Opal Prospecting Licenses

a) Applications

(i) Any person may apply for an opal prospecting licence.

(ii) An application -

- must be accompanied by the appropriate lodgment fee, and
- must be lodged with the Mining Registrar for the mining division in which the opal prospecting block is situated.

(iii) If more than one application is lodged with a Mining Registrar in respect of the same opal prospecting block, the applications are to be dealt with in the order in which they are lodged or, if they are lodged simultaneously, in such order as may be prescribed by the regulations.

b) Restrictions on grant of licence

(i) An opal prospecting licence may not be granted over an opal prospecting block -

- to an individual who has not attained the age of 18 years,
- over which any other opal prospecting licence is in force or has (at any time within the 14 days preceding the day on which the application for the licence was lodged) been in force, or
- over which a mineral claim is in force, or
- to a person who is the holder of an opal prospecting licence over any other opal prospecting block in the same mining division, or
- during a period specified in the order by which the opal prospecting block is constituted as a period during which such a licence may not be granted.

(ii) An opal prospecting licence may not be granted over any part of an opal prospecting block in respect of which an application for a mineral claim is pending.

c) Conditions of licence

An opal prospecting licence is subject to -

(i) any special conditions that apply, pursuant to the Act, to the opal prospecting block over which the licence is granted, and (ii) the conditions imposed on the holder of the licence, pursuant to the Act, as to his or her exercise of any right of way under that Section in respect of the opal prospecting block over which the licence is granted, and (iii) the conditions to which the holder of the licence is subject pursuant to any registered access management plan in force in respect of the opal prospecting block over which the licence is granted, and (iv) such other conditions (not inconsistent with the conditions referred to in paragraphs (a), (b) and (c)) as the Mining Registrar may impose.

d) Term of licence

An opal prospecting licence has effect for the period specified on the map in respect of the opal prospecting block concerned.

e) Rights under licence

(i) The holder of an opal prospecting licence may, in accordance with the licence, prospect for opals in the opal prospecting block over which the licence is granted.

(ii) Despite Subsection (1), the holder of an opal prospecting licence may not prospect for opals in any part of an opal prospecting block in respect of which prospecting is prohibited under the Act.

(iii) While an opal prospecting licence is in force, no person, other than the holder of the licence, may prospect for opals in any part of the opal prospecting block to which the licence relates.

(iv) Nothing in this Section prevents the holder of a mineral claim from exercising, in relation to any land within an opal prospecting block, any right conferred by the claim.

(v) An application for a mineral claim is a nullity to the extent to which it relates to any part of an opal prospecting block in respect of which any person other than the applicant holds an opal prospecting licence.

f) Amendment of opal prospecting licence in respect of certain conditions

(i) A Mining Registrar may amend an opal prospecting licence that does not contain a condition requiring the holder to give and maintain security for the fulfilment of the obligations of the holder arising under this Act so as to include such a condition.

(ii) A Mining Registrar may amend an opal prospecting licence that contains such a condition so as to vary the amount and form of the security that is required to be given and maintained.

(iii) A Mining Registrar may amend any two or more opal prospecting licences held by the same holder that contain such a condition so as to require a single security to be given and maintained.

(iv) A single security may be given and maintained in relation to both opal prospecting licences and mineral claims held by the same person.

(v) The amendment of an opal prospecting licence takes effect on the date on which written notice of the amendment is served on the holder of the licence or on such later date as may be specified in the notice.

g) Grounds of cancellation

(i) A Mining Registrar may cancel an opal prospecting licence -

- if the holder of the licence requests the Mining Registrar to cancel the licence, or
- if the holder of the licence contravenes any condition of the licence or any provision of this Act or the regulations, whether or not the holder is prosecuted or convicted of any offence arising from the contravention, or
- if the holder of the licence fails to comply with the requirements of any agreement or assessment under the Act in relation to the payment of compensation, or
- if the holder of the licence is convicted of any offence relating to mining or minerals, or

- if the Mining Registrar is ordered by a Wardens Court to cancel the licence.
- (ii) A request referred to in Subsection (i) must be lodged with the Mining Registrar for the mining division within which the opal prospecting block is situated.

h) Cancellations

(i) Before canceling an opal prospecting licence on a ground referred to in the Act, the Mining Registrar -

- must cause written notice of the proposed cancellation, and of the grounds of the proposed cancellation, to be served on the holder of the licence, and
- must give the holder of the licence a reasonable opportunity to make representations with respect to the proposed cancellation, and
- must take any such representations into consideration.

