

# NORTHERN TERRITORY

## I. SALIENT GENERAL FEATURES

Capital	:	Darwin
Population (2005)	:	201,800
Area	:	1,420,968 Sq. km (548,639 Sq. mile)

## II. MINING LEGISLATIVE FRAMEWORK

### A. SHORT TITLE AND OBJECT

This Act may be cited as the Mining Act. This Act has come into force on 14 December 2005. The objects of this Act are — (1) to provide a framework within which persons may undertake activities to explore for and mine mineral resources; and (2) to enable the value of the mineral resources in the Territory to be maximised. The objects are to be achieved by — (1) transferring the right to explore for or mine minerals from the Crown to other persons; (2) establishing a legally effective system of transferable titles to rights to explore, extract, process and carry out other activities associated with maximising the mineral resource; (3) ensuring that the holders of mining interests actively work the areas held under their mining interests and develop commercially viable mineral deposits discovered by them; (4) reducing risks of damage to the environment caused by mining to an optimal level taking into account the full costs and benefits of doing so; (5) collecting information about the geological and mineral resources of the Territory and disseminating that information; and (6) carrying out the administration of this Act and the instruments of a legislative or administrative character made under this Act in an efficient and responsible manner.

### B. DEFINITIONS/INTERPRETATION

1. In this Act, unless the contrary intention appears —

*"Aboriginal land"* has the same meaning as in the Aboriginal Land Rights (Northern Territory) Act 1976 of the Commonwealth;

*"affected land"* means land comprised in, or proposed to be comprised in, a mining interest;

*"alternative provision area"* has the meaning given of the Native Title Act;

*"approved determination of native title"* has the meaning given of the Native Title Act;

*"clerk"*, in relation to a Warden's Court established under the Act, means — a) the Mining Registrar at the place where a Warden's Court is established; or b) a Registrar of the Local Court (within the meaning of the Act of the Local Court Act) at the place where a Warden's Court exists;

*"Crown land"* means all land in the Territory other than — a) a reserve or park; b) private land; c) Aboriginal land; d) land the subject of a mining tenement or exploration retention licence; e) land reserved from occupation under section of this Act; and f) land reserved for or dedicated to a public purpose;

*"Department"* means the Agency responsible for administering this Act;

*"environment"* means the physical factors existing in an area, including — a) the land and the coastal waters and sea-bed adjacent thereto; b) the sub-soil of the land and that sea-bed; c) water; d) air;

e) sound; f) tastes; g) odours; and h) radiation, and includes the social factor of aesthetics and all factors affecting flora and fauna;

*"exploration"* means all modes of searching for or evaluating deposits of minerals or extractive minerals, but does not include fossicking;

*"exploration licence"* means an exploration licence granted under the Act or continued in force by virtue of the Act;

*"exploration retention licence"* means an exploration retention licence granted under the Act

*"extractive mineral"* means sand, gravel, rocks or soil extracted, obtained or removed for a purpose other than — a) extracting, producing or refining minerals from the sand, gravel, rocks or soil; or b) processing the sand, gravel, rocks or soil by non-mechanical means;

*"extractive mineral interest"* means an extractive mineral lease or an extractive mineral permit; *"extractive mineral lease"* means an extractive mineral lease granted under the Act;

*"extractive mineral permit"* means an extractive mineral permit granted under the Act;

*"fossick"* means to search for or extract a mineral — a) by digging by hand or hand-held instrument; or b) by using a hand-held instrument, but does not include the use of explosives or any power-operated equipment other than a hand held metal-detecting device;

*"fossicker"* means a person who is authorised to fossick — a) under the Act; or b) on land the subject of a mineral claim by the holder of the mineral claim (the holder having complied with the Act);

*"fossicker's permit"* means a fossicker's permit granted under the Act;

*"future Act"* has the meaning given of the Native Title Act;

*"improvements"* means any — a) house, store, stable, hut or other building; b) fence; c) well, dam, tank, trough, pump or other apparatus for raising or storing water; or d) garden, plantation or cultivation;

*"indigenous land use agreement"* means an indigenous land use agreement within the meaning of the Native Title Act — a) details of which are entered on the Register of Indigenous Land Use Agreements established and maintained under the Act of the Native Title Act; and b) that contains statements to the effect described in section of the Native Title Act as applicable;

*"land"* means land within the jurisdictional limits of the Territory and includes waters within those limits;

*"Land Council"* means an Aboriginal Land Council established by or under the Aboriginal Land Rights (Northern Territory) Act 1976 of the Commonwealth;

*"miner"* means the holder of a miner's right and, in relation to an application which by virtue of the Act, is to be processed as though it were an application for a mineral lease or mineral claim, as the case may be, includes the person to be treated as the applicant;

*"mineral"* means any — a) naturally occurring — (i) inorganic element or compound, including an inorganic carbonate compound; or (ii) organic carbonate compound, obtained or obtainable from land by mining, whether carried out under or on the surface of land; b) coal and lignite; or c) other substance from time to time prescribed as a mineral, but does not include water or an extractive mineral;

*"mineral claim"* means a mineral claim granted under the Act or continued in force by virtue of the Act;

*"mineral lease"* means a mineral lease granted under the Act or a mining lease continued in force by virtue of the Act;

*"miner's right"* means a miner's right granted under the Act or continued in force by virtue of the Act;

*"mining"* means all modes of extracting minerals or extractive minerals by underground, surface or open-cut workings;

*"mining interest"* means an exploration licence, exploration retention licence, mineral lease, mineral claim, extractive mineral lease or extractive mineral permit or an authority under the Act;

*"mining officer"* has the same meaning as in the Mining Management Act;

*"Mining Registrar"* means a person appointed as a Mining Registrar under the Act, and includes the Principal Registrar;

*"mining tenement"* means a mineral lease, mineral claim, extractive mineral lease or extractive mineral permit and includes an area of land the right to occupation of which is conferred by the Act or is continued by or under the Act;

*"native title"* and *"native title rights and interests"* have the meaning given of the Native Title Act;

*"Native Title Act"* means the Native Title Act 1993 of the Commonwealth;

*"native title holder"* has the meaning given of the Native Title Act;

*"native title objection"* means an objection to a prescribed mining Act so far as it affects the registered native title rights and interests of a registered native title claimant or registered native title body corporate that is lodged in accordance with the Act by that claimant or body;

*"Native Title Registrar"* has the meaning given of the Native Title Act;

*"onshore place"* has the meaning given of the Native Title Act;

*"owner" and "occupier"*, in relation to land, means the owner of an estate or interest in the land, but does not include a person whose interest or claimed interest in the land cannot be identified by or as a result of an examination of the Register kept by the Registrar-General of the Land Title Act;

*"park or reserve"* means a park or reserve within the meaning of the National Parks and Wildlife Conservation Act 1975 of the Commonwealth or the Territory Parks and Wildlife Conservation Act, and includes the sanctuary as defined in the Act of the Cobourg Peninsula Aboriginal Land, Sanctuary and Marine Park Act;

*"Prescribed Mining Act"* has the meaning given in the Act;

*"Previous Exclusive Possession Act"* has the meaning given of the Validation (Native Title) Act;

*"Principal Registrar"* means the person appointed as Principal Registrar under the Act and includes a person acting as the Principal Registrar;

*"private land"* means land that is — a) alienated from the Crown for an estate of freehold; b) the subject of a conditional purchase agreement; or c) the subject of a lease or concession, with or without a right of acquiring the fee simple, other than a lease or concession for pastoral or timber purposes, but does not include — d) Aboriginal land; e) land held for an estate in fee simple, or in a lease from the Crown, by the Conservation Land Corporation established by the Act of the Parks and Wildlife Commission Act; or f) land held or occupied for mining purposes under this Act or the repealed Act;

*"Register of Native Title Claims"* means the Register of Native Title Claims established and maintained in accordance with the Native Title Act;

*"registered native title body corporate"* has the meaning given of the Native Title Act;

*"registered native title claimant"* has the meaning given of the Native Title Act or, if the claimant is replaced under the section of that Act, means the person who replaced the claimant;

*"registered native title rights and interests"* means — a) in relation to a registered native title claimant—the native title rights and interests of the claimant described in the relevant entry on the Register of Native Title Claims; and b) in relation to a registered native title body corporate—the native title rights and interests of the body corporate described in the relevant entry on the National Native Title Register established and maintained under the Native Title Act;

*"Regulations"* means the Regulations made under this Act;

*"relevant Authorisation"*, in relation to a mining interest or mining tenement, means the Authorisation granted by the Minister under the Act of the Mining Management Act that relates to the exploration or mining activities carried out on the area of land held under the mining interest or mining tenement;

*"repealed Act"* means the Acts repealed by the Act, as in force immediately before that repeal;

*"representative Aboriginal/Torres Strait Islander body"* has the meaning given of the Native Title Act;

*"Secretary"* means the Chief Executive Officer as defined in the Public Sector Employment and Management Act, of the Agency as defined in that Act primarily responsible under the Minister for the administration of this Act;

*"tailings or other mining material"* means any rejected material resulting from the processing of ore, or any stack or accumulation of material resulting from mining or mining activities;

*"tourist fossicking"* means a commercial venture (undertaken in respect of land the subject of a mineral claim) whereby fossicking is offered as an activity to be carried out by a person who agrees to comply with the conditions of admission on and access over the claim area;

*"Tribunal"* means the Lands and Mining Tribunal established by the Lands and Mining Tribunal Act;

*"Trust Fund"* means the Mining Trust Fund established and maintained under the Act;

*"Warden"* means a magistrate or a person appointed as a Warden under the Act.

*"AGD"* means the uniform national datum used for surveying, mapping and spatial referencing of geographic data known as Australian Geodetic Datum that, before 1 January 2000, is used to determine the geographical coordinates of graticular sections;

*"block"* means so much of a graticular section as is within the land area of the Territory;

*"GDA"* means the uniform national datum used for surveying, mapping and spatial referencing of geographic data known as Geocentric Datum of Australia 1994;

*"graticular section"* means a section referred to in the Act;

*"land area of the Territory"* means the Northern Territory as defined in the Northern Territory Acceptance Act 1910 of the Commonwealth, and includes the internal waters.

1. A reference in this Act to a lease area, licence area, claim area, tenement area, mining tenement area or permit area is a reference to the area of land held under the lease, claim, licence, tenement, mining tenement or permit, as the case may be, in relation to which the reference is made.

2. Where in this Act the expression *"Default penalty"* appears in or at the foot of a Section, or Subsection of a Section, being a Section or Subsection that provides that a person is guilty of an offence against this Act, a person who has been found guilty of that offence is guilty of a further offence against this Act if the offence continues after he has been so found guilty, and is punishable, upon being found guilty for the further offence, by a penalty not exceeding the amount of the default penalty specified after that expression for each day during which the offence continues.

3. Where an offence is committed by a person by reason of his failure to comply with the provision of this Act by or under which he is required to do any thing within a particular period, that person

commits the further offence referred to in Subsection (3) while the failure to do that thing continues, notwithstanding that that period has expired.

4. For the purpose of the definition of "*private land*" in Subsection (1), a reference to land leased for pastoral purposes includes a lease of the land from the Crown for any other purpose granted over the land after the commencement of the Mining Amendment Act 1993 and, where the land is subdivided after that commencement, includes a lease of the land from the Crown that has an area greater than 150 square kilometres.

### **C. OWNERSHIP RIGHTS AND ADMINISTRATION/CONTROL**

1. The Minister may appoint an employee as defined in the Public Sector Employment and Management Act to be the Principal Registrar or a Mining Registrar for the purposes of this Act, and a person so appointed shall hold office, subject to Subsection (3), while he remains an employee.

1(a) The Minister may appoint a person to be a Warden for the purposes of this Act.

2. The Minister shall, as soon as practicable after appointing a person under Subsection 1 or 1(a), cause a notice of the appointment to be published in the Gazette.

3. The Minister may, by notice in the Gazette, cancel the appointment of a person referred to in Subsection 1 or 1(a).

Minister may issue guidelines a) The Minister may, by notice in the Gazette, issue guidelines in respect of the operation of this Act or the Regulations. b) In the event of an inconsistency between the guidelines and this Act or the Regulations, this Act or the Regulations, as the case may be, prevails. c) An action of a person or corporation under this Act or the Regulations must comply with the guidelines issued under Subsection 1.

### **D. MINERAL CONCESSION FOR**

#### **1. Miner's Rights**

##### **a) Application for miner's right**

1. A corporation, or a person who has attained the age of 15 years, may apply to — a) the Minister; b) a Warden; c) a Mining Registrar; or d) a person authorised in writing for that purpose by the Minister, a warden or mining registrar, for the grant of a miner's right to that corporation or person.

2. An application under Subsection 1 is to be made in the prescribed manner.

##### **b) Grant of miner's right**

The person to whom an application under the Act is made shall grant that application and issue to the applicant a miner's right in the prescribed form on the payment by the applicant of the prescribed fee.

##### **c) Powers of holder of miner's right**

1. A miner's right authorises the holder thereof, subject to the Water Act and the Soil Conservation and Land Utilisation Act, and in accordance with the provisions of this Act — a) to obtain an area of land under a mining tenement, exploration retention licence or an exploration licence; and b) subject to the act, with the consent of a Warden, to enter on any land — (i) not comprised in an exploration licence area held by any other person; or (ii) not the subject of an application for an exploration retention licence or mining tenement by any other person, to survey and reconnoiter the land using non-intrusive means to establish its exploration potential for minerals or extractive minerals and, in connection therewith, to mark out the land in the prescribed manner.

