



ANNO VICESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1976

No. 105 of 1976

An Act to amend the Mining Act, 1971-1975.

[Assented to 16th December, 1976]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Mining Act Amendment Act, 1976".
- (2) The Mining Act, 1971-1975, is hereinafter referred to as "the principal Act".
- (3) The principal Act, as amended by this Act, may be cited as the "Mining Act, 1971-1976".

**Commence-
ment.**

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

**Amendment of
principal Act,
s. 6—
Interpretation.**

3. Section 6 of the principal Act is amended—
 - (a) by inserting before the definition of "council" the following definition:—

"authorized person" means a person authorized in writing by the Director of Mines to exercise the powers conferred by the provisions of this Act in which the expression is used ;;

- (b) by inserting in paragraph (a) of the definition of "minerals" after the word "shell" the word ", coal,";
- (c) by striking out paragraph (c) of the definition of "minerals" and inserting in lieu thereof the following paragraph:—
 - (c) any metal, metalliferous ore, or mineral that has been dumped or discarded—

- (i) in the course of mining operations or operations incidental thereto;
 - or
 - (ii) in other prescribed circumstances;;
- (d) by striking out from the definition of “mining tenement” the passage “(except a miscellaneous purposes licence)”;
- (e) by inserting after the word “Act” in the definition of “precious stones field” the passage “but does not include earth and minerals more than fifty metres below the surface of those lands”;
- and
- (f) by inserting in the definition of “warden” after the passage “in the office of” the passage “senior warden or”.

4. Section 9 of the principal Act is amended—

Amendment of
principal Act,
s. 9—
Exempt Lands.

- (a) by inserting after the word “airfield” in subparagraph (ii) of paragraph (a) of subsection (1) the passage “, railway or tramway”;
- and
- (b) by inserting after the word “dwellinghouse” in subparagraph (i) of paragraph (d) of subsection (1) the passage “(not being a dwellinghouse of a class excluded by regulation from the operation of this paragraph)”.

5. The following section is enacted and inserted in the principal Act after section 15 thereof:—

Enactment of
s. 15a of
principal Act—

15a. (1) The registrar shall keep a register of—

Register of
mining
tenements, etc.

- (a) miner’s rights and precious stones prospecting permits issued under this Act;
- (b) registered claims;
- (c) leases and licences issued under this Act;
- and
- (d) instruments registered under this Act.

(2) Any person may, upon payment of the prescribed fee, inspect the register.

6. Section 20 of the principal Act is amended by inserting after subsection (3) the following subsections:—

Amendment of
principal Act,
s. 20—
Issue of miner’s
right.

- (4) A miner’s right is not transferable.

(5) A person shall not—

(a) lend a miner's right to any other person;

or

(b) permit any other person to make use, or take the benefit, of his miner's right.

Penalty: One thousand dollars.

Amendment of
principal Act,
s. 21—
Renewal of
miner's right.

7. Section 21 of the principal Act is amended—

(a) by striking out the passage “, and may be renewed for successive periods of one year upon payment of the prescribed fee”;

and

(b) by inserting after the present contents, as amended by this section (which are hereby designated subsection (1) thereof) the following subsection:—

(2) A mining registrar may, upon receipt of an application in the prescribed form, lodged with him within one month before the date on which a miner's right is due to expire, and accompanied by the prescribed fee, renew the miner's right for a further period of one year.

Amendment of
principal Act,
s. 24—
Registration
of claims.

8. Section 24 of the principal Act is amended by striking out subsection (2).

Amendment of
principal Act,
s. 25—
Rights
conferred by
ownership of
mineral claim.

9. Section 25 of the principal Act is amended by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) A person shall not remove from the area of a mineral claim minerals, or soil and minerals, exceeding a mass of one tonne unless authorized to do so by the Director of Mines.

Penalty: Five hundred dollars.

Amendment of
principal Act,
s. 27—
Land not to
be re-pegged
where claim
lapses or is
abandoned or
forfeited.

10. Section 27 of the principal Act is amended by striking out the passage “under this Part” and inserting in lieu thereof the passage “or is abandoned or forfeited”.

Amendment of
principal Act,
s. 28—
Grant of
exploration
licence.

11. Section 28 of the principal Act is amended by striking out subsection (5).

Amendment of
principal Act,
s. 30—
Incidents of
licence.

12. Section 30 of the principal Act is amended by striking out from subsection (2) the passage “and the conditions must be such as, in the opinion of the Minister, afford adequate protection against detriment resulting from the conduct of mining operations in pursuance of the licence” and inserting in lieu thereof the passage “and may take into consideration such other factors as he considers appropriate in the particular case”.