(ii) Cancellation of an opal prospecting licence takes effect on the date on which written notice of the cancellation is served on the holder of the licence or on such later date as is specified in the notice.

(iii) Cancellation of an opal prospecting licence does not affect any liability incurred by the holder of the licence before the cancellation took effect.

i) Applications Considered Pending

For the purposes of this Act, an application for an opal prospecting licence is pending from the time it is lodged under this Act until the time it is finally disposed of.

7. PERMIT OF LAND

a. Conditions of permit

A permit is subject to such conditions as are specified in the permit.

b. Term of permit

Unless sooner cancelled, a permit remains in force for such period not exceeding (a) except as provided by paragraph (b), 12 months from the date it is granted, or (b) in the case of a permit under the Act, 28 days from the date it is granted, as is specified in the permit.

c. Cancellation of permit

(a) The Minister may, for such reason as the Minister thinks fit, cancel a permit that has been granted by the Minister.

(b) A warden may, for such reason as the warden thinks fit, cancel a permit that has been granted by the warden.

(c) A Mining Registrar may, for such reason as the Mining Registrar thinks fit, cancel a permit that has been granted by the Mining Registrar.

E. ROYALTY/DEAD RENT AND OTHER TAXES

1. Publicly owned Minerals

a) Liability to pay royalty

(i) The holder of a Mining Lease is liable to pay royalty to the Minister on publicly owned minerals recovered under the lease.

(ii) Royalty that is payable to the Minister under a condition of a Mining Lease (being a condition of the kind referred to in the Act.

(iii) is payable in addition to, and not instead of, royalty payable under this Act.

b) Rate of royalty

(i) Royalty on a publicly owned mineral is payable under this Act -

- at the base rate prescribed by the regulations in respect of that mineral, and
- if the regulations so provided at the additional rate prescribed by the regulations in respect of that mineral.

(ii) Royalty under this Division is payable on a publicly owned mineral at the rate or rates applicable as at the time the material from which it is recovered is extracted from the land.

(iii) A rate of royalty prescribed for the purposes of this Act may be prescribed -

- as a percentage of the value of minerals recovered from the land, or
- as an amount payable on the basis of any specified measurement of minerals recovered from the land, or
- by reference to such other matters as the Minister determines.

(iv) The quantity of minerals recovered is to be calculated (whether by volume or by weight) in the manner prescribed by the regulations.

(v) The value of minerals recovered is to be calculated (whether by volume or by weight) in the manner determined by the Minister.

2. Privately owned Minerals

a) Liability to pay royalty

(i) The holder of a Mining Lease is liable to pay royalty to the Minister on privately owned minerals recovered from the land as if those minerals were publicly owned minerals.

(ii) If royalty (including any interest on royalty) is paid to or recovered by the Minister in respect of a privately owned mineral, the Minister is to pay -

- seven-eighths of the amount so paid or recovered to the owner of the mineral, and
- one-eighth of the amount so paid or recovered to the Treasurer for payment into the Consolidated Fund.

b) Rate of royalty

Royalty is payable under this Act -

- except as provided by below paragraph at the base rate prescribed under the Act in respect of the mineral concerned, or
- in the case of a mineral other than coal at such other rate as may be agreed on between the holder of the mineral claim or authority concerned and the owner of the mineral.

c) Exemption from royalty

(i) If the Minister, on application by the holder of a Mining Lease, is satisfied that the value of publicly owned minerals recovered as a result of mining operations carried on during a royalty period was less than the appropriate amount, no royalty is payable to the Minister under this Act in respect of those minerals.

(ii) In this Section -

"appropriate amount", in relation to a royalty period, means -

- if the royalty period is 12 months \$2,000, and
- if the royalty period is less than 12 months such amount as bears to \$2,000 the same proportion as the number of days in the royalty period bears to 365.

