

Mining and Petroleum Legislation Service Northern Territory

by

Lawbook Co

and

Australian Mining and Petroleum Law Association Limited

and

Commentary and Annotations

and

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SCHEDULE – REPEALED ACTS

Editor’s Note: Repealed provisions in this Act have not been reproduced.

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TABLE OF AMENDING LEGISLATION

Table of Amending Legislation

Principal legislation	Number	Date of gazettal/assent/registration	Date of commencement
<i>Mineral Titles Act</i>	27 of 2010	9 Sep 2010	Ss 1 and 2: 9 Sep 2010 and remainder: 7 Nov 2011 (Gaz G41, 12 Oct 2011, p 5)

This legislation has been amended as follows:

Amending legislation	Number	Date of gazettal/assent/registration	Date of commencement
<i>Statute Law (Miscellaneous Provisions) Act 2011</i>	44 of 2011	21 Dec 2011	Sch: 27 Feb 2012 (Gaz S3, 27 Jan 2012, p1)
<i>Local Government Amendment Act 2014</i>	19 of 2014	2 Jun 2014	Sch: 2 Jun 2014
<i>Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction Amendments) (No 2) Act 2014</i>	35 of 2014	13 Nov 2014	Pt 13: 1 Jan 2015 (Gaz G51, 24 Dec 2014, p 7)
<i>Local Court (Repeals and Related Amendments) Act 2016</i>	9 of 2016	6 Apr 2016	Pt 5 Div 13: 1 May 2016 (Gaz S34, 29 Apr 2016, p 1)
<i>Water Legislation Amendment Act 2018</i>	29 of 2018	4 Dec 2018	Pt 4 Div 1: 31 Dec 2018 (Gaz S107, 17 Dec 2018, p 1)

MINING
MINERAL TITLES ACT 2010

Principal legislation	Number	Date of gazettal/assent/ registration	Date of commencement
<i>Mineral Titles Act</i>	27 of 2010	9 Sep 2010	Ss 1 and 2: 9 Sep 2010 and remainder: 7 Nov 2011 (Gaz G41, 12 Oct 2011, p 5)

This legislation has been amended as follows:

Amending legislation	Number	Date of gazettal/assent/ registration	Date of commencement
<i>Local Government Act 2019</i>	39 of 2019	13 Dec 2019	Sch 5: 1 Jul 2021 (Gaz S27, 30 Jun 2021, p 1)
<i>Statute Law Revision Act 2020</i>	26 of 2020	19 Nov 2020	Sch: 20 Nov 2020
<i>Environment Protection Legislation Amendment Act 2023</i>	34 of 2023	6 Dec 2023	S 219: 7 Dec 2023

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PART 5 – MINERAL TITLES – GENERAL PROVISIONS

Division 1 – Mineral title applications

58 Necessary criteria for mineral title application

(1) A person who makes a mineral title application must meet the necessary criteria for the application.

(2) The *necessary criteria* for a mineral title application are as follows:

- (a) the applicant must have given the Minister all the information required to make a proper decision;
- (b) the applicant must have complied with requirements under this Act;
- (c) if the applicant currently holds one or more mineral titles — the applicant must have complied substantially with the conditions of each mineral title, to the extent required by the Minister;
- (d) any other necessary criteria specified by regulation for the application.

59 Age restriction on individuals who may make application

A person who is an individual may make a mineral title application only if the person has attained 18 years of age.

60 Grant application — declared fossicking area

A person who intends to apply for the grant of a mineral title for any land in a declared fossicking area must first apply to the Minister for consent to include the land in the proposed title area of the application.

61 Grant application — Aboriginal community living area

A person is not entitled to apply for the grant of a mineral title for any excluded land in an Aboriginal community living area unless the person has written consent to do so given by the landowner for the area.

62 Grant application — EL for Aboriginal land

(1) A person must not, under Part IV of the ALRA, enter into negotiations with a Land Council for consent to the grant of an EL for Aboriginal land unless the person:

- (a) has applied under this Act for the EL; and
- (b) has the Minister's consent to enter into the negotiations.