2. The holder of a miner's right does not have the right to take, use and dispose of water on any land that has been artificially conserved on that land by or on behalf of a person who was at the time of construction of the means by which it is artificially conserved, in lawful occupation of that land.

**d) Duplicate miner's right**

Where the holder of a miner's right satisfies the Mining Registrar that the miner's right issued to him has been lost or has been destroyed, the Mining Registrar may issue a replacement miner's right, endorsed with the date of the grant of the original, on the payment of the prescribed fee by the holder.

**2. Exploration Licenses**

**a) Reservation of blocks**

1. The Minister may, by notice in the Gazette, declare that a block specified in the notice (not being a block in respect of any part of which an exploration licence is in force) shall not be the subject of an exploration licence.

2. While a declaration under Subsection (1) remains in force in respect of a block, an application for an exploration licence shall not be made in respect of that block.

**b) Grant of exploration licence**

1. The Minister may, on the application of a miner, grant to that miner an exploration licence in respect of land specified in the licence for a term not exceeding 6 years.

2. The area of land in respect of which an exploration licence may be granted shall be contained in a single licence area, not exceeding 500 blocks, consisting of — a) a group of blocks each of which has a common side or point with another block in the single licence area; or b) a single block.

3. An exploration licence shall not be granted — a) in respect of land the subject of another exploration licence; or b) unless the applicant first lodges with the Minister such security as the Minister considers sufficient for the payment of compensation that, under this Act, the licensee may become liable to pay.

4. The Minister may, at his discretion, grant one or more exploration licences in respect of all, or part (including, subject to the Act, part or parts of a block), of the land in respect of which an application under this Act is made.

5. Where the Minister grants an exploration licence in respect of part only of the land to which the application relates, the application, unless the Minister expressly states otherwise when granting the exploration licence, remains in force in respect of the remainder of the land to which the application relates until the application is further dealt with under this Act.

6. Subject to the Act as applicable, where, by the application of this Act, land is excluded from the grant of an exploration licence, that land shall become part of the licence area, except where the land was excluded by reason of it being the subject of another exploration licence if, during the currency of the licence, the reason for the land being excluded no longer applies to or in relation to that land, and the land is within the blocks at that time comprising the licence area.

**c) Applications**

1. An application for an exploration licence — a) shall be lodged with the Department; b) shall specify the blocks in respect of which the application is made; c) shall contain a list of owners and occupiers of land whose land will be, or is reasonably likely to be, affected by the activities of the applicant if the licence is granted; and d) shall be accompanied by a statement specifying — (i) the details of the programme of work proposed to be carried out in the proposed licence area; (ii) the estimated amount of money proposed to be expended on exploration during the first year of the

licence, if granted; and (iii) the technical and financial resources available to the applicant to carry out the programme of work.

2. Where an application for an exploration licence is lodged — a) within 14 days after lodgement or the 1<sup>st</sup> other time allowed in writing by the Secretary, the applicant must serve written notice of the making of the application on the persons specified in the act applies — the relevant registered native title claimants, registered native title bodies corporate and representative Aboriginal/Torres Strait Islander bodies are to be served with notice of the application in accordance with that Part.

2(a) In addition to Subsection (2), the Secretary may, by written notice, require an applicant for an exploration licence to serve written notice of the making of the application on such persons, and within such time, as the Secretary thinks fit and specifies in the notice.

3. Within 14 days, or such further time as the Secretary allows, after the notice referred to in Subsection (2) or (2A) is served, the applicant for the exploration licence shall provide to the Secretary such evidence of the notice having been served and the method by which the service was effected as the Secretary may require.

#### ***d) Licence not to be granted over existing licence areas***

An application for an exploration licence shall be of no force or effect in respect of land which — a) is the subject of an exploration licence; a(i) is the subject of an application for an exploration licence that was lodged on a day before the day on which the first-mentioned application was lodged; or b) was the subject of an exploration licence, if lodged before the expiration of 30 days after the date of publication of a notice under the Act indicating that the land has ceased, or is to cease, to be so subject.

Minister to receive applications, objections, and comments.

1. The Secretary shall forward to the Minister, together with the application for the exploration licence, all notices of objection lodged under the Act against the grant of the exploration licence and the answers to those objections.

2. If the Act applies and objections are lodged under the Act, those objections are to be dealt with in accordance with that Part.

3. If the Act applies and objections are lodged under the Act, those objections are to be dealt with in accordance with that Part.

***Objections and comments to be considered*** – The Minister must not grant an exploration licence until he or she has considered all objections and comments lodged in accordance with this Act against the grant and the answers (if any) to those objections and comments.

***Occupation of land pending determination of application*** – 1. Subject to Subsection (2), where a miner has applied to the Minister for the grant to that miner of an exploration licence, no miner, including the applicant, may subsequently lodge an application for the grant of a mining tenement or exploration retention licence in respect of the land or any part of it while the Minister has not granted or refused the grant of the exploration licence applied for.

2. Subsection (1) does not prevent —

a) a miner from obtaining an extractive mineral permit or extractive mineral lease in respect of land the subject of an application for an exploration licence;

b) the holder of a mining tenement or exploration retention licence from obtaining water rights or other ancillary mining tenement or exploration retention licence over the land for the purposes of working that first-mentioned mining tenement or exploration retention licence;

c) the holder of a mining tenement or exploration retention licence from surrendering the tenement or licence in exchange for another mining tenement or exploration retention licence over all or any part of the land held under the first-mentioned mining tenement or exploration retention licence; or

d) a miner from lodging an application for the grant of a mining tenement or exploration retention licence in respect of land the subject of an application for an exploration licence where the land was marked out in the prescribed manner on or before the date on which the application for the exploration licence was lodged.

#### **e) Power of licensee**

1. Subject to Subsection (2), an exploration licence authorises the holder thereof, subject to the law in force in the Territory, and in accordance with the conditions to which the licence is subject — a) to enter and re-enter the licence area with such agents, employees, vehicles, vessels, machinery and equipment as may be necessary or expedient for the purpose of exploring for minerals in, on or under the licence area; b) to explore for minerals and to carry out such operations and works as are necessary for that purpose on the licence area including digging pits, trenches and holes, and sinking bores and tunnels in, on or under the licence area and ascertaining the quality, quantity or extent of ore or other material by drilling or other methods; c) to extract and remove from the licence area for sampling and testing an amount of ore, material or other substance reasonably necessary to determine its mineral bearing quality, or such greater amount as the Secretary, in writing, approves; d) subject to the directions of the Minister, to take or divert water from any natural spring, lake, pool or stream situated on or flowing through the licence area and to sink a well or bore on the licence area and take water therefrom and to use the water so taken or diverted for his domestic use and for any purpose in connection with exploring for minerals on the licence area; and e) subject to the Act, to obtain an exploration retention licence, mineral lease or mineral claim in respect of the licence area or any part of it.

2. Where an exploration licence is granted over land in respect of which there is an existing mining tenement, or in respect of which an application for a mining tenement or the renewal of a mining tenement has been lodged, the holder of the exploration licence is not to exercise any of his or her powers by virtue of the licence in relation to the land, holding them in abeyance until the application is refused or the existing mining tenement or the mining tenement granted or renewed under the application ceases to have any effect whatsoever in relation to that land, and nothing in this Act or any other law in force in the Territory is to be taken to permit the holder of the exploration licence to do so until that time.

#### **f) Conditions of licence**

Every exploration licence shall, unless expressly waived, varied or suspended in writing by the Minister, be granted subject to the conditions imposed by or under the Act and to the condition that the licensee will — 1. for the purposes of exploring for minerals, carry out geological, geochemical or geophysical surveys or any combination of those surveys, on the licence area; 2. not extract or remove from the licence area any amount of ore, material or other substance other than amounts for sampling purposes authorized by or under the Act; 3. expend not less than the minimum amount of expenditure specified in the licence in carrying out exploration activities on the licence area; 4. within 28 days after confirmation of their discovery, report in writing to the Secretary all minerals of possible economic or scientific interest discovered on the licence area; 5. obtain and send to the Secretary such water samples and data on underground water encountered during exploratory drilling as the Secretary, in writing, directs; 6. conduct his exploration programmes and other activities in such a way as not to interfere with existing roads, railways, telephone or telegraph lines, power lines and cables, water pipelines or dams or reservoirs or gas, oil, slurry or tailings pipelines or storage containers, situated on the licence area, or the lawful activities or rights of any person on or in relation to land adjacent to the licence area; and 7. not interfere with any historical site or object, or any Aboriginal sacred site or object, declared as such under a law in force in the Territory, otherwise than in accordance with that law.

**g) Additional conditions of exploration licence relating to native title rights and interests**

1. In addition to the conditions imposed by or under the Act, an exploration licence is subject to the conditions that the Minister determines (whether in accordance with a recommendation of the Tribunal or otherwise) and endorses on the licence.

2. Conditions under Subsection (1) may include a condition about ways of minimising the impact of the grant of the exploration licence on registered native title rights and interests in relation to the land concerned, including about any access to the land or the way in which any thing authorised by the grant might be done.

**h) Other mining interests over licence area**

An exploration licence does not, in respect of the licence area, prevent — 1. the granting to a miner of an extractive mineral permit or extractive mineral lease and the extraction of extractive minerals in accordance with that permit or lease, as the case may be; 2. the holder of another mining tenement or exploration retention licence — a) from obtaining water rights over the land for the purposes of working that other mining tenement or exploration retention licence; or b) from being granted any other mining tenement or exploration retention licence for the purposes of or ancillary to the working of that first-mentioned mining tenement or exploration retention licence; 3. subject to the act any miner from being granted a mineral claim; 4. subject to the Act, any fossicker from fossicking, to the extent that that activity does not interfere with the lawful activities of the licensee; or 5. the holder of a mining tenement or exploration retention licence from surrendering the tenement or licence in exchange for another mining tenement or exploration retention licence over all or any part of the land held under the first-mentioned mining tenement or exploration retention licence.

**i) Reduction of licence area**

1. Subject to this Act, at the conclusion of the first 24 months of an exploration licence or the first 12 months of an exploration licence granted under the Act and each succeeding period of 12 months after that date, the licence area shall be reduced so that the number of blocks to be retained in the licence area for the ensuing 12 months is not more than half the number of blocks contained in the licence area at the commencement of the first 24 months period or subsequent 12 months period, as the case may be, immediately concluded.

2. Where the number of blocks in a licence area at the beginning of the first 24 months period or subsequent 12 months period, as the case may be, before the relevant date referred to in Subsection (1) is not divisible by 2, in calculating under Subsection (1) the number of blocks to be retained for the ensuing 12 months, the number of blocks at the commencement of the relevant period shall be increased by one then divided by 2.

**j) Licensee entitled to nominate blocks for retention**

1. Not later than one month, or such other time as the Secretary may approve, before the expiration of the relevant period referred to in the Act, a licensee shall, in writing, nominate to the Secretary the blocks the licensee wishes to retain in the licence area for the ensuing 12 months of the exploration licence and, subject to Subsection (2), those blocks shall, accordingly, constitute the licence area for that ensuing period.

2. A licensee shall not nominate the blocks to be retained in the licence area if the effect of that nomination would be that more than 3 separate areas are created.

3. For the purposes of Subsection (2), a separate area shall consist of — (a) a group of blocks each of which has a common side or point with another block in the separate area; or (b) a single block.

***k) Reduction may be deferred***

The Minister may, on the written request of a licensee, defer for a period of 12 months, or such shorter period as he thinks fit, or waive for a period of 12 months the reduction under the Act of a licence area.

***l) Rent for retained blocks***

The holder of an exploration licence shall, in respect of the blocks to be retained in the licence area for the ensuing 12 months in accordance with the provisions of this Part, within one month before the expiration of each period of the licence, pay to the Minister the prescribed rent for the ensuing 12 months of the licence.

***m) Application for renewal of exploration licence***

1. Subject to this Section and to the Act as applicable the holder of an exploration licence may, at any time before 3 months before the expiration of the licence or such later time, being not later than that expiration, as the Minister allows, apply to the Minister for the renewal or further renewal of the licence.

2. An application under Subsection (1) shall — a) be in writing; b) be lodged with the Department; c) be accompanied by the prescribed application fee and the prescribed rent; d) include comprehensive details of the exploration activities carried out on the licence area during the term of the exploration licence; e) include the applicant's proposals for work and expenditure during the term of the renewal of the exploration licence; and f) include a statement of the applicant's reasons for seeking the renewal of the exploration licence.

3. The Minister, on receiving an application under Subsection (1), may require the applicant to provide the Minister with such additional information relating to the application as the Minister directs, and the Minister may defer considering the application until such time as the information is provided.

4. An application under this Section cannot be made in respect of an exploration licence that has been renewed under this section on 2 previous occasions.

5. Subject to this Section, the Minister may, at his discretion, grant or refuse to grant an application made under this Section.

6. Where the Minister grants an application under this section, the exploration licence — a) subject to this Act, remains in force for 2 years from the date on which the licence would have expired; and b) may be renewed in respect of all or a part of the licence area to which the licence applied at the date of the application for renewal.