"mining operations" means mining operations carried on-

- on a parcel of land subject to a Mining Lease held by a person who is not the holder of any other Mining Lease, or
- on two or more parcels of land subject to two or more Mining Leases, if the holder of each parcel is the same person and if each parcel adjoins the other or another of those parcels.

"royalty period", in relation to a mineral recovered by a person under a Mining Lease, means -

- the period commencing on the day on which the person first became entitled, under the Mining Lease, to mine the mineral, and ending on the last day of the first period in respect of which the person is required by this Act to pay royalty in respect of the mineral, or
- the period commencing on the day after the last day of any period in respect of which the person is required by this Act to pay royalty in respect of the mineral and ending on the last day of the next such period, or
- if, during a period referred to above paragraph, the person ceases to be entitled to mine the mineral on the land the subject of the Mining Lease the period commencing on the day after the last day of the previous royalty period and ending on the day on which the person ceases to be so entitled.

d) Payment of royalty

(i) Royalty payable to the Minister under this Act is payable -

- except in so far as a determination under below paragraph has effect at such times, and in respect of such periods, as may be specified in or determined in accordance with the regulations, or
- on demand by the Minister in respect of such periods as the Minister determines.

(ii) If an amount of royalty payable to the Minister is not paid -

- by the time that it becomes payable in accordance with the regulations, or
- within 28 days of the demand for its payment, interest is, if the Minister so directs, to be added to the amount due at such rate as the Minister determines.

(iii) The regulations may make provision for or with respect to the manner in which royalty payable to the Minister under this Act is to be paid and, in particular, may require that payment of any royalty referred to in the regulations is to accompany a return made under this Part.

e) Recovery of royalty

(i) Royalty, and any interest on the royalty, payable to the Minister under this Act are debts due to the Crown and are recoverable in a court of competent jurisdiction.

(ii) A certificate that is signed by the Minister and that states that on a date, or during a period, specified in the certificate, an amount of royalty or interest so specified was payable to the Minister under this Act by a person so specified is admissible in evidence in all courts and is evidence of the Act or Acts so certified.

F. PROVISION REGARDING ENVIRONMENT

1. Condition for protecting the environment

a) Inclusion of conditions for protecting the environment

The conditions subject to which an authority or mineral claim is granted or renewed must, if the Minister or Mining Registrar considers it appropriate, include conditions relating to the conservation and protection of

(i) the flora, fauna, fish, fisheries and scenic attractions, and (ii) the features of Aboriginal, architectural, archaeological, historical or geological interest, in or on the land subject to the authority or claim.

b) Rehabilitation etc of area damaged by mining

(i) The conditions subject to which an authority or mineral claim is granted or renewed may include such conditions relating to -

- the rehabilitation, leveling, regressing, reforesting or contouring of such part of the land over which the authority or claim has effect as may have been damaged or adversely affected by prospecting operations or mining operations, and

- the filling in, sealing or fencing off of excavations, shafts and tunnels, as may be prescribed by the regulations or as the Minister or Mining Registrar may, in any particular case, determine.

(i-a) The Minister or Mining Registrar may, in any particular case, determine that an authority or mineral claim be granted or renewed subject to conditions relating to the afforestation (including for carbon sequestration within the meaning of the Act of the Convincing Act 1919 and related environmental purposes) of such part of the land over which the authority or claim has effect as may have been damaged or adversely affected by prospecting operations or mining operations.

(i-b) However, a condition referred to in Subsection (i-a) may only be imposed at the request of the applicant for, or holder of, the authority or claim.

(ii) The Minister or Mining Registrar may amend an authority or mineral claim (i) that does not contain conditions of the kind that may be imposed under this Division, or (ii) that does contain such conditions, being conditions that the Minister or Mining Registrar considers are inadequate, so as to include conditions or further conditions of that kind or so as to alter any such conditions.

(iii) Any conditions of the kind referred to in Subsection (i) or (i-a) are to be in a form approved by the Commissioner of the Soil Conservation Service and after consultation with the Director of National Parks and Wildlife.