(2) For subsection (1)(b), the Minister may:

- (a) give consent conditionally or unconditionally; or
- (b) withdraw consent at any time during the negotiations under the ALRA and refuse to grant the EL; or
- (c) refuse to give consent and refuse to grant the EL.

(3) If section 48(1) of the ALRA applies in relation to particular Aboriginal land, a person must not make an application for an EL except with the Minister's approval.

63 Grant application — ML for Aboriginal land

(1) A person is not entitled to apply for the grant of an ML for Aboriginal land unless the person holds an EL or ELR for the land.

(2) Subsection (1) does not apply in relation to any of the following:

- (a) a person who is a traditional Aboriginal owner in relation to the land as defined in section 3(1) of the ALRA;
- (b) a person who made an application for the grant of an ML for the land before it became Aboriginal land;
- (c) the Ranger Project Area;
- (d) the Noranda Project Area described by regulation;
- (e) the Pancontinental Project Area described by regulation.

64 Grant application — EMP or EML for Aboriginal land

As soon as practicable after a person applies for the grant of an EMP or EML for Aboriginal land, the Minister must give notice of the application to the Land Council for the land comprising the proposed title area.

64A Grant application — reserved legacy mine site**65 Applications relating to same land or existing title area or existing proposed title area**

(1) If 2 or more applications for the grant of a mineral title for the same area of land are lodged with the Agency on the same business day, the Minister must consider and decide each application in accordance with this Act.

(2) A person is not entitled to apply for the grant of an EL for an area of land previously in or comprising the title area of an EL until after the end of 30 days after that EL ceases to be in force for the land.

(3) A person (*the applicant*) is not entitled to apply for the grant of a mineral title, or the designation of an ELR, for an area of land in or comprising an existing title area or existing proposed title area except as prescribed by regulation.

(4) In subsection (3):

designation of an ELR means the designation of an EL as an ELR under section 34.

existing proposed title area means the proposed title area described in an application for the grant of a mineral title, or the designation of an ELR, lodged with the Agency:

- (a) by a person other than the applicant; and
- (b) on a business day earlier than the business day on which the applicant's application is lodged.

existing title area means the title area of a mineral title held by a person other than the applicant.

Note: for section 65

See section 164(6) for information about a business day.

66 Grant application — required information and notice

(1) Each application for the grant of a mineral title must include a list of landowners whose land comprises all or part of the proposed title area.

(2) No later than 14 days after lodging an application for the grant of a mineral title, the applicant must serve a notice of the making of the application on each landowner listed in the application.

(3) The Minister may also require the applicant to serve a notice of the making of the application on other specified persons within a specified time.

(4) No later than 14 days after service of a notice under this section, the applicant must give the Minister proof of service.

Note: for subsections (2) to (4)

Under section 167, the Minister may extend the specified time.

67 Renewal application — prescribed rent required

An application for the renewal of a mineral title must be accompanied by the rent prescribed by regulation for that mineral title for the first operating year after the renewal.

68 Renewal application — effect on mineral title

If the holder of a mineral title applies for renewal of the title before the end of its current term, the title continues in force until the Minister's decision takes effect in relation to the renewal or refusal to renew the title.

69 Variation or replacement of application

- (1) A mineral title application may be:
- (a) varied; or
 - (b) withdrawn and replaced by 2 or more applications.
- (2) The variation or replacement may be:
- (a) on the applicant's initiative; or
 - (b) as recommended by the Minister.

Examples for section 69

- 1 A variation of the proposed title area because of the geography or natural configuration of the land.
- 2 A variation of the proposed title area because several other mineral titles are in force for part of that area and the Minister considers the title areas of those titles should not be covered by the title area of the new title.
- 3 Separate applications to facilitate different processes because part of the proposed title area is subject to processes under the ALRA or NTA.