7. The Minister may grant an application under this Section subject to such conditions, in addition to or varying those to which the exploration licence is already subject, as the Minister thinks fit.

8. Where an application for the renewal of an exploration licence has been made in accordance with this Section, the licence — a) shall be deemed to continue in force until the application is granted or refused, as the case may be; and b) remains in force, if renewed, for 2 years from the date on which the licence would have expired but for this Subsection.

9. Under the Act do not apply to or in relation to an exploration licence renewed under this section.

***n) Surrender may be requested***

1. The Minister may, by notice in writing served on a licensee, request that the licensee consent to the surrender of any part of the land comprised in the licence area for the use of that land for — a) public recreation or amusement; b) the protection of scenic areas; c) the preservation and protection of places of cultural or historic interest; d) national or public parks or gardens; e) the protection of flora and fauna; f) the protection of coastal foreshores; g) water conservation purposes; h) the construction or maintenance of railways, roads, drains or pipelines; or j) forestry or re-forestation purposes.

2. If a licensee consents or is deemed to have consented to a request referred to in Subsection (1), the Minister may vary the licence by removing from its application the land to which that consent relates.
3. If a licensee does not, within 60 days after a notice referred to in Subsection (1) is served on him, reply to the Minister's request contained in that notice, the licensee shall be deemed to have consented to the surrender of the land to which that request relates.
4. Where a licensee surrenders or is deemed to have surrendered part of a licence area in pursuance of this section, the variation of the licence area occasioned by that surrender has effect on and from the date on which the relevant notice referred to in the Act is published on the Department's internet website for mining titles information.
5. Where a licensee surrenders or is deemed to have surrendered land in accordance with this Section, the Minister shall refund to him the unexpired portion of the rent for the current period of the licence calculated in respect of the land surrendered or deemed to have been surrendered.

***o) Surrender***

1. Subject to this Act and the relevant Authorisation (if applicable), a licensee may, at any time, surrender an exploration licence or part of a licence area by lodging with the Department a notice in writing indicating the licence or the land, as the case may be, to be surrendered.
2. A surrender under Subsection (1) is effective on and from the day on which the notice referred to in that Subsection is lodged in accordance with that Subsection.
3. A licensee shall not, under this Section, surrender land if the effect of that surrender would mean that a licence area consists of more than 2 separate areas of blocks.
4. For the purposes of Subsection (3), a separate area shall consist of — (a) a group of blocks each of which has a common side or point with another block in the separate area; or (b) a single block.

***p) Substitution of exploration licence***

1. Apart from the Act as applicable, nothing in this Act prevents — (a) the holder of two or more exploration licences, the licence areas of which have a common side or point; or (b) the holder of an exploration licence, with the consent in writing of the holder of another exploration licence, the licence areas of which have a common side or point, from applying for the grant of, and the Minister granting, an exploration licence in substitution for those exploration licences.
2. An application under Subsection (1) shall be in a form approved by the Minister and accompanied by the prescribed fee.
3. On receipt of an application under Subsection (1) the Minister may grant the exploration licence.
4. An exploration licence granted under this Section — a) may be granted in respect of all or part of the licence areas to which the application under Subsection (1) relates; and b) shall remain in force for a term not exceeding 4 years, as is specified in the licence.
5. On the grant of an exploration licence under this section the exploration licences to which the application under Subsection (1) relates are, notwithstanding that the grant may be in respect of part only of those licence areas, automatically cancelled.

**3. Exploration Retention Licenses**

***a) Application for licence***

1. Subject to this Act, a miner — a) who is the holder of an exploration licence may, at any time before relinquishing or surrendering all or any part of a licence area in which an ore body or anomalous zone of possible economic potential has been discovered; or b) who was the holder of an exploration licence under the repealed Act and had applied, before the commencement of this Act for

a mineral lease, gold mining lease or special mineral lease in respect of all or any part of the land held under that exploration licence and the application had not been processed before the commencement of this Act, may apply under this Section to the Minister to be granted an exploration retention licence in respect of any part of that land.

2. The area of land in respect of which an application for an exploration retention licence may be made under this Part shall not exceed a discrete area of 4,000 hectares.

3. Except with the prior written approval of the Minister, a miner shall not apply for or be granted an exploration retention licence if the effect of the grant of the licence would be that the total area of land held by the miner under exploration retention licenses and mining tenements would be more than 4,000 hectares of the area originally granted under the exploration licence.

#### **b) Grant of exploration retention licence**

(1) Subject to this Act, on being satisfied that — a) the application is made in accordance with this Act; and b) if the application is made under Section (1 a) — there exists on the proposed licence area an ore body or anomalous zone of possible economic potential, the Minister may grant to the applicant an exploration retention licence over the land or part of the land in respect of which the application is made for a term not longer than the term of the original exploration licence, but in any case not longer than 5 years.

1(a) The Minister must not grant an exploration retention licence until he or she has considered all objections and comments lodged in accordance with this Act against the grant and the answers (if any) to those objections and comments.

2. An exploration retention licence granted under this Part shall be granted in the name or names of the holder or holders of the exploration licence from which the licence area derived, but when it is granted to two or more persons it shall, at the request of the applicants, be granted in different percentages than the percentages in which the exploration licence was held.

3. Where the Minister refuses to grant an exploration retention lease to an applicant he shall, as soon as practicable after making his decision, notify the applicant in writing of his reasons for refusing to grant the licence.

4. An exploration retention licence shall not be granted in respect of any land unless the applicant first lodges with the Minister such security as the Minister considers sufficient for the payment of compensation that, under this Act, the licensee may become liable to pay.

5. An exploration retention licence may be granted notwithstanding that, since the date of the application, the land the subject of the application has ceased to be the subject of an exploration licence.

#### **c) Exploration retention licence for ancillary purposes**

1. Subject to this Section, where a miner has — a) applied to be granted an exploration retention licence under Section (1 a); or b) been granted an exploration retention licence, the miner may apply under this Section for the grant of another exploration retention licence for such purpose as the miner specifies in the application.

2. An application under Subsection (1) shall not be made in respect of any land that is not the subject of an exploration licence held by the miner.

3. The Minister shall not grant an exploration retention licence in respect of an application under Subsection (1) — a) if, where the application is under Subsection (1)(a), the Minister refuses to grant an exploration retention licence in respect of the application made under Section a (1 a); b) unless the Minister is satisfied that the purpose for which the exploration retention licence is sought will assist in evaluating, either directly or indirectly, the development potential of any ore body or anomalous zone

of possible economic potential on land the subject of the exploration retention licence granted in respect of an application made under section a(1 a); or c) for a term longer than that specified in the exploration retention licence granted in respect of an application made under section a(1 a);

**d) Effect of application or refusal on exploration licence**

An application for an exploration retention licence or a refusal under Section (c) to grant a licence does not, by itself, have the effect of terminating the exploration licence in respect of the land the subject of the application.

**e) Power of licensee**

Subject to this Part, an exploration retention licence authorises the holder thereof, subject to the law in force in the Territory, and in accordance with the conditions to which the licence is subject — 1. to carry out on or in respect of the licence area such geological, geophysical and geochemical programmes and other operations and works as are reasonably necessary to evaluate the development potential of any ore body or anomalous zone of possible economic potential occurring in or on the land, including the carrying out of — a) mining feasibility studies; b) metallurgical testing; c) environmental studies; d) marketing studies; and e) engineering and design studies; and 2. to surrender the licence at any time conditional on the grant to the licensee of a mineral lease or mineral claim over all or part of the licence area.

**f) Rent**

The rent payable for an exploration retention licence and the times and manner of its payment shall be as prescribed.

**g) Conditions of licence**

Every exploration retention licence is, unless expressly waived, varied or suspended in writing by the Minister, subject to the conditions imposed by or under The Act and to the condition that the licensee will, on or in relation to the licence area — 1. carry out progressive programmes of work for the purpose of testing the extent and value of the ore body or anomalous zone; 1(a) expend not less than the minimum amount of expenditure specified in the licence in carrying out exploration activities on the licence area; 2. not sell any mineral obtained from the licence area; 3. except with the prior approval, in writing, of the Secretary, not remove from the licence area any mineral other than that reasonably required for sampling or testing purposes; 4. obtain and send to the Secretary such water samples and data on underground water encountered during exploration drilling as the Secretary, in writing, directs; and 5. conduct his programmes and other activities in such a way as not to interfere with existing roads, railways, telephone or telegraph lines, power lines and cables, water pipelines or dams or reservoirs, or gas, oil, slurry or tailings pipelines or storage containers, situated in the licence area, or the lawful activities or rights of any person on or in relation to land adjacent to the licence area.

**h) Additional conditions of exploration retention licence relating to native title rights and interests**

1. In addition to the conditions imposed by or under the Act, an exploration retention licence is subject to the conditions that the Minister determines (whether in accordance with a recommendation of the Tribunal or otherwise) and endorses on the licence.

2. Conditions under Subsection (1) may include a condition about ways of minimising the impact of the grant of the exploration retention licence on registered native title rights and interests in relation to the land concerned, including about any access to the land or the way in which any thing authorised by the grant might be done.

**i) Application for renewal of exploration retention licence**

1. Subject to applicable, a licensee may, at any time before 3 months before the expiration of an exploration retention licence, or such later time, not being later than that expiration, as the Minister allows, apply to the Minister for the renewal or further renewal of the licence.

2. An application referred to in Subsection (1) shall be in writing and shall be lodged with the Department and be accompanied by — a) the prescribed rent for the first 12 months of the proposed renewed licence; a(i) the prescribed fee; b) an analysis of the work and expenditure undertaken during the term of the licence to the date of the application, and the results, if any, obtained; c) the applicant's proposals for work and expenditure during the proposed renewed term; and d) the applicant's reasons for seeking a renewal of the licence rather than applying for a mineral lease or mineral claim.

3. Subject to applicable, the Minister may renew an exploration retention licence — a) for a term not longer than the term of the original exploration retention licence but in any case not longer than 5 years; and b) subject to such conditions in addition to those to which the licence is already subject as the Minister thinks fit.

4. If an application for the renewal of an exploration retention licence has been made in accordance with this section, the licence is taken to continue in force until that renewal is granted or refused, as the case may be.

#### ***j) Surrender***

1. Subject to this Part and the relevant Authorisation, a licensee may, at any time, having complied with all the conditions to which the licence is subject, surrender an exploration retention licence or part of the licence area by lodging with the Department a written notice indicating the licence or the area, as the case may be, to be surrendered.

2. A surrender under Subsection (1) is effective on and from the day on which the notice referred to in that Subsection is lodged in accordance with that Subsection.

### **4. Mineral Leases**

#### ***a) Application for mineral lease***

Subject to this Act, a miner may, at any time, apply to the Minister to be granted a mineral lease over an area of land for the purpose of, or in connection with, mining minerals other than a mineral or minerals specified in the lease document as a mineral or minerals that the miner may not mine.

#### ***b) Occupation of land pending determination of application***

1. Subject to Section (d), where an application for a mineral lease has been lodged, the applicant shall not carry out or continue to carry out any exploration or mining on the land to which the application relates, or use it for any associated purpose, until the application is granted.

2. Where land the subject of an application referred to in Subsection (1) — a) is, or is part of, a mineral lease area; b) is held by the applicant under an exploration licence or an exploration retention licence; or c) is occupied in accordance with an authorisation under the Act, nothing in that Subsection prevents the applicant from carrying out any exploration or mining, in accordance with the terms and conditions of the mineral lease, exploration licence, exploration retention licence, or authorisation under the Act, on the land to which the application relates, or his using that land for associated purposes.

#### ***c) Grant of mineral lease***

1. Subject to the Act, if applicable, after considering the recommendation of the Warden made under the Act, and considering any comments lodged under the Act, the Minister may grant to an applicant, for such term, as the Minister thinks fit, a mineral lease — a) for the mining of minerals (other than a mineral specified in the lease document as a mineral that the miner may not mine), including the removal from the lease area and the treatment of tailings or other mining material the property of the Crown on the lease area, and for other purposes in connection with the mining of minerals that the Minister thinks fit and specifies in the lease document; or b) for other purposes in connection with the mining or processing on a mineral lease of minerals that the Minister thinks fit and specifies in the lease document.

2. The granting of a mineral lease for the purposes of Subsection (1)(a) authorises the lessee — a) to explore for minerals on the lease area; b) to mine and use extractive minerals for or in connection with a purpose specified in the lease document; and c) to mine extractive minerals where the mining is directly associated with, or reasonably incidental to, the mining of minerals.
3. The granting of a mineral lease for the purposes of Subsection (1)(b) authorises the lessee to mine and use extractive minerals for or in connection with any of the purposes specified in the lease document.
4. Subject to the Act as applicable, the Minister may grant a mineral lease for the purposes of Subsection (1)(b) — a) only if the applicant for the mineral lease is already the holder of a mineral lease for the purposes of Subsection (1)(a); and b) only for a term that does not exceed the term for which the mineral lease referred to in paragraph (a) is granted.
5. The granting of a mineral lease over land reserved under the Act from occupation cancels the reservation under that section of so much of the land as is comprised in the mineral lease.