(iv) An amendment takes effect on the date on which notice of the amendment is served on the holder of the authority or mineral claim or on such later date as may be specified in the notice.

c) Environmental assessment

(i) A warden may, on the application of a person who proposes to undertake an assessment (for the purposes of this Act or the Environmental Planning and Assessment Act 1979) of the likely effect on the environment of the Activities to be carried out under an authority or a mineral claim, grant a permit to the applicant to enter any land so as to enable the person to undertake the assessment.

(ii) For the purpose of determining an application for a permit, a warden may hold an inquiry into any matter arising under, or in connection with, the application.

(iii) The holder of a permit under this Section, and any employee or agent of the holder, may, in accordance with the permit -

- enter the land to which the permit relates, and
- do on that land all such things as are reasonably necessary to carry out the assessment to which the permit relates.

(iv) The rights conferred by the permit may not be exercised within land in an exempted area except with the consent of the Minister.

(v) Such consent may be given unconditionally or subject to conditions.

(vi) In the case of land within a national park, state recreation area, regional park, historic site, nature reserve, state game reserve, Aboriginal area, protected archaeological area, wildlife district, wildlife refuge, wildlife management area or Aboriginal place within the meaning of the National Parks and Wildlife Act 1974, such consent may not be given except with the concurrence of the Minister administering that Act.

(vii) In the case of land within a marine park under the Marine Parks Act, 1997, such a consent may not be given except with the concurrence of the relevant Ministers within the meaning of that Act.

d) Compensation arising under environmental assessment permit

(i) If the holder of an environmental assessment permit enters any land under the authority of the permit, landholders become entitled to compensation from the holder of the permit for any compensable loss they suffer as a result of the exercise of the rights conferred by the permit.

(ii) The amount of compensation payable under this Section is such amount as may be assessed by a warden on the application of the holder of the environmental assessment permit, the Crown or the landholder concerned.

(iii) Nothing in this Section affects any remedy available to any person whose lands are entered pursuant to a power conferred by or under the Act.

G. PENALTY AND LEGAL PROVISIONS

1. Proceedings for offences

(a) Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Wardens Court or before a Local Court, except as provided by this Section.

(b) If an appropriate election is made in accordance with the Criminal Procedure Act, 1986, any of the following offences may be dealt with on indictment -

(i) an offence of mining in contravention of a provision of Act,

(ii) an offence under the Act,

(iii) an offence, under the Act, of contravening a condition of a lease, licence or mineral claim under this Act that is identified in the lease, licence or claim as a condition related to environmental management.

(c) For the purposes of dealing with an offence in accordance with the Criminal Procedure Act 1986, the Wardens Court has the functions of, and is taken to be, a Local Court.

2. Penalty notices for offences

(a) The Minister may serve a penalty notice on the holder of a lease, licence or mineral claim under this Act if it appears to the Minister that the person has committed an offence under the Act.

(b) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay, within the time and to the person specified in the notice, the penalty prescribed by the regulations for the offence if dealt with under this Section.

(c) A penalty notice may be served personally or by post.

(d) If the amount of the penalty prescribed for an alleged offence is paid under this Section, no person is liable to any further proceedings for the alleged offence.

(e) Payment under this Section is not an admission of liability for the purposes of, and does not affect or prejudice, any civil claim, Action or proceeding arising out of the same occurrence.

(f) The regulations may (i) prescribe the amount of penalty for an offence under the Act if dealt with under this Section, and (ii) prescribe different amounts of penalty for different offences or classes of offences under that Section.

(g) The amount of penalty prescribed under this Section for an offence may not exceed (i) 100 penalty units, in the case of an offence committed by a corporation, or (ii) 50 penalty units, in the case of an offence committed by an individual.

(h) This Section does not limit the operation of any provision made by or under this or any other Act relating to proceedings that may be taken in respect of offences.

3. Payment of compensation

Any amount payable under this Act by way of compensation (other than compensation payable under an access arrangement or compensation payable under the Act) is to be paid out of money appropriated by Parliament.