13. Section 34 of the principal Act is amended by striking out from subsection (6) the passage "and the terms and conditions must be such as, in the opinion of the Minister, afford adequate protection against detriment resulting from the conduct of mining operations in pursuance of the lease" and inserting in lieu thereof the passage "and may take into consideration such other factors as he considers appropriate in the particular case".
- Amendment of principal Act, s. 34—
Grant of mineral lease.
14. Section 37 of the principal Act is amended by striking out subsections (3) and (4).
- Amendment of principal Act, s. 37—
Nature of lease.
15. Section 38 of the principal Act is amended—
- (a) by striking out from subsection (2) the passage " , be entitled, at the expiration of the term of the lease," and inserting in lieu thereof the passage "during the term for which the lease was granted or last renewed, be entitled, at the expiration of that term,";
- and
- (b) by striking out from subsection (3) the passage "within three months" and inserting in lieu thereof the passage "not more than six months, and not less than three months,".
- Amendment of principal Act, s. 38—
Term of mining lease.
16. Section 42 of the principal Act is amended by inserting after subsection (3) the following subsections:—
- Amendment of principal Act, s. 42—
Issue of precious stones prospecting permit.
- (4) A precious stones prospecting permit is not transferable.
- (5) A person shall not—
- (a) lend a precious stones prospecting permit to any other person;
- or
- (b) permit any other person to make use, or take the benefit, of his precious stones prospecting permit.
- Penalty: One thousand dollars.
17. Section 43 of the principal Act is amended—
- Amendment of principal Act, s. 43—
Term of permit.
- (a) by striking out the passage "and may be renewed for successive periods of one year upon payment of the prescribed fee";
- and
- (b) by inserting after the present contents, as amended by this section (which are hereby designated subsection (1) thereof) the following subsection:—
- (2) A mining registrar may, upon receipt of an application in the prescribed form, lodged with him within one month before the date on which a precious stones permit is due to expire, and accompanied by the prescribed fee, renew the precious stones prospecting permit for a further period of one year.

Amendment of
principal Act,
s. 44—
Rights of
holder of
permit.

18. Section 44 of the principal Act is amended by inserting after subsection (5) the following subsection:—

(6) A person who purports to peg out a precious stones claim, and who is not entitled to peg out, or to be the holder of, that claim, shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

Amendment of
principal Act,
s. 46—
Registration
of claim.

19. Section 46 of the principal Act is amended—

(a) by striking out subsection (2);

and

(b) by striking out from subsection (9) the passage “under this section” and inserting in lieu thereof the passage “or is abandoned or forfeited”.

Amendment of
principal Act,
s. 49—
Disposal of
waste.

20. Section 49 of the principal Act is amended by striking out the passage “the permission of a warden or inspector” and inserting in lieu thereof the passage “the permission in writing of an inspector or an authorized person”.

Amendment of
principal Act,
s. 51—
Lease or
licence not
to be granted
in precious
stones field.

21. Section 51 of the principal Act is amended by inserting after the present contents (which are hereby designated subsection (1) thereof) the following subsections:—

(2) No person shall be entitled to prospect or mine in the earth below a precious stones field except upon conditions stipulated by the Director.

(3) The provisions of this Act shall apply in respect of prospecting and mining in the earth below a precious stones field with such modifications as may be prescribed.

Amendment of
principal Act,
s. 52—
Grant of
licence.

22. Section 52 of the principal Act is amended by striking out from subsection (4) the passage “and the terms and conditions must be such as, in the opinion of the Minister, afford adequate protection against detriment resulting from the conduct of any operations in pursuance of the licence” and inserting in lieu thereof the passage “and may take into consideration such other factors as he considers appropriate in the particular case”.

Amendment of
principal Act,
s. 55—
Term of
licence.

23. Section 55 of the principal Act is amended—

(a) by striking out from subsection (2) the passage “, be entitled, at the expiration of the term of the licence,” and inserting in lieu thereof the passage “during the term for which the licence was granted or last renewed, be entitled at the expiration of that term”;

and

(b) by striking out from subsection (3) the passage “within three months” and inserting in lieu thereof the passage “not more than six months and not less than three months”.