**d) Survey of lease area**

1. The Minister shall not grant a mineral lease until the area of the proposed lease has been surveyed in the prescribed manner by a licensed surveyor within the meaning of the Licensed Surveyors Act and the lessee has provided the Minister with a copy of the Surveyor-General's certificate of survey issued under that Act.
2. Where land the subject of an application for a mineral lease is Crown land, the Minister may, by written notice to an applicant, indicate that the Minister intends to grant a mineral lease to him when the land has been surveyed in accordance with Subsection (1) and, subject to such conditions as the Minister endorses on the notice, that notice is sufficient authority for the applicant to occupy the land and commence using it for the purpose for which the lease will be granted as though that lease had already been granted to him.
3. The Minister may, at any time, withdraw the authority referred to in Subsection (2) and, upon his so doing, the applicant shall forthwith cease to carry out the activities being carried out by him in reliance on that authority.

**e) Grant over retention lease**

1. Where an application for a mineral lease is in respect of any part of an exploration retention licence area held by the applicant, the Minister shall not refuse to grant the mineral lease except with the approval of the Administrator.
2. Where a mineral lease is granted in respect of land that formed all or part of an exploration retention licence area, the exploration retention licence is in respect of the whole or that part of the lease area, as the case may be, automatically cancelled by the granting of the mineral lease.

**f) Compensation for refusal of grant over retention lease**

1. Subject to Subsection (2), where the Minister refuses to grant a mineral lease in respect of an exploration retention licence area held by the applicant or any part of that area, he shall pay to the applicant such amount as he thinks reasonable to compensate the applicant for his exploration and development evaluation expenses in respect of the land to which the refusal relates while that land was held under the exploration retention licence, plus an amount calculated as prescribed as compensation for the loss of interest by the applicant on that amount.
2. A payment under Subsection (1) shall not be made where — a) the refusal referred to in that Subsection was because of the non-compliance of the applicant with any of the provisions of this Act or of a condition of the exploration retention licence, or for unsatisfactory performance in carrying out activities under the exploration retention licence; or b) the Minister is unable, for reasons beyond his control, to grant the mineral lease.

### **g) Conditions of lease**

Every mineral lease is, unless expressly waived, varied or suspended in writing by the Minister, subject to the conditions imposed by or under the Act and to the condition that the lessee will — 1. subject to this Part, use the lease area continuously and exclusively for the purposes for which it is demised and carry out all work associated with those purposes with reasonable diligence and skill; 2. comply with all contractual arrangements entered into with the Territory relating to the mining and development of mineral deposits on the land and the processing of that mineral; 3. carry out his mining and other activities on and in relation to the lease area in such a way as to interfere as little as possible with the rights of other occupiers of land in the vicinity of the lease area; 4. not assign, sublet or part with possession of any part of the lease area or an interest in the lease without the written consent of the Minister; and 5. comply with the provisions of, and directions lawfully given under this Act and all other laws in force in the Territory, in relation to his activities on and occupation of the lease area.

### **h) Additional conditions of mineral lease relating to native title rights and interests**

1. In addition to the conditions imposed by or under the Act, a mineral lease is subject to the conditions that the Minister determines (whether in accordance with a recommendation of the Tribunal or otherwise) and endorses on the lease.
2. Conditions under Subsection (1) may include a condition about ways of minimising the impact of the mineral lease on registered native title rights and interests in relation to the land concerned, including about any access to the land or the way in which any thing authorised by or under the mineral lease might be done.

### **i) Application for renewal of mineral lease**

1. Subject to the Act, as applicable, a lessee may, at any time before 3 months before the expiration of a mineral lease or such later time, not being later than that expiration, as the Minister allows, apply to the Minister for the renewal or further renewal of the lease.
2. An application under Subsection (1) is to be in writing and lodged with the Department accompanied by — a) the prescribed rent for the first 12 months of the proposed renewed lease; and b) the prescribed fee.
3. Subject to the Act as applicable, where the Minister is satisfied that the lessee has, during the current period of the lease, complied with all the provisions of this Act and the conditions to which the lease is subject, he shall grant an application under this Section for such term, not exceeding 25 years, and may make that grant subject to such conditions in addition to or varying those to which the lease is already subject, as he thinks fit.
4. The Minister shall not refuse to grant an application for the renewal of a mineral lease under this section except with the approval of the Administrator.
5. Where an application for the renewal of a mineral lease has been made in accordance with this section, the lease shall be deemed to continue in force until that renewal is granted or refused, as the case may be.

### **j) Rent**

A lessee shall pay to the Mining Registrar such rent in respect of his mineral lease, and in such manner, as is prescribed.

### **k) Surrender**

1. Subject to this Part and the relevant Authorisation, a lessee may, at any time, having complied with all the conditions to which the lease is subject, surrender a mineral lease or part of the lease area to which it relates by lodging with the Department written notice indicating the lease or the area, as the case may be, to be surrendered.

2. A surrender under Subsection (1) is effective on and from the day on which the notice referred to in that Subsection is lodged in accordance with that Subsection.

3. Before a lessee surrenders under this Subsection part only of a lease area, he shall cause that area of the lease area proposed to be retained under the mineral lease to be surveyed in the prescribed manner by a licensed surveyor, within the meaning of the Licensed Surveyors Act, and provide the Minister with a copy of the Surveyor-General's certificate of survey issued under that Act.

## **5. Mineral Claims**

### ***a) Application for mineral claim***

1. Subject to this Act, a miner may, at any time, unless otherwise provided in the Regulations, apply to the Minister to be granted a mineral claim in respect of any land.

2. The area of land in respect of which an application for a mineral claim may be made shall not exceed 40 hectares.

### ***b) Occupation of land pending determination of application***

1. Where an application for a mineral claim has been lodged, the applicant shall not carry out or continue to carry out any exploration or mining on the land to which the application relates, or use it for any associated purpose, until the application is granted.

2. Where land the subject of an application referred to in Subsection (1) — a) is, or is part of, a mineral claim area; or b) is held by the applicant under an exploration licence or an exploration retention licence, nothing in that Subsection prevents the applicant from carrying out any exploration or mining, in accordance with the terms and conditions of the mineral claim, exploration licence, or exploration retention licence, as the case may be, on the land to which the application relates, or the applicant using that land for associated purposes.

### ***c) Grant of mineral claim***

Subject to the Act, if applicable — 1. after considering the recommendations of the Warden in relation to an application for a mineral claim, complying with the Act and considering any comments lodged under the Act; and 2. if satisfied that the applicant is not in breach of this Act or the Regulations, the Minister may grant to the applicant for such term, not exceeding 10 years, as the Minister thinks fit, a mineral claim in respect of all or part of the land as marked out under this Act.

### ***d) Rent***

The rent payable for a mineral claim and the times and manner of its payment shall be as prescribed.

### ***e) Power of holder***

A mineral claim granted under this Part authorises the holder thereof, subject to the law in force in the Territory, and in accordance with the conditions to which the mineral claim is subject, to — 1. carry out exploration for minerals or extractive minerals on the claim area, and such operations and works as are reasonably necessary for that purpose including the removal from the claim area and the treatment of tailings or other mining material the property of the Crown on the claim area; 2. carry out mining for minerals on the claim area, and such operations and works as are reasonably necessary for or associated with that purpose; 2(a) in carrying out mining for minerals under paragraph (b), carry out mining for extractive minerals when that mining is directly associated with or reasonably incidental to the mining of minerals, and such operations and works as are reasonably necessary for or associated with that purpose; 2(b) carry out such other operations and works for the purpose of exploring for minerals or extractive minerals or mining for minerals on the claim area as the Minister thinks fit and specifies when granting the mineral claim; 2(c) having complied with the Act, engage in tourist fossicking; and 3. surrender the claim at any time conditional on the grant to him of a mineral lease, extractive mineral lease or extractive mineral permit over all or part of the claim area.

#### **f) Conditions of claim**

Every mineral claim is, unless expressly waived, varied or suspended in writing by the Minister, subject to the conditions imposed by or under the Act and to the condition that its holder will, on or in relation to the claim area — 1. use the claim area continuously and exclusively for the purposes for which it is granted; 2. within 28 days after confirmation of their discovery, report in writing to the Secretary all minerals of possible economic or scientific interest discovered on the claim area; and 3. conduct his programmes and other activities in such a way as not to interfere with existing roads, railways, telephone or telegraph lines, power lines and cables, water pipelines or dams or reservoirs, or gas, oil, slurry, or tailings pipelines or storage containers, situated on the claim area, or the lawful activities or rights of any person on or in relation to land adjacent to the claim area.

#### **g) Additional conditions of mineral claim relating to native title rights and interests**

1. In addition to the conditions imposed by or under the Act, a mineral claim is subject to the conditions that the Minister determines (whether in accordance with a recommendation of the Tribunal or otherwise) and endorses on the claim.

2. Conditions under Subsection (1) may include a condition about ways of minimising the impact of the mineral claim on registered native title rights and interests in relation to the land concerned, including about any access to the land or the way in which any thing authorised by or under the mineral claim might be done.

#### **h) Application for renewal of mineral claim**

1. Subject to the Act as applicable, the holder of a mineral claim may, at any time before 3 months before the expiration of the claim or such later time, being not later than that expiration, as the Minister allows, apply to the Minister for the renewal or further renewal of the claim.

2. An application referred to in Subsection (1) shall be in writing lodged with the Department and be accompanied by the prescribed rent for the first 12 months of the proposed renewed claim, the prescribed fee, details of the holder's exploration and mining activities on the claim area during the previous term of the claim, and such other information as the Mining Registrar may require.

3. Subject to the Act as applicable, the Minister may grant an application under this Section for such term, not exceeding 10 years, and subject to such conditions, in addition to or varying those to which the claim is already subject, as he thinks fit.

4. Where an application for the renewal of a mineral claim has been made in accordance with this section, the claim shall be deemed to continue in force until that renewal is granted or refused, as the case may be.

#### **i) Notice to convert to mineral lease**

1. The Minister may, at any time during the currency of a mineral claim, where he considers that actual mining is in progress or contemplated by the claim holder and that the mining operations or proposed mining operations are such that they should be controlled under a mineral lease, give to the holder written notice directing him to show cause, within the time specified in the notice, why the holder should not apply for a mineral lease in respect of the claim area or any part of it.

2. If the holder of a mineral claim to whom a notice under Subsection (1) has been given does not, within the time specified in the notice, or such longer time as the Minister, in writing, before the expiration of that time allows, reply to the notice, or the Minister, on considering a holder's reply, is not satisfied that the holder should not apply for a mineral lease, the Minister shall give to the holder a further written notice directing him, within the time specified in the notice, to apply for a mineral lease in respect of the claim area or any part of it.

3. Where the holder of a mineral claim to whom a notice of direction is given under Subsection (2) does not apply for a mineral lease in respect of the land specified in the notice within the time specified in the notice, the Minister may, in his discretion, cancel the mineral claim.

#### **j) Surrender**

1. Subject to this Part and the relevant Authorisation, a claim holder may, at any time, having complied with all the conditions to which the claim is subject, surrender a mineral claim or part of the claim area to which it relates by lodging with the Department a written notice indicating the claim or the area, as the case may be, to be surrendered.

2. A surrender under Subsection (1) is effective on and from the day on which the notice referred to in that Subsection is lodged in accordance with that Subsection.

### **6. Extractive Minerals**

#### **Application of Part**

1. Subject to Subsection (2), this Part applies in relation to the extraction and removal of extractive minerals.

2. Where, in relation to the grant of an extractive mineral interest — a) this Part would, but for this Subsection, apply because the interest is to be granted in part on an onshore place on the landward side of the mean highwater mark of the sea; and b) Under the Act would, but for this Subsection, apply because the interest is to be granted in part on an onshore place on the seaward side of the mean highwater mark of the sea, the grant of the extractive mineral interest is to be taken to consist of 2 separate Acts as follows c) the grant of an extractive mineral interest on the landward side of the mean highwater mark of the sea; d) the grant of an extractive mineral interest on the seaward side of the mean highwater mark of the sea.

3. The grant of an extractive mineral interest referred to in Subsection (2)(d) may be made at the same time as the grant of an interest referred to in Subsection (2)(c) but, before any activity is undertaken in the area to which the grant referred to in Subsection (2)(d) relates, the procedures under the Act must have been complied with.

#### **Extractive Mineral Leases**

##### **a) Application**

This Division applies in relation to the extraction or removal (whether by quarrying or other means) of extractive minerals, clay and stone from on and below the natural surface of the land.

##### **b) Approval to apply for extractive mineral lease**

1. Subject to this Act, a person may apply to the Minister for approval to submit to the Minister an application for an extractive mineral lease in respect of any land.

2. An application under Subsection (1) is to be — a) in the approved form; and (b) accompanied by the application for the extractive mineral lease in accordance with the Act.

3. In considering an application under Subsection (1), the Minister must have regard to the matters (if any) prescribed by the Regulations and any other matter that the Minister considers relevant.

4. If the Minister approves an application under Subsection (1), the Minister must — a) notify the applicant in writing of the approval; and b) consider the application for the extractive mineral lease that accompanied the first-mentioned application.

### **c) Area of proposed lease**

The area of land in respect of which an application for an extractive mineral lease may be made is not to exceed 100 hectares.