New South Wales -- Salient features

Type of concessions	Salient features
<p>1. Ownership Rights & Administrative Control</p>	<p>The mineral rights vest in state. The Minister may constitute a board of management for the whole or any part of New South Wales. Board of management may exercise, in respect of the area for which it is constituted, such of the functions of the Minister or of the Director-General as are delegated to it under this Act.</p>
<p>2. Mineral Concessions General prospecting and mining</p> <p>a) Mining of publicly owned minerals</p> <p>b) Mining for privately owned minerals</p> <p>A. Exploration Licence</p> <p>a) Area/shape of land</p> <p>b) Term/periods</p> <p>c) Renewal</p> <p>d) Partial renewal</p> <p>e) Grant</p>	<p>A person must not prospect for or mine any publicly owned mineral on any land otherwise than in accordance with an authority, mineral claim or opal prospecting licence that is in force in respect of that mineral and that land.</p> <p>A person must not prospect for or mine any privately owned mineral on any land over which some other person is the holder of an authority or mineral claim. This Section applies whether or not the mineral for which the person prospects or mines is a mineral to which the authority or mineral claim relates.</p> <p>Exploration licence granted must be at least 1, but more than 100 units in area unless the Minister determines.</p> <p>An exploration licence takes effect on the date on which it is granted or on such later date as the Minister may determine, and ceases to have effect at the expiration of such period (not exceeding 5 years) as the Minister may determine.</p> <p>The holder of an authority may, from time to time, apply for the renewal of the authority. An application for the renewal of an exploration licence must be lodged with the Director-General not earlier than 2 months and not later than 1 month before the licence ceases to have effect. The period for which an authority is renewed may not on any occasion exceed 5 years in the case of an exploration licence.</p> <p>If an authority is renewed as to part only of the land to which the application for renewal relates, the authority ceases to have effect in relation to the remainder of the land on the date on which the renewal takes effect.</p> <p>An application for grant of exploration licence (i) must specify the group or groups of minerals in respect of which it is made; (ii) must be lodged with a Mining Registrar; (iii) must be accompanied by the required particulars; (iv) must be accompanied by the appropriate lodgment fee, (v) must be lodged with the Director-General in accordance with the</p>

<p>f) Transfer</p> <p>g) Cancellation</p>	<p>invitation for the tender. The Minister may require the applicant or tenderer to furnish further information in connection with the application or tender. The Minister may grant a single exploration licence in respect of two or more applications or two or more exploration licenses in respect of a single application.</p> <p>An application for the transfer of an authority (i) must be accompanied by the appropriate lodgment fee; (ii) must be accompanied by the consent of the proposed transferee; (iii) must be accompanied by the particulars prescribed by the regulations; (iv) must be lodged with the Director-General; and (v) In approving the transfer of an authority, the Minister may, subject to this Act, direct that any of the conditions of the authority be amended or that further conditions be included in the authority.</p> <p>The Minister may cancel an authority as to the whole or any part of the land to which it relates (i) must be lodged with the Director-General, and (ii) if the application is for the cancellation of the authority as to part only of the land to which it relates, it must be accompanied by a description, prepared in the manner prescribed by the regulations, of the land in respect of which the authority is to be cancelled.</p>
<p>B. Assessment Lease</p> <p>a) Shape & dimension of land</p> <p>b) Terms</p> <p>c) Renewal</p> <p>d) Partial renewal</p> <p>e) Grant</p>	<p>The land over which an assessment lease is granted may differ in size or shape, but may not include land other than the land over which the lease was sought.</p> <p>An assessment lease (i) takes effect on the date on which it is granted or on such later date as the Minister may determine, and (ii) ceases to have effect at the expiration of such period (not exceeding 5 years) as the Minister may determine.</p> <p>The holder of an authority may, from time to time, apply for the renewal of the authority. (ii) An application for the renewal of an assessment lease must be lodged with the Director-General not earlier than 2 months and not later than 1 month before the lease ceases to have effect. The period for which an authority is renewed may not on any occasion exceed 5 years in the case of an assessment lease.</p> <p>If an authority is renewed as to part only of the land to which the application for renewal relates, the authority ceases to have effect in relation to the remainder of the land on the date on which the renewal takes effect.</p> <p>An application for grant of assessment lease (i) land is wholly or partly subject to one or more exploration licenses (other than exploration licenses that include any mineral or minerals in respect of which the assessment lease is sought), the</p>