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Division 2 – Decision process for mineral title applications

70 Initial consideration of mineral title application

(1) Before making a decision about a mineral title application, the Minister must take into account whether the applicant has met the necessary criteria for the application.

(2) If the Minister is satisfied the applicant has not met the necessary criteria for the application, the Minister may refuse the application.

(3) The Minister may also refuse the application if satisfied it is appropriate to do so for another reason.

(4) Without limiting subsection (3), the Minister may be satisfied it is appropriate to refuse an application for the grant or renewal of a mineral title if there is clear evidence that the applicant is not a fit and proper person to hold the mineral title.

70A Fit and proper person to hold mineral title

71 Public notice of application for grant of mineral title

(1) This section applies if, after considering an application for the grant of a mineral title, the Minister is satisfied:

- (a) there is no reason to refuse the application under section 70; and
- (b) the applicant has paid the advertising costs of giving public notice of the application, if required by the Minister.

(2) The Minister must publish, in a newspaper circulating throughout the Territory, a notice stating that the application for a mineral title has been made.

(3) The notice must include the following information:

- (a) the name of the applicant;
- (b) the type of mineral title to which the application relates;
- (c) a description or map of the proposed title area that clearly indicates its location and boundaries;
- (d) a statement that a landowner of land in or comprising the proposed title area may, in writing and within the period specified in the notice, object to the grant of the mineral title;
- (e) a statement that any other person may, in writing and within the period specified in the notice, make written submissions about the application;
- (f) the address where objections and submissions may be given to the Minister;
- (g) other details about the application that the Minister considers will allow a person to make proper objections or submissions.

(4) The period specified under subsection (3)(d) or (e) must be at least 30 days after the day on which the notice is published.

(5) This section applies in relation to an application for the grant of an MA only if the Minister requires it.

72 Objections and submissions about grant of mineral title

(1) As soon as practicable after the end of the period mentioned in section 71(4), the Minister must give the applicant for the grant of the mineral title:

- (a) a copy of each objection and submission given to the Minister as provided by section 71(3)(d) and (e); and
 - (b) a notice stating the applicant's right to respond to any of the objections or submissions in accordance with subsection (2).
- (2) If the applicant wishes to respond to an objection or submission, the applicant:
- (a) must, within 21 days after the date of the notice given under subsection (1)(b), give the Minister a written response; and
 - (b) may give a copy of the response to the person who made the objection or submission.

73 Grant or issue of title for land in declared park or reserve

(1) The Minister may grant or issue a mineral title for land in a declared park or reserve only after consulting with the Minister administering the *Territory Parks and Wildlife Conservation Act* (the *relevant minister*) and taking into account the opinion of the relevant minister.

(2) The relevant minister may specify conditions in relation to the grant of any of the following mineral titles for land in a declared park or reserve:

- (a) an ML, EMP or EML; or
- (b) an MA that corresponds to an ML, EMP or EML.

(3) If land in a declared park or reserve is also declared to be a wilderness zone under section 12 of the *Territory Parks and Wildlife Conservation Act*, the relevant minister may specify conditions in relation to any of the following:

- (a) the grant of an EL or EMEL;
- (b) the grant of an MA that corresponds to an EL or EMEL;
- (c) the issuing of an ELR or the grant of an MA that corresponds to an ELR.

(4) If the relevant minister specifies conditions under subsection (2) or (3), the Minister may grant or issue the relevant mineral title only in accordance with the conditions.

74 Grant relating to Aboriginal land or native title land

(1) If any of the proposed title area of an application for the grant of a mineral title comprises Aboriginal land, the Minister may grant a mineral title for that land only if satisfied the applicant has obtained the permit, consent or agreement required under the ALRA.

(2) If the Minister is satisfied the grant of a mineral title will be a future act in relation to any of the proposed title area of the application for the grant, the Minister may grant the mineral title only if satisfied all procedures under the NTA relevant to the future act have been followed.

(3) In this section:

future act, see section 233 of the NTA.