### **d) Consideration of application for lease above highwater mark**

1. After considering — a) an application for the grant of an extractive mineral lease; and b) any objections and comments to the grant of the extractive mineral lease lodged under the Sections, if there are objections that do not relate to native title rights and interests, the Minister must — c) grant the extractive mineral lease; d) refuse to grant the extractive mineral lease; or (e) refer the matter to the Tribunal for hearing.

2. On receipt of the Tribunal's recommendation about a matter referred under Subsection (1)(e), the Minister must — (a) consider the recommendation; and (b) grant or refuse to grant the extractive mineral lease.

3) Where there are objections under both Sections of the Act in compliance with recommendations of Tribunal and after considering any objections and recommendation under this Part, the Minister may grant or refuse to grant the extractive mineral lease.

### **e) Consideration of application for lease below highwater mark**

After considering — 1. An application for an extractive mineral lease in respect of an onshore place on the seaward side of the mean highwater mark; and 2. In pursuance of the Act, any objections to or comments on the extractive mineral lease lodged under Section of notification, the Minister must grant or refuse to grant the extractive mineral lease.

### **f) Grant of extractive mineral lease**

1. The Minister may grant an extractive mineral lease, for the term the Minister thinks fit — a) for the extraction and removal of the extractive mineral, clay or stone specified in the lease document; and b) subject to Subsection (2), for purposes in connection with the extraction, removal or processing on the extractive mineral lease of the extractive mineral, clay or stone that the Minister thinks fit and specifies in the lease document.

2. Subject to the Act, as applicable, the Minister may grant an extractive mineral lease for the purposes of Subsection (1)(b) — a) only if the applicant for the extractive mineral lease is already the holder of an extractive mineral lease for the purposes of Subsection (1)(a); and b) only for a term that does not exceed the term for which the extractive mineral lease referred to in paragraph (a) is granted.

### **g) Additional conditions of extractive mineral lease relating to native title rights and interests**

1. In addition to the conditions imposed by or under Section of the Act, an extractive mineral lease is subject to the conditions that the Minister determines (whether in accordance with a recommendation of the Tribunal referred to in Section of the Act or otherwise) and endorses on the lease.

2. Conditions under Subsection (1) may include a condition about ways of minimising the impact of the extractive mineral lease on registered native title rights and interests in relation to the land concerned, including about any access to the land or the way in which any thing authorised by or under the extractive mineral lease might be done.

### **h) Application for renewal of extractive mineral lease**

1. Subject to the Act, as applicable, the holder of an extractive mineral lease may, at any time before 3 months before the expiration of the lease, or such later time, being not later than that expiration, as the Minister allows, apply to the Minister for the renewal or further renewal of the lease.

2. An application referred to in Subsection (1) shall be in writing lodged with the Department and be accompanied by the prescribed rent for the first 12 months of the proposed renewed lease, the prescribed fee, details of the lessee's extraction, removal and other activities on the lease area during the previous term of the lease and such other information as the Mining Registrar may require.

3. Subject to the Act, as applicable, the Minister may grant an application under this section for such term, not exceeding 10 years, and subject to such conditions in addition to or varying those to which the lease is already subject, as he thinks fit.

4. Where an application for the renewal of an extractive mineral lease has been made in accordance with this Section, the lease shall be deemed to continue in force until that renewal is granted or refused, as the case may be.

***i) Survey of lease area***

The Minister shall not grant an extractive mineral lease until the area of the proposed lease has been surveyed in the prescribed manner by a licensed surveyor within the meaning of the Licensed Surveyors Act and the lessee has provided to the Minister a copy of the Surveyor-General's certificate of survey issued under that Act.

***j) Surrender***

1. Subject to this Act, a lessee may, at any time, having complied with all the conditions to which the lease is subject, surrender an extractive mineral lease or part of the lease area to which it relates by lodging with the Department a written notice indicating the lease or the area, as the case may be, to be surrendered.

2. A surrender under Subsection (1) is effective on and from the day on which the notice referred to in that Subsection is lodged in accordance with that Subsection.

3. Before a lessee surrenders under this Section part only of a lease area, he shall cause that part of the lease area proposed to be retained under the extractive minerals lease to be surveyed in the prescribed manner by a licensed surveyor within the meaning of the Licensed Surveyors Act, and provide the Minister with a copy of the Surveyor-General's certificate of survey issued under that Act.

**Extractive Mineral Permits**

***a) Application***

This Division applies only in relation to extractive minerals on or obtained or removed from the natural surface of the land.

***b) Approval to apply for permit***

1. Subject to this Act, if applicable, a person may apply to the Minister for approval and submit to the Minister an application for an extractive mineral permit in respect of any land.

2. An application under Subsection (1) is to be — a) in the approved form; and b) accompanied by the application for the extractive mineral permit in accordance with the Act.

3. In considering an application under Subsection (1), the Minister must have regard to the matters (if any) prescribed by the Regulations and any other matter that the Minister considers relevant.

4. If the Minister approves an application under Subsection (1), the Minister must — a) notify the applicant in writing of the approval; and b) consider the application for the extractive mineral permit that accompanied the first-mentioned application.

***c) Area of proposed permit***

The area of land in respect of which an application for an extractive mineral permit may be made is not to exceed 100 hectares.

***d) Consideration of application for permit above highwater mark***

1. An application for an extractive mineral permit is to be taken to have been made, lodged or received on the day on which the applicant — a) provides in accordance with the Act evidence of having served notice of the applicant's intention to make the application and the method of service; or

b) lodges in accordance with regulation in the Act or the Mining Regulations details in respect of the area marked out for the extractive mineral permit, whichever occurs later.

1(a). After considering — a) an application for the grant of an extractive mineral permit; and b) any objections and comments lodged under the Act, the Minister must — c) grant the extractive mineral permit; d) refuse to grant the extractive mineral permit; or (e) refer the matter to the Tribunal for hearing.

2. On receipt of the Tribunal's recommendation about a matter referred under Subsection (1)(e), the Minister must — (a) consider the recommendation; and (b) grant or refuse to grant the extractive mineral permit.

#### **e) Consideration of application for permit below highwater mark**

After considering — 1. An application for an extractive mineral permit in respect of an onshore place on the seaward side of the mean high-water mark; and 2. In pursuance of the Act, any objections to or comments on the extractive mineral permit lodged under Section of the Act, the Minister must grant or refuse to grant the extractive mineral permit.

#### **f) Grant of permit**

1. Subject to Subsection (2), an extractive mineral permit is granted — a) for the term (not exceeding 2 years) the Minister thinks fit; and b) for the extraction or removal of the extractive mineral or extractive minerals specified in the permit.

2. An extractive mineral permit is subject to the conditions that the Minister determines (whether in accordance with a recommendation of the Tribunal referred to in the Act or otherwise) and endorses on the permit.

3. Conditions under Subsection (2) may include a condition about ways of minimising the impact of the extractive mineral permit on registered native title rights and interests in relation to the land concerned, including about any access to the land or the way in which any thing authorised by or under the extractive mineral permit might be done.

#### **g) Powers of permit holder**

An extractive mineral permit authorises, as is specified in the permit, the holder thereof, subject to the law in force in the Territory, and in accordance with the conditions to which it is subject — 1. to extract or remove from the ground in the permit area deposits of; or 2. to store or process on the permit area, an extractive mineral or extractive minerals specified in the permit.

#### **h) Application for renewal of extractive mineral permit**

1. The holder of an extractive mineral permit may, at any time before the expiration of the permit, apply to the Minister for the renewal of the permit in respect of all or part of the permit area.

2. An application referred to in Subsection (1) is to be in writing lodged with the Department and be accompanied by — a) the prescribed rent for the renewal period or, if the proposed renewal period is more than 12 months, the prescribed rent for the first 12 months of the renewal period; b) the prescribed fee; c) details of the holder's extraction, removal or other activities on the permit area during the previous term of the permit; and d) any other information that the Mining Registrar requires.

3. Subject to Subsection (4), the Minister may grant an application under this section for such period, not exceeding 2 years, and subject to such conditions in addition to or varying those to which the permit is already subject, as he thinks fit.

#### **i) Mining Registrar may carry out obligation of holder**

Where a condition of an extractive mineral permit requires the holder of the permit to do any thing in relation to the permit area and the holder does not, within the time specified in the condition, or within

such further time as the Mining Registrar, in writing, allows, do that thing, the Mining Registrar may enter on the permit area with such assistance as, and take whatever action, he considers necessary for doing that thing, and the costs incurred by him in so doing shall be a debt payable by the holder to the Territory, whether or not at the time that thing was done by the Mining Registrar the extractive mineral permit had been cancelled, had been surrendered or had expired.

#### ***j) Cancellation***

The Minister may cancel an extractive mineral permit where its holder contravenes, or does not comply with, a condition to which the permit is subject.

#### ***k) Surrender***

1. The holder of an extractive mineral permit may, at any time, having complied with all the conditions to which it is subject, surrender the permit by lodging with the Department a written notice surrendering the permit.

2. A surrender under Subsection (1) is effective on and from the day on which the notice referred to in that Subsection is lodged in accordance with that Subsection.

### **Compensation**

#### ***a) Compensation payable by holder of extractive mineral permit***

1. Compensation is payable by the holder of an extractive mineral permit granted or renewed under this Part to — a) the owner or occupier of land comprised in the extractive mineral permit for the loss or damage in respect of that person's interest in the land because of that grant or renewal; and b) any native title holder for the effect of the grant, renewal or variation on the holder's registered native title rights and interests in the land comprised in the extractive mineral permit.

2. A person who intends to claim compensation under this Section must lodge the claim in writing with the holder of the extractive mineral permit within 3 years after the grant, renewal or variation (as the case may be) or within the further time the Tribunal allows.

### **7. Fossicking**

#### ***a) Interpretation***

"commercial tour" means a tour, involving fossicking, conducted as a business activity;

"commercial tour operator" means a corporation which, or a person who, in the course of business offers to conduct and conducts (or whose agent or employee conducts) commercial tours;

"fossicking area" means an area declared as a fossicking area under the Act;

"member of a person's family" means — (a) the person's spouse or de facto partner; or (b) an infant, or a student who has not attained the age of 23 years, who is living with the person as a member of the person's household;

"person on a commercial tour" means — (a) a person who is on the commercial tour; and (b) the commercial tour operator or another person who has responsibilities for and on behalf of the commercial tour operator for the conduct of the tour (including a person who drives the vehicle transporting the persons on the commercial tour).

#### ***b) No fossicking without permit***

1. A corporation or person may not fossick unless authorised to do so under the Act.

2. Subsection (1) does not apply to a person who, being permitted by the holder of a mineral claim which is subject to the condition specified in the Act to enter on to and fossick on the claim area, is fossicking on the claim area.

### ***c) Application for fossicker's permit***

A corporation, or a person who has attained the age of 15 years, may apply to — (a) the Minister; (b) a Warden; (c) a Mining Registrar; or (d) a person authorised in writing for that purpose by the Minister, for the grant of a fossicker's permit to the corporation or the first-mentioned person.

### ***d) Grant of fossicker's permit***

1. Subject to Subsection (2), the person to whom an application under the Act is made shall, on the payment by the applicant of the prescribed fee, grant that application and issue to the applicant a fossicker's permit which shall be — a) in the prescribed form and is to include a statement to the effect that the permit is subject to the condition described in Subsection (3); and b) for the prescribed term.

2. Each fossicker's permit issued under Subsection (1) may authorise only one of the following corporations or persons or classes of corporation or person (as specified on the fossicker's permit) to fossick a) if issued to a person who is not a commercial tour operator, the person and a member of the person's family (but only if in the company of the person); b) if issued to a commercial tour operator, a person who is on a commercial tour conducted by the tour operator; c) any other corporation or person or class of corporation or person as prescribed.

3. It is a condition in respect of every fossicking permit that the right of the holder to fossick does not continue in relation to an area after an approved determination of native title that native title exists in the area has been made except in accordance with an indigenous land use agreement.

### ***e) Powers of holder of fossicker's permit***

1. Subject to this Act, a fossicker's permit authorises a fossicker to fossick for minerals using hand-held implements on or within one metre below the line of the natural contour of the surface of land which has been declared a fossicking area under the Act or within one metre below the line of the natural contour of the surface of land which has not been so declared where that land is — a) Crown land; b) private land, but only if the holder of the fossicker's permit has the consent in writing of the owner and, if not one and the same, the occupier of the private land; c) land held for an estate in fee simple, or on lease from the Crown, by the Conservation Land Corporation established by the act of the Parks and Wildlife Commission Act, but only if the holder of the fossicker's permit has the consent in writing of the Parks and Wildlife Commission within the meaning of that Act; c(i) land in respect of which there is an approved determination of native title that native title exists in the land, but only in accordance with an indigenous land use agreement; d) the subject of an exploration retention licence, or an application for an exploration retention licence, but only if the holder of the fossicker's permit has the consent in writing of the holder of, or the applicant for, the exploration retention licence; e) the subject of a mining tenement, or an application for a mining tenement, but only if the holder of the fossicker's permit has the consent in writing of the holder of, or the applicant for, the mining tenement; or f) subject to the Act, the subject of an exploration licence, and to remove from that land minerals discovered by the fossicker.