<p>f) Transfer</p> <p>g) Cancellation</p>	<p>Minister must cause notice of the application to be served on the holder of every such exploration licence; (ii) an assessment lease may be granted over land of any title or tenure. (iii) an assessment lease may be granted in respect of any mineral or minerals, regardless of whether the mineral or minerals are publicly owned, privately owned or partly publicly and partly privately owned; and (iv) an assessment lease may be granted over the surface of land the subsoil below the surface; and over the surface of land the subsoil down to a specified depth below the surface or over the subsoil below or between any specified depth or depths below the surface of land.</p> <p>An application for the transfer of an authority (i) must be accompanied by the appropriate lodgment fee; (ii) must be accompanied by the consent of the proposed transferee; (iii) must be accompanied by the particulars prescribed by the regulations; (iv) must be lodged with the Director-General; and (v) In approving the transfer of an authority, the Minister may, subject to this Act, direct that any of the conditions of the authority be amended or that further conditions be included in the authority.</p> <p>The Minister may cancel an authority as to the whole or any part of the land to which it relates (i) must be lodged with the Director-General, and (ii) if the application is for the cancellation of the authority as to part only of the land to which it relates, it must be accompanied by a description, prepared in the manner prescribed by the regulations, of the land in respect of which the authority is to be cancelled.</p>
<p>C. Mining Lease</p> <p>a) Shape & dimension of land</p> <p>b) Terms</p> <p>c) Renewal</p>	<p>The land over which mining lease is granted may differ in size or shape, but may not include land other than the land over which the lease was sought.</p> <p>A mining lease (i) takes effect on the date on which it is granted or on such later date as the Minister may determine, and (ii) ceases to have effect at the expiration of such period (not exceeding 21 years or such longer period as the Minister, with the concurrence of the Premier, may determine) as the Minister may determine.</p> <p>The holder of an authority may, from time to time, apply for the renewal of the authority. (iii) An application for the renewal of a Mining Lease must be lodged with the Director-General not earlier than 5 years and not later than 1 year (or, if the term of the Mining Lease is for 1 year or less, not earlier than 2 months and not later than 1 month) before the Mining Lease ceases to have effect. The period for which an authority is renewed may not on any one occasion exceed 21 years (or such longer period as the Minister may, with the concurrence</p>

	of the Premier, determine) in the case of a mining lease.
d) Partial renewal	If an authority is renewed as to part only of the land to which the application for renewal relates, the authority ceases to have effect in relation to the remainder of the land on the date on which the renewal takes effect.
e) Grant	An application for a mining lease (i) must specify the mineral or minerals, or the mining purpose or mining purposes; (ii) must be lodged with a Mining Registrar; (iii) must be accompanied by the required particulars; (iv) must be accompanied by the appropriate lodgment fee; (v) The required particulars, in the case of an application that specifies a mineral or minerals, the Minister may invite tenders for a mining lease for an allocated mineral, by notice published; (vi) mining lease may be granted over land of any title or tenure; (vii) mining lease may be granted in respect of any mineral or minerals, regardless of whether the mineral or minerals are publicly owned, privately owned or partly publicly and partly privately owned; (viii) A mining lease may be over the surface of land and the subsoil below the surface; and over the surface of land & the subsoil down to a specified depth below the surface or over the subsoil between or below any specified depth or depths below the surface of land.
f) Addition of mineral to mining lease	The holder of a Mining Lease granted in respect of a mineral or minerals may apply for the inclusion in the lease of a mineral additional to the mineral or minerals to which the lease relates.
g) Transfer	An application for the transfer of an authority (i) must be accompanied by the appropriate lodgment fee; (ii) must be accompanied by the consent of the proposed transferee; (iii) must be accompanied by the particulars prescribed by the regulations; (iv) must be lodged with the Director-General; and (v) In approving the transfer of an authority, the Minister may, subject to this Act, direct that any of the conditions of the authority be amended or that further conditions be included in the authority.
h) Cancellation	The Minister may cancel an authority as to the whole or any part of the land to which it relates (i) must be lodged with the Director-General, and (ii) if the application is for the cancellation of the authority as to part only of the land to which it relates, it must be accompanied by a description, prepared in the manner prescribed by the regulations, of the land in respect of which the authority is to be cancelled.
i) Subleasing of mining leases	A mining sublease that purports to have effect in relation to more than the prescribed area of the land the subject of its head lease is void for all purposes, both in relation to the land,