75 Grant to tenants in common

If the Minister grants a mineral title to 2 or more persons, the mineral title is held by the persons as tenants in common:

- (a) in the percentages specified in the mineral title (as indicated in the application for the grant); or

- (b) if no percentage is specified — in equal shares.

76 Survey of particular title areas

(1) This section applies in relation to any of the following applications:

- (a) an application under section 33 for the designation of an EL as an ELR;
- (b) an application under Part 3 or 4 for the grant of an ML, EML or EMP;
- (c) an application under section 118(1) for the grant of an MA, if the Minister requires a survey of the proposed title area of the MA.

(2) The applicant must survey the proposed title area of the mineral title, and give the Minister a copy of the plan of survey, before the Minister may issue the ELR or grant the ML, EML, EMP or MA (as applicable).

(3) However, if the Minister is satisfied there are reasons to justify a delay in surveying the proposed title area of the mineral title, the Minister may:

- (a) issue or grant the title before the proposed title area is surveyed; and
- (b) require the applicant to complete a survey of the title area within a specified period not exceeding 6 months; and
- (c) include the requirement under paragraph (b) as a condition of the title.

(4) In relation to an application for the grant of an ML or EML, if the title area to be surveyed:

- (a) exceeds the size prescribed by regulation — the applicant must:
 - (i) have the title area surveyed by a licensed surveyor as defined in section 4 of the *Licensed Surveyors Act*; and
 - (ii) give the Minister a copy of the plan of survey for the title area certified by the Surveyor-General under the *Licensed Surveyors Act*; or
- (b) does not exceed the size prescribed by regulation — the applicant must survey the title area as prescribed by regulation.

(5) In relation to an application for the designation of an EL as an ELR, or the grant of an EMP or MA, the applicant must survey the title area as prescribed by regulation.

77 Discretions relating to title area

(1) On the grant of a mineral title, the Minister may exclude land from the title area if the Minister considers it appropriate to do so (for example, to prevent authorised activities being conducted over or in the vicinity of a public road or railway line).

(2) If the exclusion of land under subsection (1) has the effect of dividing the title area into separate parts, those parts are taken to form a single title area.

(3) If the reason for the exclusion of the land no longer exists (for example, if a public road is permanently closed), the exclusion ceases to have effect and the title area is varied accordingly.

(4) The Minister may grant a single mineral title for separate title areas if there are circumstances to justify it (for example, because of the geography or natural configuration of the land).

(5) However, if a provision of Part 3 or 4 specifies a minimum size for the title area, the total area of the separate title areas must not be less than the specified size.

Note: for subsections (4) and (5)

Section 28 deals with separate areas for an EL.

78 Deciding application for grant of mineral title

- (1) This section applies in relation to an application for the grant of a mineral title, after:
- (a) all the procedures under this Division relevant to the application are completed; and
 - (b) the Minister has considered:
 - (i) all objections, submissions, and responses mentioned in section 72; and
 - (ii) all other matters he or she is required by this Act to consider before making a decision about the application.
- (2) The Minister may decide to take one of the following actions:
- (a) grant the mineral title for all of the proposed title area;
 - (b) grant the mineral title for part of the proposed title area and refuse to grant the title for the remaining proposed title area;
 - (c) refuse to grant the mineral title;
 - (d) refer the application to the Tribunal for a hearing and recommendation.
- (3) If the Minister refers the application to the Tribunal, the Minister may make a decision mentioned in subsection (2)(a), (b) or (c) after considering the Tribunal's recommendation.
- (4) However, the Minister is not obliged to follow a recommendation of the Tribunal.
- (5) Without limiting subsection (2)(c), the Minister may decide to refuse to grant a person a mineral title (a *new title*) for an area of land in or comprising an existing title area or existing proposed title area if the Minister considers:
- (a) the authorised activities to be conducted under the new title would be significantly incompatible with the work being carried out, or to be carried out, in the existing title area or existing proposed title area; or
 - (b) in relation to an existing title area and an application for the grant of an EL or EMEL — the existing title area substantially covers the proposed title area of the EL or EMEL.
- (6) The following persons are parties to a hearing mentioned in subsection (2)(d):
- (a) the person who applied for the grant of the mineral title; and
 - (b) any person objecting to the grant of the mineral title.