### ***f) Fossicking areas***

1. Subject to this section, the Minister may, by notice in the Gazette, declare an area of — a) Crown land; b) private land, but only with the consent in writing of the owner or occupier of the land; c) with the consent of the relevant Land Council within the meaning of the Aboriginal Land Rights (Northern Territory) Act 1976 of the Commonwealth, Aboriginal land; d) with the consent of the Conservation Land Corporation and the Parks and Wildlife Commission of the Northern Territory established by the Parks and Wildlife Commission Act, land held for an estate in fee simple, or on lease from the Crown, by the Conservation Land Corporation; or e) land in respect of which there is an approved determination of native title that native title exists in the land, but only in accordance with an

indigenous land use agreement, that is not the subject of, or of an application for, an exploration licence, exploration retention licence or mining tenement, as a fossicking area.

2. Fossicking on a fossicking area is subject to such conditions, if any — a) in the case of a fossicking area comprised of private land—as the owner or, if not one and the same, the occupier of the private land reasonably wishes to impose, to preserve his or her interest in the land, and the Minister publishes in the notice of declaration; b) in the case of a fossicking area comprised of Aboriginal land — as the relevant Land Council within the meaning of the Aboriginal Land Rights (Northern Territory) Act 1976 of the Commonwealth agrees and the Minister publishes in the notice of declaration; c) in the case of a fossicking area comprised of land referred to in Subsection (1)(d) —as are, by notice in the Gazette, determined in respect of the fossicking area by the Director of Parks and Wildlife holding office under the Parks and Wildlife Commission Act; (c)(i) in the case of a fossicking area comprised of land in respect of which there is an approved determination of native title that native title exists—as an indigenous land use agreement that contains a statement to the effect described in the Act of the Native Title Act provides and the Minister specifies in the declaration; or d) in any other case—as the Minister thinks fit and publishes in the notice of declaration, or as are from time to time determined by the Minister and notified in the Gazette.

3. The Minister shall not declare as a fossicking area an area comprised of land held under a pastoral lease within the meaning of the Pastoral Land Act unless the Minister has given the lessee of that lease written notice of his intention to declare the fossicking area and has taken into account the comments, if any, of that lessee lodged with the Minister within 30 days after the notice was given to the lessee.

4. A declaration under Subsection (1)(a), (c) or (d) ceases to have effect on the making of an approved determination of native title that native title exists in the land over which the fossicking area was declared.

#### ***g) Fossicking on land subject to exploration licence***

1. A fossicker who intends to fossick for gold on land which is the subject of an exploration licence shall not do so unless the fossicker has first obtained the consent in writing of the holder of the exploration licence.

2. Where an exploration licence is granted in respect of land which has been declared to be a fossicking area, a fossicker may, notwithstanding the grant of the licence, enter on and have access over the part of that land comprised in the exploration licence area for the purposes of fossicking (including fossicking for gold).

#### ***h) Fossicking***

A fossicker may, subject to the conditions, if any, in the notice of declaration of a fossicking area, fossick for and remove from a fossicking area minerals.

#### ***i) Minister may, cancel fossicker's permit***

The Minister may cancel a fossicker's permit where the corporation or person holding the fossicker's permit contravenes or fails to comply with — (a) a condition to which the fossicker's permit is subject, if any; or (b) this Act or an instrument of a legislative or administrative character made under this Act.

#### ***j) Fossicking on mineral claim***

1. The holder of a mineral claim may engage in tourist fossicking on the claim area, but only if the holder complies with this section.

2. The holder of a mineral claim who intends to engage in tourist fossicking on the claim area shall apply to the Minister for the endorsement on the holder's mineral claim of the condition that the holder may engage in tourist fossicking on the claim area, and while the endorsement remains on the mineral claim, the holder shall not carry out any activities on the claim area other than activities for the purpose of tourist fossicking.

### **k) Fossicking under miner's right**

1. A corporation or person who has a right to fossick under a miner's right in force immediately before the commencement of the Mining Amendment Act 1996 shall be able to continue to exercise that right to fossick for not more than 18 months after the commencement of that Act (as if a right to fossick under the Mining Act as amended by that Act), and on the expiration of the 18 month period – a) that right will cease to be enforceable; and b) an exercise of that right will constitute a contravention of or a failure to comply with the provisions of or under the Mining Act as amended by the Mining Amendment Act 1996.

2. A corporation or person who is the holder of a right to fossick referred to in Subsection (1) may, at any time before the expiration of the 18 month period referred to in that Subsection, surrender his or her miner's right and apply to the Mining Registrar for the grant of a fossicker's permit, and the mining registrar shall thereupon, in its stead, issue the corporation or person a fossicker's permit within the meaning of the Mining Act as amended by the Mining Amendment Act 1996.

3. No fee is payable in respect of a fossicker's permit issued under Subsection (2).

4. A fossicker's permit issued under Subsection (2) shall — (a) be granted for the same term as the miner's right it replaces; and (b) be non-transferable.

### **8. Exploration Licences, Exploration Retention Licences and Mining Tenements In respect of Aboriginal Land**

#### **a) Additional provisions**

The provisions of this Part are in addition to, and do not derogate from, the other provisions of this Act relating to exploration licenses, exploration retention licenses or mining tenements.

#### **b) Grant of mining interest**

Subject to this Act and the Aboriginal Land Rights (Northern Territory) Act 1976 of the Commonwealth, a corporation, or a person who has attained the age of 15 years, may apply for and be granted a mining interest, as defined in the Aboriginal Land Rights (Northern Territory) Act 1976 of the Commonwealth, in respect of Aboriginal land.

#### **c) Applicant for mineral lease to hold exploration licence**

1. Subject to Subsection (2), a person shall not apply for or be granted a mineral lease in respect of Aboriginal land unless, at the time of the application for that lease he was the holder of an exploration licence or exploration retention licence or had made an application for the grant of an exploration retention licence in respect of that land.

2. The provisions of Subsection (1) shall not apply to or in relation to — a) a person who is, in relation to the land, a traditional Aboriginal owner within the meaning of the Aboriginal Land Rights (Northern Territory) Act 1976 of the Commonwealth; b) a person who had made an application for a mineral lease over the land before it became Aboriginal land; c) a person who made an application under the repealed Act for a mineral lease, gold mining lease or special mineral lease in respect of Aboriginal land which application, by virtue of the Act, is deemed to be an application for a mineral lease under this Act.

### **9. General Provisions Relating to Mining Tenements**

#### **a) Application of Part**

The provisions of this Part apply to and in relation to the exploration licenses, exploration retention licenses and mining tenements to which they are expressed to relate to the extent that they are not inconsistent with specific provisions relating thereto contained elsewhere in this Act.

### **b) Licence not to be granted over existing licence or mining tenement**

1. Subject to this Act, an exploration licence is not to be granted in respect of an existing exploration licence area or an existing exploration retention licence area.
2. Subject to this Act, a mining tenement is not to be granted in respect of an existing exploration licence area, an existing exploration retention licence area or an existing mining tenement area.

### **c) Refusal of application**

1. Notwithstanding any other provision in this Act, an application for the grant of an exploration licence or a mining tenement (other than a mineral lease) may be refused by the Minister any time after the application is received in accordance with this Act and before publication of a notice under the Act.
2. Where an application for an exploration licence or mining tenement (other than a mineral lease) is refused under Subsection (1) the Minister shall — a) notify the applicant, in writing, of the refusal of the application and the reasons for that refusal; b) in the case of an application that is made before 1 January 2000—refund to the applicant the prescribed fee, the prescribed rent and the money referred to in the Act that accompanied the application; and c) in the case of an application that is made on or after 1 January 2000—refund to the applicant the prescribed fee and the money referred to in the Act that accompanied the application.

### **d) Notice of application**

1. As soon as practicable after an application for the grant of an exploration licence, exploration retention licence or mining tenement (other than a licence or tenement to which the Act applies) is received in accordance with the provisions of this Act, the Secretary must cause to be published in a newspaper printed and circulating in the Territory a notice containing — a) the name of the applicant; b) the type of title applied for; c) the registration number, if any, of the application; d) the period in respect of which the exploration licence or mining tenement is sought; e) a description of the land in respect of which the application is made sufficient to enable an interested person to determine its location, or a map that indicates the proposed area by reference to the boundaries of existing land holdings or geographical features; f) a statement to the effect that the owner or occupier of land in respect of which the application is made may, not later than 2 months after the date specified in the notice (being at least 21 days after the application was lodged) lodge in writing with the Department an objection to the grant; F(i) if the Act applies—a statement to the effect that any registered native title claimants and registered native title bodies corporate in relation to land in respect of which the application is made may, not later than 2 months after the date specified in the notice (being the same date as the date specified in the notice under paragraph (f)) or, in the case of a person to whom Subsection (5) applies, within the further time allowed under that Subsection, lodge in writing with the Department an objection to the grant; and g) a statement to the effect that any other person may, within 2 months after the date specified in the notice (being the same date as the date specified in the notice under paragraph (f)), lodge in writing with the Department comments on the grant.
2. As soon as practicable after an objection or comment is lodged in accordance with this section, the Secretary or the principal registrar must advise the applicant for the grant of the relevant mining interest of the objection or comment and give the applicant a copy of the objection or comment.
3. An applicant who is advised under Subsection (2) of an objection may, within 21 days after receiving the advice, submit to the Secretary, a written answer to the objection or comment.
4. Where the Act applies, subject to Subsection (4a), if, within 3 months after the date specified in a notice published under Subsection (1) (being the same date as the date specified in the notice under Subsection (1)(f)), a person (other than a person served under the Act advises the Minister in writing that the person has made an application to the Federal Court for a determination of native title in respect of any of the affected land, the person may, within 4 months after the date so specified, lodge an objection to the prescribed mining Act.

4(a) Subsection (4) does not apply in relation to the following (a) affected land that is Aboriginal land within the meaning of the Aboriginal Land Rights (Northern Territory) Act 1976 of the Commonwealth; (b) a prescribed mining Act that is an Act of the kind described in the Act unless there is a determination in force under the Act of the Native Title Act in respect of the relevant provisions of this Act.

**e) Priority in considering applications**

1. Where 2 or more applications are lodged under this Act for the grant of an exploration licence, exploration retention licence or mining tenement in respect of the same land, unless specific provision is made in this Act relating to the priority to be given, the applicant who first lodges his application shall receive priority in the consideration of his application.
2. Where 2 or more applications for the grant of an exploration licence referred to in Subsection (1) are lodged on the same day, they have the same priority as each other.
3. For the purposes of Subsection (1), an application for a mining tenement, other than a mineral lease, shall be deemed to be lodged at the time when the area of land which is the subject of the application is marked out in accordance with the Regulations.
4. For the purpose of ascertaining priority under Subsection (2), an application for the grant of an exploration licence that is received by the Department after close of business on a particular day is to be taken to be lodged on the next day the Department is open for business.
5. The hours during which offices of the Department are open for business are to be set out in guidelines made under the Act.

**f) Substantial compliance**

1. Subject to the Act but despite the other provisions of this Act, the Minister may grant or renew an exploration licence, exploration retention licence or mining tenement, and a Mining Registrar may grant or renew an extractive mineral permit, notwithstanding that the applicant for the licence, tenement or permit may not have complied in all respects with the provisions of this Act or the Regulations.
2. The grant or renewal of an exploration licence, exploration retention licence or mining tenement is not to be impeached because of an informality or irregularity in the application or in any proceeding previous to the grant or renewal except on the ground that there has been fraud or that the Act has not been complied with.

**g) Notification of intention to grant application**

1. On deciding to grant an exploration licence, exploration retention licence or mining tenement, the Minister must in writing notify the applicant that he or she will grant the licence or mining tenement if the applicant — a) pays the prescribed rent in respect of the licence or mining tenement; and b) lodges with the Minister the security referred the Act as the case requires, on or before the date specified for payment in the notification (which must be at least 30 days after the date of the notification).
2. The Secretary may, on the request of an applicant who must lodge security under Subsection (1)(b), extend the time within which the applicant must lodge the security under Subsection (1).
3. The date of the issue of the receipt for an applicant's payment of the prescribed rent or of the receipt for lodgement by the applicant of the security, whichever receipt is last issued, is to be taken to be the date the Minister grants the licence or mining tenement.

**h) Notification of grant**

As soon as practicable after an exploration licence, exploration retention licence or mining tenement has been granted under this Act, there shall be published on the Department's internet website for

mining titles information a notice specifying — a) the type of title granted; b) the name of the person to whom it is granted; c) the registration number of the licence or tenement involved; d) the period in respect of which the licence or tenement has been granted; and e) a map that clearly indicates the licence or tenement area by reference to the boundaries of existing land holdings or geographical features.

***i) Notification of conditions relating to native title***

Where the Minister decides to do a prescribed mining Act to which the Act applies, the Minister must give notice in writing to the registered native title claimants and registered native title bodies corporate in relation to any of the affected land of — a) the decision to do the Act; and b) if the Act is subject to conditions relating to native title rights and interests — those conditions, and, if the Tribunal recommended that the Act may be done subject to conditions different from the conditions referred to in paragraph (b), the notice is to include a statement to the effect that there is a difference.