	the subject of its head lease and any other land in respect of which the mining sublease purports to have effect.
D. Consolidated Mining Lease	
a) Terms	A consolidated mining lease (i) takes effect on the date on which it is granted or on such later date as the Minister may determine, and (ii) ceases to have effect at the expiration of such period (not extending beyond the first day by which all the existing leases that have been consolidated would, but for the consolidation, have expired) as the Minister may determine.
b) Grant	The grant of consolidated mining lease (i) After having complied with the requirements of this Part in respect of a proposed lease, the Minister may grant to the holder of the existing leases a consolidated mining lease in the same terms as those of the proposed lease; (ii) When a consolidated mining lease takes effect, each existing lease is taken to have been cancelled; (iii) The granting of a consolidated mining lease over land the subject of a mining lease in force by virtue of the Act does not constitute a renewal of that lease; and (iv) The land over which a consolidated mining lease may be granted is the aggregate of all of the land the subject of the existing leases.
E. Mineral Claim	
a) Area	A mineral claim to be granted over land having an area of more than 2 hectares.
b) Period	The period of a mineral claim shall have a term of more than 5 years. A condition limiting the maximum number of mineral claims that may be held by any one person does not prevent a person from becoming the holder of further mineral claims that devolve on the person by operation of law.
c) Renewal	A mineral claim that is renewed (i) takes effect on the date on which it is renewed or on such later date as the Mining Registrar may determine, and (ii) ceases to have effect at the expiration of such period (not exceeding 5 years or, in the case of a mineral claim over land that is situated within a mineral claims district, not exceeding such shorter period as the special conditions may specify) as the Mining Registrar may determine.
d) Partial renewal	A mineral claim may be renewed as to the whole or any part of the claim area and, if it is renewed as to part only of the claim area, the remainder ceases to be part of the claim area when the renewal takes effect.
e) Grant	An application of mineral claim for grant (i) must identify, in the manner prescribed by the regulations, the land to which it relates; (ii) must specify the mineral or minerals, or the mining purpose or mining purposes, in respect of which the mineral

<p>f) Transfer</p> <p>g) Cancellation</p>	<p>claim is sought; (iii) must be accompanied by the appropriate lodgment fee; (iv) must be lodged with the Mining Registrar for the mining division within which the land to which it relates is situated; and (v) must be accompanied by a copy of the notice served on the landholder of the land concerned under the Act and a statutory declaration to the effect that the notice was so served.</p> <p>The mineral claim may transfer (i) The holder of a mineral claim may apply for the transfer of the claim to some other person; (ii) an application for the transfer of a mineral claim; (a) must be accompanied by the appropriate lodgment fee; (b) must be lodged with the Mining Registrar for the mining division within which the claim area is situated; (c) must be accompanied by the written consent of the proposed transferee; and (d) must be accompanied by a copy of the relevant notice served under the Act.</p> <p>(i) A Mining Registrar may cancel a mineral claim, as to the whole or any part of the land to which it relates, if the holder of the claim requests the Mining Registrar to cancel the claim.</p>
<p>F. Opal Prospecting Licence</p> <p>a) Application</p> <p>b) Grant</p> <p>c) Term</p>	<p>(i) Any person may apply for an opal prospecting licence. (ii) An application must be accompanied by the appropriate lodgment fee, and must be lodged with the Mining Registrar for the mining division in which the opal prospecting block is situated. (iii) If more than one application is lodged with a Mining Registrar in respect of the same opal prospecting block, the applications are to be dealt with in the order in which they are lodged or, if they are lodged simultaneously, in such order as may be prescribed by the regulations.</p> <p>(i) An opal prospecting licence may not be granted over an opal prospecting block - to an individual who has not attained the age of 18 years, over which any other opal prospecting licence is in force or has (at any time within the 14 days preceding the day on which the application for the licence was lodged) been in force, or over which a mineral claim is in force, or to a person who is the holder of an opal prospecting licence over any other opal prospecting block in the same mining division, or during a period specified in the order by which the opal prospecting block is constituted as a period during which such a licence may not be granted.</p> <p>(ii) An opal prospecting licence may not be granted over any part of an opal prospecting block in respect of which an application for a mineral claim is pending.</p> <p>An opal prospecting licence has effect for the period specified on the map in respect of the opal prospecting block concerned.</p>