- 24. Section 58 of the principal Act is amended—**
- (a) by striking out paragraph (b) of subsection (8) and inserting in lieu thereof the following paragraph:—
- (b) land held of the Crown pursuant to a perpetual lease, or an agreement to purchase.;
- and
- (b) by inserting after subsection (8) the following subsection:—
- (9) Where a mining operator enters land and purports to peg a claim without having given notice as required by this section, the claim is invalid.
- Amendment of principal Act, s. 58—
Notice of entry.
- 25. Section 60 of the principal Act is amended—**
- (a) by inserting in subsection (1) after the passage “an inspector” the passage “or an authorized person”;
- and
- (b) by inserting in subsection (1) after the passage “the inspector” the passage “or the authorized person”.
- Amendment of principal Act, s. 60—
Restoration of land.
- 26. Section 65 of the principal Act is amended by striking out from subsection (1a) the passage “shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars” and inserting in lieu thereof the passage “shall be guilty of a contempt of the warden’s court”.**
- Amendment of principal Act, s. 65—
Powers, etc., of court.
- 27. Section 66 of the principal Act is amended by inserting in subsection (2) after the passage “judgments and orders of the warden’s court” the passage “and the punishment of contempt of the warden’s court”.**
- Amendment of principal Act, s. 66—
Rules of warden’s court.
- 28. Section 67 of the principal Act is amended—**
- (a) by inserting in subsection (1) after the passage “to determine” the passage “in such manner as may be just”;
- and
- (b) by inserting after subsection (2) the following subsection:—
- (3) The Director of Mines shall be entitled to appear in any proceedings before the warden’s court.
- Amendment of principal Act, s. 67—
Jurisdiction to hear disputes relating to mining tenements.
- 29. Section 68 of the principal Act is amended by inserting in subsection (2) after the passage “of any other Act” the passage “or regulations”.**
- Amendment of principal Act, s. 68—
Cancellation of miner’s right or precious stones prospecting permit.
- 30. Section 69 of the principal Act is amended—**
- (a) by inserting in subsection (3) after the passage “the forfeiture of a claim is made” the passage “(otherwise than upon the application of the Director)”;
- and
- Amendment of principal Act, s. 69—
Forfeiture of claim.

(b) by striking out subsection (4) and inserting in lieu thereof the following subsection:—

(4) For the purposes of this section—

“interested person” means—

(a) the Director of Mines;

or

(b) where the forfeiture of a mineral claim is sought, the holder of a miner's right or, where the forfeiture of a precious stones claim is sought, the holder of a precious stones prospecting permit.

Amendment of
principal Act,
s. 74—
Penalty for
illegal mining,
etc.

31. Section 74 of the principal Act is amended—

(a) by striking out from paragraph (a) of subsection (1) the passage “upon mineral lands”;

(b) by striking out from paragraph (b) of subsection (1) the passage “upon mineral lands”;

and

(c) by striking out subsection (4) and inserting in lieu thereof the following subsection:—

(4) The Minister may, at any time, revoke an order made under this section.

Amendment of
principal Act,
s. 75—
Provision
relating to
certain
minerals.

32. Section 75 of the principal Act is amended by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) The owner of land does not require a mining tenement under this Act for the recovery of extractive minerals from that land for his own personal use.

Amendment of
principal Act,
s. 77—
Records and
samples.

33. Section 77 of the principal Act is amended by inserting after subsection (2) the following subsections:—

(3) The holder of a mining tenement shall at the request of the Director of Mines, or any person acting under his written authority, permit a person nominated in the request to make tests, and take samples of minerals, from the land comprised in the mining tenement.

Penalty: Five hundred dollars.

(4) The Director may, with the consent of the Minister, publish the results of—

(a) any tests made in pursuance of this section;

or

(b) the analysis of any samples taken in pursuance of this section.

Amendment of
principal Act,
s. 86—
Removal of
machinery,
etc.

34. Section 86 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “lease or claim that has been forfeited or surrendered” and inserting in lieu thereof the passage “mining tenement that has been forfeited, surrendered or abandoned or has lapsed”;

(b) by striking out from subsection (1) the passage "the forfeiture or surrender" and inserting in lieu thereof the passage "the forfeiture, surrender, abandonment or lapse";

and

(c) by striking out from subsection (2) the passage "lease or claim that has been forfeited or surrendered" and inserting in lieu thereof the passage "mining tenement that has been forfeited, surrendered or abandoned or has lapsed".

35. The following section is enacted and inserted in the principal Act after section 87 thereof:—

Enactment of
s. 87a of
principal Act—

87a. An inspector, or an authorized person, may at any time enter and remain upon land comprised within a mining tenement for the purpose of ascertaining whether the provisions of this Act have been, or are being, complied with.

Powers of
inspection.

36. Section 92 of the principal Act is amended by striking out from paragraph (e) the word "prescribing" and inserting in lieu thereof the word "prescribe".

Amendment of
principal Act,
s. 92—
Regulations.

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

D. NICHOLLS, Governor