***i) General conditions***

1. All exploration licenses, exploration retention licences and mining tenements are granted subject to the condition that the holder will — a) allow a member of the Police Force, a mining officer, or a person authorised in writing for that purpose by the Secretary, on production of that authorisation, to enter a licence area or mining tenement area at any time and examine the activities of the holder thereon; b) notify the Secretary in writing of any change in an address referred to the Act within 14 days of any such change; c) comply with the law in force in the Territory relating to the lighting, use and control of fire; d) comply with the law in force in the Territory relating to the control and use of water and to soil conservation; e) not interfere with land used as a yard, garden or orchard, or on which substantial improvements exist, except with the written consent of the owner or occupier, if any, of that land; f) pay the prescribed rent for the licence area, exploration retention licence or mining tenement area at the time and in the manner prescribed; and g) subject to the Act, in respect of all minerals or extractive minerals obtained from a mineral lease area, extractive mineral lease area or extractive mineral permit area, pay royalties to the Crown (or, where he is not liable to pay the royalties, ensure that the royalties are paid by or on behalf of the person who is so liable) at such times, at such rates, in such manner and subject to such conditions, as are from time to time prescribed by or under this or any other law of the Territory, and such other conditions, not inconsistent with this section or the specific provisions of this Act imposing conditions to which exploration licences, exploration retention licences or particular mining tenements are subject, as the person granting the exploration licence, exploration retention licence or mining tenement, as the case may be, thinks fit and endorses on the grant document.

1(a) All exploration licenses are granted subject to the condition that the holder of the licence or the holder's agent must also hold the relevant Authorisation before carrying out on the licence area any exploration, operations or works involving substantial disturbance.

1(b) All exploration retention licenses and mining tenements are granted subject to the condition that the holder of the licence or tenement or the holder's agent must also hold the relevant Authorisation before carrying out on the licence area or mining tenement area any exploration or mining activity.

2. A condition endorsed on an exploration licence, exploration retention licence or mining tenement document (other than an extractive mineral permit) may provide for the approval of the Secretary to be obtained before a particular Action is taken and for the Secretary to impose conditions on the taking of that action, and compliance with the conditions so imposed by the Secretary shall be a condition of that licence, exploration retention licence or mining tenement.

3. Where a condition of an exploration licence, exploration retention licence or a mining tenement (other than an extractive mineral permit) requires the holder to do any thing in relation to the licence area or tenement area and the holder does not, within the time provided in the condition, or within such further time as the Secretary allows, do that thing, the Secretary or a person authorized by him may enter on the licence area or tenement area, as the case may be, with such assistance as, and take whatever action, he considers necessary for doing that thing, and the costs incurred by him in so doing

shall be a debt due and payable by the holder to the Territory, whether or not at the time that the thing was done by the Secretary or that person, the exploration licence, exploration retention licence or mining tenement had been cancelled, forfeited, surrendered or had expired.

**j) Refund of rent**

1. If an exploration licence, exploration retention licence or mining tenement, or renewal thereof, is not granted, the prescribed rent that accompanied the application is to be refunded to the person who paid the prescribed rent.
2. If an exploration licence, exploration retention licence or a mining tenement is granted or renewed in respect of part only of the land applied for, there shall be a refund to the person who paid the prescribed rent that accompanied the application the difference between that amount of rent and the amount of rent required by this Act to be paid for the land in respect of which the exploration licence, exploration retention licence or mining tenement is granted or renewed.
3. Where a refund is to be paid to a person under this Section, it is to be sent to the address nominated for that purpose at the time of making the payment or, if no address was nominated, to the applicant's address for service under the Act.

**l) Cancellation**

1. Subject to this Section, the Minister may cancel an exploration licence or exploration retention licence or may forfeit a mining tenement (other than an extractive mineral permit) where the holder of the licence or mining tenement contravenes or does not comply with — a) a condition to which the licence or tenement is or is deemed to be subject; b) a direction given by the Minister or the Secretary under this Act or the Regulations, or under a condition of the licence or tenement; or c) a provision of this Act or the Regulations relating to that licence or tenement.
2. Except as provided in Subsection (2a), the Minister shall not cancel or forfeit an exploration licence, exploration retention licence or a mining tenement under Subsection (1) unless he has first — a) given to the holder written notice of his intention so to do, indicating the grounds for his proposed action; b) specified in that notice a date, not being earlier than 30 days after the service of that notice on the holder, on or before which the holder may submit to the Minister any matter that he wishes the Minister to consider before deciding whether to cancel or forfeit the licence or tenement; and c) considered any matter referred to him by the holder in pursuance of paragraph (b).
- 2(a) The Minister may cancel an exploration licence or exploration retention licence or forfeit a mining tenement under Subsection (1) if satisfied that — a) the holder of the exploration licence, exploration retention licence or mining tenement has contravened or failed to comply with a provision of — (i) this Act or the Regulations relating to the payment of rent; or (ii) this Act or the Mineral Royalty Act relating to the payment of royalties, in respect of the exploration licence, exploration retention licence or mining tenement; and b) the contravention or non-compliance has continued for not less than 30 days after service on the holder of a notice notifying the holder of the contravention or non-compliance.
3. Where the Minister cancels or forfeits an exploration licence or a mining tenement under this section, he shall forthwith give written notice of that action to the holder thereof.
4. A cancellation or forfeiture referred to in Subsection (3) takes effect on the signing of the notice to be given to the holder under that Subsection.
5. Where a notice under Subsection (2) is served on the holder of an exploration licence or an exploration retention licence, and before the decision under that Subsection by the Minister is made, the Minister shall not grant to the holder of the exploration licence or exploration retention licence a mining tenement in respect of any part of the licence area.
6. On the cancellation or forfeiture taking effect, the person or corporation to whom the written notice is to be given under Subsection (3) ceases to hold the exploration licence, the exploration retention

licence or the mining tenement but remains liable for — a) any Act or omission done, caused, permitted or made by the person or corporation before the cancellation or forfeiture; and b) any liability imposed on or incurred by the person or corporation under this Act before the cancellation or forfeiture.

## **10. Miscellaneous**

### ***a) Prescribed substances under the Atomic Energy Act***

1. Subject to Subsection (2), but notwithstanding anything elsewhere contained in this Act (other than Subsection (3)) or the Regulations, in respect of a prescribed substance within the meaning of the Atomic Energy Act 1953 of the Commonwealth, the Minister — a) shall exercise his powers in accordance with, and give effect to, the advice of the Minister of the Commonwealth for the time being administering of that Act; and b) shall not exercise his powers otherwise than in accordance with such advice.

2. Subsection (1) does not operate to prevent the Minister from acting without advice, or to require the Minister to take or give effect to advice, in relation to a matter arising under the Act.

3. The lessee of a mineral lease granted in respect of a prescribed substance referred to in Subsection (1) is liable to pay royalty to the Commonwealth, in respect of that prescribed substance obtained from the land comprised in the lease, in such manner and at such times, and at such rate on an amount calculated or assessed in accordance with such method, as are — a) specified in the lease; or b) varied or determined in accordance with the terms of the lease.

### ***b) Land in certain parks and reserves***

1. In this Section "park or reserve" does not include a park or reserve within the meaning of the Territory Parks and Wildlife Conservation Act.

2. Subject to the Act as applicable, the Minister shall not grant an exploration licence, exploration retention licence or mineral lease in respect of land comprising the whole or part of a park or reserve unless — a) the proposed exploration or mining activity is in accordance with a plan of management required or permitted by a law in force in the Territory to be prepared relating to that park or reserve; b) in the case of a park or reserve within the meaning of the National Parks and Wildlife Conservation Act 1975 of the Commonwealth—the written approval of the Minister of the Commonwealth for the time being charged with the administration of that Act, or of the trustees or other persons in whose control and management the land is vested, has first been obtained; c) in the case of the sanctuary as defined in section 3 of the Cobourg Peninsula Aboriginal Land, Sanctuary and Marine Park Act—the written approval of the Board, within the meaning of that Act, has first been obtained; and d) the Administrator has approved of the proposed grant and the terms and conditions subject to which it is to be granted.

3. Where an exploration licence, exploration retention licence or mineral lease is granted under this Act in respect of any land referred to in Subsection (2), a condition referred to in the Act of the National Parks and Wildlife Conservation Act 1975 of the Commonwealth or to which approval in pursuance of the Act of the Cobourg Peninsula Aboriginal Land, Sanctuary and Marine Park Act is expressed to be subject, whichever is applicable, shall be deemed to be a condition of the licence or lease.

### ***c) Environmental consideration relating to certain parks and reserves***

1. In this section — "park or reserve" means a park or reserve within the meaning of the Territory Parks and Wildlife Conservation Act or land declared under the Act of that Act to be a park or reserve for the purposes of this Section; "wilderness zone" means a wilderness zone declared under section 12 of the Territory Parks and Wildlife Conservation Act.

2. In respect of land comprising the whole or a part of a park or reserve, subject to the Act as applicable the Minister shall not grant — a) subject to Subsection (3), an exploration licence or an exploration retention licence, unless he has considered the opinion of the minister administering the Territory Parks and Wildlife Conservation Act in relation to the proposed grant; or b) a mineral lease or an extractive mineral lease, except in accordance with the conditions, if any, specified by the minister administering the Territory Parks and Wildlife Conservation Act.

3. Notwithstanding Subsection (2)(a), the Minister shall not grant an exploration licence or exploration retention licence in respect of land comprising the whole or part of a wilderness zone except in accordance with the conditions, if any, specified by the minister administering the Territory Parks and Wildlife Conservation Act.

(4) The Mining Registrar shall not grant an extractive mineral permit in respect of land comprising the whole or a part of a park or reserve except in accordance with the conditions, if any, specified by the Director within the meaning of the Parks and Wildlife Commission Act.

(5) The holder of an exploration licence or exploration retention licence shall not carry out exploration, or any other activity, which may cause significant disturbance to the surface of land comprising the whole or a part of a park or reserve, unless he has advised the Minister, in writing, of the proposed exploration or activity and he carries it out in accordance with such directions, if any, as the Minister thinks fit, or which are required under Subsection (7) to be given, to protect the environment in or in the vicinity of the park or reserve.

(6) Subject to Subsection (8), an exploration licence, exploration retention licence, mineral lease, extractive mineral lease or extractive mineral permit in respect of which a condition referred to in Subsection (2)(b), (3) or (4) is specified is, in addition to the conditions imposed in pursuance of a power contained elsewhere in this Act, subject to that condition so specified, notwithstanding that the Minister or Mining Registrar, as the case may be, would not have the power, otherwise than under this section, to impose that condition.

(7) The Minister administering the Territory Parks and Wildlife Conservation Act may require the Minister to give as directions under Subsection (5) such directions in relation to the protection of the environment in the park or reserve as the minister thinks fit, and the Minister shall give those directions accordingly.

(8) Where a condition imposed by or under this Act is inconsistent with a condition referred to in Subsection (2)(b), (3) or (4) or a direction given under Subsection (7), the first-mentioned condition, to the extent of that inconsistency, has no force or effect.

#### ***d) Compensation for damage to park or reserve***

1. Where the holder of an exploration licence or mineral lease, or his servant or agent, causes damage to the land in a park or reserve or to any improvements on that land — a) in the case of the holder of an exploration licence or his servant or agent—in excess of that reasonably necessary for the purposes of carrying out the exploration activities permitted by that licence to be carried out; and b) in the case of the holder of a mineral lease or his servant or agent—not being comprised in the lease, that holder of the exploration licence or mineral lease, as the case may be, shall pay to the trustees of the park or reserve or, where there are no trustees appointed, to the Territory or the Commonwealth, as the case may be, compensation for that damage and any loss arising therefrom, in accordance with this Section.

2. Where the amount of compensation payable under this section cannot be agreed upon between the person to whom it is required to be paid and the holder of the exploration licence or mineral lease, as the case may be, the amount payable shall be as assessed by the Minister and, subject to Subsection (3), shall become due and payable 30 days after notice of the Minister's assessment of the amount has been given to the person required to pay the amount.

3. A person aggrieved by an assessment by the Minister under Subsection (2) may apply to the Supreme Court for the Minister's assessment to be reviewed and the Supreme Court, after informing itself of the facts in such manner as it thinks fit, may confirm the assessment of the Minister or substitute for that assessment such assessment of the amount of compensation payable as it thinks fit.

4. An application under Subsection (3) Acts as a stay of a person's obligation to pay compensation under this section until the decision of the Supreme Court is made known or such later time as the Court orders.

#### ***e) Reservation of land from occupation***

1. Subject to Subsection (2), the Minister may, by notice in the Gazette, in relation to any land that is not occupied under an exploration licence, exploration retention licence or mining tenement — (a) reserve that land from occupation under this Act; or (b) prohibit the recovery of any mineral or extractive mineral on or from that land, for such period, and subject to such conditions, as he thinks fit.

1(a) Subject to Subsection (1b), an application for an exploration licence, exploration retention licence or mining tenement shall not be made in respect of any land reserved from occupation under Subsection (1).

1(b) Nothing in Subsection (1a) prevents a person or statutory corporation authorized under Subsection (2) to occupy land reserved under Subsection (1) from applying for a mineral lease over land he or it is so authorized to occupy.

2. Subject to the Act as applicable, the Minister may, in respect of any land reserved from occupation under Subsection (1), authorise — a) a statutory corporation; or b) a person who has entered into a contract with the Territory, to occupy and use that land or part of that land for — c) exploration; d) mining (other than extracting extractive minerals); e) the treatment, processing or refining of minerals; or f) for any other purpose specified in the authorisation by the Minister, for such period, and on such conditions, as the Minister thinks fit and a person or statutory corporation so authorised may occupy and use that land accordingly.