<p>d) Cancellation</p>	<p>A Mining Registrar may cancel an opal prospecting licence-- if the holder of the licence requests the Mining Registrar to cancel the licence, or if the holder of the licence contravenes any condition of the licence or any provision of this Act or the regulations, whether or not the holder is prosecuted or convicted of any offence arising from the contravention, or if the holder of the licence fails to comply with the requirements of any agreement or assessment under the Act in relation to the payment of compensation, or if the holder of the licence is convicted of any offence relating to mining or minerals, or if the Mining Registrar is ordered by a Wardens Court to cancel the licence.</p>
<p>G. Permit of land</p> <p>a) Condition</p> <p>b) Term</p> <p>c) Cancellation</p>	<p>A permit is subject to such conditions as are specified in the permit.</p> <p>Unless sooner cancelled, a permit remains in force for such period not exceeding (a) except as provided by paragraph (b), 12 months from the date it is granted, or (b) in the case of a permit under the Act, 28 days from the date it is granted, as is specified in the permit.</p> <p>A Mining Registrar may, for such reason as the Mining Registrar thinks fit, cancel a permit that has been granted by the Mining Registrar.</p>
<p>2. Royalty</p> <p>1. Publicly owned minerals</p> <p>2. Privately owned Minerals</p> <p>a) Liability to pay royals</p>	<p>Royalty that is payable to the Minister under a condition of a Mining Lease (being a condition of the kind referred to in the Act. (i) Royalty on a publicly owned mineral is payable under this Act at the base rate prescribed by the regulations in respect of that mineral, and if the regulations so provided at the additional rate prescribed by the regulations in respect of that mineral. (ii) Royalty under this Division is payable on a publicly owned mineral at the rate or rates applicable as at the time the material from which it is recovered is extracted from the land. (iii) A rate of royalty prescribed for the purposes of this Act may be prescribed as a percentage of the value of minerals recovered from the land, or as an amount payable on the basis of any specified measurement of minerals recovered from the land, or by reference to such other matters as the Minister determines.(iv) The quantity of minerals recovered is to be calculated (whether by volume or by weight) in the manner prescribed by the regulations. (v) The value of minerals recovered is to be calculated (whether by volume or by weight) in the manner determined by the Minister.</p> <p>(i) The holder of a Mining Lease is liable to pay royalty to the Minister on privately owned minerals recovered from the land as if those minerals were publicly owned minerals. (ii) If royalty (including any interest on royalty) is paid to or</p>

<p><i>b) Rate of royalty</i></p> <p><i>c) Exemption of royalty</i></p>	<p>recovered by the Minister in respect of a privately owned mineral, the Minister is to pay seven-eighths of the amount so paid or recovered to the owner of the mineral, and one-eighth of the amount so paid or recovered to the Treasurer for payment into the Consolidated Fund.</p> <p>Royalty is payable under this Act (i) except as provided at the base rate prescribed under the Act in respect of the mineral concerned, or (ii) in the case of a mineral other than coal at such other rate as may be agreed on between the holder of the mineral claim or authority concerned and the owner of the mineral.</p> <p>(i) If the Minister, on application by the holder of a Mining Lease, is satisfied that the value of publicly owned minerals recovered as a result of mining operations carried on during a royalty period was less than the appropriate amount, no royalty is payable to the Minister under this Act in respect of those minerals.</p>
<p>3. Provision regarding environment Inclusion of conditions for protecting the environment</p>	<p>The conditions subject to which an authority or mineral claim is granted or renewed must, if the Minister or Mining Registrar considers it appropriate, include conditions relating to the conservation and protection of the Act.</p>
<p>4. Penalty and legal provisions</p> <p>a) Proceedings for offences</p> <p>b) Penalty notices for offences</p>	<p>Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Wardens Court or before a Local Court, except as provided by this Section.</p> <p>The Minister may serve a penalty notice on the holder of a lease, licence or mineral claim under this Act if it appears to the Minister that the person has committed an offence under the Act.</p>