3. All minerals and extractive minerals recovered from any land reserved under Subsection (1) otherwise than in accordance with an authorisation under this Section, remain the property of the Crown.

4. The Minister shall not cancel a reservation under Subsection (1) of any land which is a park or reserve or that has been reserved for the protection of sites of historical interest or historical remains, or authorise under this section the occupation of such land, except with the approval of the Administrator.

5. The Minister shall not — a) cancel a reservation under Subsection (1) of any land which has been granted to an association in pursuance of the Act of the Crown Lands Act (as in force before the commencement of the Pastoral Land Act) or the Act of the Pastoral Land Act for an Aboriginal community living area except with the consent of the owner and the approval of the Administrator; or b) authorise under this section the occupation of such land except after consultation with the owner.

#### ***E. Royalty payments***

Notwithstanding the repeals effected by the Act, until provisions are made under this Act, or by or under another law of the Territory, in relation to the payment of royalties in respect of minerals or extractive minerals obtained from a mineral lease area, extractive mineral lease area or extractive mineral permit area, the provisions of the repealed Act shall apply to and in relation to the assessment and payment of royalties in respect of minerals obtained as though this Act had not come into operation.

## **F. Compensation**

### **a) Time limit on claims**

A claim for compensation payable under this Act that is not made within 3 years after the doing of the activity giving rise to the claim is, by virtue of this Section, statute barred.

### **b) Compensation other than money in respect of native title**

Where — a) compensation is payable under this Act to a native title holder for the effect of a prescribed mining Act on native title; and b) the native title holder requests that the whole or part of the compensation should be in a form other than money, the person liable to pay the compensation must consider the request.

## **G. Validation of certain exploration licences**

Where, before the commencement of the Mining Amendment Act 1998, a single exploration licence was purportedly granted over a licence area comprised of a group of blocks (within the meaning of this Act as in force at the time of the grant) each of which did not have a common side or point with another block, the grant of the exploration licence, and all actions subsequently taken by virtue of the exploration licence, are declared to be and to always have been, and are to be taken to be and to always have been, as valid, effectual and lawful as if the exploration licence had been granted after the commencement of the Mining Amendment Act 1998.

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<p>e) Surrender</p>	<p>block), of the land in respect of which an application under this Act is made.</p> <p>Subject to this Act and the relevant authorisation (if applicable), a licensee may, at any time, surrender an exploration licence or part of a licence area by lodging with the Department a notice in writing indicating the licence or the land, as the case may be, to be surrendered.</p>
<p><b>B. Exploration Retention Licence</b></p> <p>a) Area</p> <p>b) Period</p> <p>c) Renewal</p> <p>d) Grant</p> <p>e) Rent</p> <p>f) Surrender</p>	<p>The area of land in respect exploration retention licence shall not exceed a discrete area of 4,000 hectares.</p> <p>The Minister may grant to the exploration retention licence over the land or part of the land for a term not longer than the term of the original exploration licence, but in any case not longer than 5 years:</p> <p>The Minister may renew an exploration retention licence – a) for a term not longer than the term of the original exploration retention licence but in any case not longer than 5 years; and (b) subject to such conditions in addition to those to which the licence is already subject as the Minister thinks fit.</p> <p>Subject to this Act, a miner – a) the holder of an exploration licence may, at any time before relinquishing or surrendering all or any part of a licence area in which an ore body or anomalous zone of possible economic potential has been discovered; or b) the holder of an exploration licence under the repealed Act and had applied, before the commencement of this Act for a mineral lease, gold mining lease or special mineral lease in respect of all or any part of the land held under that exploration licence and the application had not been processed before the commencement of this Act, may apply under this Section to the Minister to be granted an exploration retention licence in respect of any part of that land. An exploration retention licence shall be granted in the name or names of the holder or holders of the exploration licence from which the licence area derived, but when it is granted to two or more persons it shall, at the request of the applicants, be granted in different percentages than the percentages in which the exploration licence was held.</p> <p>The rent payable for an exploration retention licence and the times and manner of its payment shall be as prescribed.</p> <p>A licensee may, at any time, surrender an exploration retention licence or part of the licence area by lodging with the Department a written notice</p>

	indicating the licence or the area, as the case may be, to be surrendered.
<b>C. Mineral Leases</b>	
a) Area	No specific area mentioned under the rule.
b) Period	The Minister may grant to an applicant, for such term, as the Minister thinks fit.
c) Renewal	The Minister shall grant an application of renewal for such term, not exceeding 25 years, and may make that grant subject to such conditions in addition to or varying those to which the lease is already subject, as he thinks fit.
d) Grant	The Minister may grant a mineral lease – a) for the mining of minerals (other than a mineral specified in the lease document as a mineral that the miner may not mine), including the removal from the lease area and the treatment of tailings or other mining material the property of the Crown on the lease area, and for other purposes in connection with the mining of minerals that the Minister thinks fit and specifies in the lease document; or b) for other purposes in connection with the mining or processing on a mineral lease of minerals that the Minister thinks fit and specifies in the lease document. The granting of a mineral lease for the purposes of the lessee – a) to explore for minerals on the lease area; b) to mine and use extractive minerals for or in connection with a purpose specified in the lease document; and c) to mine extractive minerals where the mining is directly associated with, or reasonably incidental to, the mining of minerals.
e) Grant over retention lease	Where an application for a mineral lease is in respect of any part of an exploration retention licence area held by the applicant, the Minister shall not refuse to grant the mineral lease except with the approval of the Administrator.
f) Surrender	Subject to this Act and the relevant authorisation, a lessee may, at any time, having complied with all the conditions to which the lease is subject, surrender a mineral lease or part of the lease area to which it relates by lodging with the Department written notice indicating the lease or the area, as the case may be, to be surrendered.
g) Rent	A lessee shall pay to the Mining Registrar such rent in respect of his mineral lease, and in such manner, as is prescribed.
<b>D. Mineral Claim</b>	
a) Area	The area of land in respect of mineral claim shall not exceed 40 hectares.

<p>b) Period</p> <p>c) Renewal</p> <p>d) Grant</p> <p>e) Surrender</p> <p>f) Rent</p>	<p>The Minister may grant to the applicant for such term, not exceeding 10 years, as the Minister thinks fit, a mineral claim in respect of all or part of the land as marked out under this Act.</p> <p>Subject to the Act, the Minister may grant an application of renewal for further such term, not exceeding 10 years, and subject to such conditions, in addition to or varying those to which the claim is already subject, as he thinks fit.</p> <p>The Minister may grant mineral claim in respect of any land.. The subject of an application is, or is part of, a mineral claim area; or b) is held by the applicant under an exploration licence or an exploration retention licence, nothing in that Subsection prevents the applicant from carrying out any exploration or mining, in accordance with the terms and conditions of the mineral claim, exploration licence, or exploration retention licence, as the case may be, on the land to which the application relates, or the applicant using that land for associated purposes. Subject to the Act, if applicable after considering the recommendations of the Warden in relation to an application for a mineral claim, complying with the Act and considering any comments lodged under the Act.</p> <p>Subject to this Act and the relevant authorisation, a claim holder may, at any time, having complied with all the conditions to which the claim is subject, surrender a mineral claim or part of the claim area to which it relates by lodging with the Department a written notice indicating the claim or the area, as the case may be, to be surrendered.</p> <p>The rent payable for a mineral claim and the times and manner of its payment shall be as prescribed.</p>
<p><b>E. Extractive mineral lease</b></p> <p>a) Application</p> <p>b) Area</p> <p>c) Period</p> <p>d) Renewal</p>	<p>The extraction or removal (whether by quarrying or other means) of extractive minerals, clay and stone from on and below the natural surface of the land.</p> <p>The area of land in respect of which an application for an extractive mineral lease may be made is not to exceed 100 hectares.</p> <p>No specific period mentioned under the rule.</p> <p>Subject to the Act, as applicable, the Minister may grant an application of renewal for such term, not exceeding 10 years, and subject to such conditions in addition to or varying those to which the lease is already subject, as he thinks fit.</p>

<p>e) Grant</p>	<p>The Minister may grant an extractive mineral lease, for the term the Minister thinks fit – a) for the extraction and removal of the extractive mineral, clay or stone specified in the lease document; and for purposes in connection with the extraction, removal or processing on the extractive mineral lease of the extractive mineral, clay or stone that the Minister thinks fit and specifies in the lease document.</p>
<p>f) Surrender</p>	<p>Subject to this Act, a lessee may, at any time, having complied with all the conditions to which the lease is subject, surrender an extractive mineral lease or part of the lease area to which it relates by lodging with the Department a written notice indicating the lease or the area, as the case may be, to be surrendered.</p>
<p><b>F. Extractive mineral permit</b></p>	
<p>a) Area</p>	<p>The area of land in respect of which an application for an extractive mineral permit may be made is not to exceed 100 hectares.</p>
<p>b) Period</p>	<p>An extractive of mineral permit may be granted for a term not exceeding 2 years, as the Minister thinks fit.</p>
<p>c) Renewal</p>	<p>The holder of an extractive mineral permit may, at any time before the expiration of the permit, apply to the Minister for the renewal of the permit in respect of all or part of the permit area. The Minister may grant an application under this section for such period, not exceeding 2 years, and subject to such conditions in addition to or varying those to which the permit is already subject, as he thinks fit.</p>
<p>d) Grant</p>	<p>An extractive mineral permit is granted for the extraction or removal of the extractive mineral or extractive minerals specified in the permit. An extractive mineral permit is subject to the conditions that the Minister determines (whether in accordance with a recommendation of the Tribunal referred to in the Act or otherwise) and endorses on the permit.</p>
<p>e) Cancellation</p>	<p>The Minister may cancel an extractive mineral permit where its holder contravenes, or does not comply with, any condition to which the permit is subject.</p>
<p>f) Surrender</p>	<p>The holder of an extractive mineral permit may, at any time, having complied with all the conditions to which it is subject, surrender the permit by lodging with the Department a written notice surrendering the permit.</p>
<p>g) Compensation</p>	<p>Compensation is payable by the holder of an extractive mineral permit granted or renewed under</p>

this Part to - a) the owner or occupier of land comprised in the extractive mineral permit for the loss or damage in respect of that person's interest; and b) any native title holder for the effect of the grant, renewal or variation on the holder's registered native title rights and interests in the land comprised in the extractive mineral permit.

## G. Fossicking

### a) Grant

1. Subject to Subsection (2), the person to whom an application under the Act is made shall, on the payment by the applicant of the prescribed fee, grant that application and issue to the applicant a fossicker's permit which shall be - a) in the prescribed form and is to include a statement to the effect that the permit is subject to the condition described in Subsection (3); and b) for the prescribed term.

2. Each fossicker's permit issued under Subsection (1) may authorise only one of the following corporations or persons or classes of corporation or person (as specified on the fossicker's permit) to fossick a) if issued to a person who is not a commercial tour operator, the person and a member of the person's family (but only if in the company of the person); b) if issued to a commercial tour operator, a person who is on a commercial tour conducted by the tour operator; c) any other corporation or person or class of corporation or person as prescribed.

3. It is a condition in respect of every fossicking permit that the right of the holder to fossick does not continue in relation to an area after an approved determination of native title that native title exists in the area has been made except in accordance with an indigenous land use agreement.

### b) Fossicking areas

The Minister may declare an area of - a) Crown land; b) private land, but only with the consent in writing of the owner or occupier of the land; c) with the consent of the relevant Land Council of the Commonwealth, Aboriginal land; d) with the consent of the Conservation Land Corporation and the Parks and Wildlife Commission of the Northern Territory established by the Parks and Wildlife Commission Act, land held for an estate in fee simple, or on lease from the Crown, by the Conservation Land Corporation; or e) land in respect of which there is an approved determination of native title that native title exists in the land, but only in accordance with an indigenous land use agreement, that is not the subject of, or of an application for, an exploration licence, exploration retention licence or mining tenement, as a fossicking area.

<p>c) Cancellation of Fossicker's permit</p>	<p>The Minister may cancel a fossicker's permit where the corporation or person holding the fossicker's permit contravenes or fails to comply with – (a) a condition to which the fossicker's permit is subject, if any; or (b) this Act or an instrument of a legislative or administrative character made under this Act.</p>
<p><b>H. General provision relating to mining Tenement</b></p>	<p>The provisions of this Part apply to and in relation to the exploration licenses, exploration retention licenses and mining tenements to which they are expressed to relate to the extent that they are not inconsistent with specific provisions relating thereto contained elsewhere in this Act.</p>
<p><b>3. Royalty</b></p>	<p>Under this Act, or by or under another law of the Territory, in relation to the payment of royalties in respect of minerals or extractive minerals obtained from a mineral lease area, extractive mineral lease area or extractive mineral permit area, the provisions of the repealed Act shall apply to and in relation to the assessment and payment of royalties in respect of minerals obtained as though this Act had not come into operation.</p>
<p><b>4. Compensation</b></p>	<p>A claim for compensation payable under this Act that is not made within 3 years after the doing of the activity giving rise to the claim is, by virtue of this Section, statute barred.</p> <p>a) compensation is payable under this Act to a native title holder for the effect of a prescribed mining Act on native title; and b) the native title holder requests that the whole or part of the compensation should be in a form other than money, the person liable to pay the compensation must consider the request.</p>