[Subs (6) insrt Act 35 of 2014, s 74]

[S 78 am Act 35 of 2014]

79 Deciding other mineral title applications

- (1) This section applies in relation to any mineral title application, except an application for the grant of a mineral title, after:
- (a) all the procedures under this Division relevant to the application are completed; and
 - (b) the Minister has considered all the matters he or she is required by this Act to consider before making a decision about the application.
- (2) The Minister may decide to:
- (a) make the decision or take the action applied for; or
 - (b) refuse to do so.

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**Division 2A – Notice of authority to commence or continue
mining activity**

79A Notice of authority to commence or continue authorised activity

[The next text page is NT - 471]

MINING
MINERAL TITLES ACT 2010

PART 11 – MISCELLANEOUS MATTERS

Division 1 – General provisions

185 Aboriginal community living area — excluded land

(1) Within 30 days after the grant of an estate in fee simple for an Aboriginal community living area, the landowner for the area may give the Minister a notice about land within the area that is to be excluded from the grant of mineral titles (*excluded land*).

(2) The notice must specify the central point of the excluded land, the area of which may extend to a radius of no more than 1 km from the central point (but not outside the Aboriginal community living area).

(3) On application by the landowner for the Aboriginal community living area, the Minister may approve a new location for the excluded land.

(4) The Minister must not grant a mineral title over the excluded land unless the landowner has given written consent to the grant.

(5) However, a mineral title in force for any part of the excluded land immediately before notice is given under subsection (1), or approval is given under subsection (3), is not affected by the giving of the notice or approval.

186 Prescribed substance — royalty payments

(1) A person specified in an authority under section 41 of the Atomic Energy Act who conducts activities for mining a prescribed substance in the Ranger Project Area is liable to pay a royalty in relation to the prescribed substance in accordance with an agreement between the person and the Commonwealth.

(2) The holder of an ML relating to a prescribed substance is liable to pay a royalty in relation to the prescribed substance mined in the title area:

- (a) to the Crown, in right of the Territory, on behalf of the Commonwealth; and
- (b) in accordance with the applied law.

(3) If, because of section 17(2) of the Uranium Royalty Act, the Territory must pay to the Commonwealth an amount equal to the whole or part of a received amount that has been refunded under the applied law:

- (a) the amount must be paid from the public moneys of the Territory; and
- (b) the appropriation for that purpose is established or increased to the extent necessary.

(4) In this section:

applied law, see section 4 of the Uranium Royalty Act.

received amount, see section 17(1) of the Uranium Royalty Act.

187 Prescribed substance — Minister's exercise of powers

(1) In relation to a prescribed substance, the Minister:

- (a) must exercise the Minister's powers in accordance with, and give effect to, the advice of the Commonwealth Minister; and
- (b) must not exercise the Minister's powers otherwise than in accordance with the advice of the Commonwealth Minister.

(2) However, subsection (1) does not prevent the Minister from acting without the advice of the Commonwealth Minister, or require the Minister to take or give effect to the advice of the Commonwealth Minister, in relation to:

- (a) a matter mentioned in Part 3, Division 1; or
- (b) the exercise of a power under an arrangement in force under section 7 of the Uranium Royalty Act, unless the arrangement requires compliance with subsection (1).

(3) In this section:

Commonwealth Minister means the Minister for the Commonwealth administering the *Atomic Energy Act 1953* (Cth).

[Def subst Act 34 of 2023, s 219, with effect from 7 December 2023]

[S 187 am Act 34 of 2023]

188 Agreement to be consistent with Act

(1) A person must not enter into an agreement that is inconsistent with this Act, and such an agreement is of no effect to the extent of the inconsistency.

(2) This section applies in addition to sections 109 and 150.

189 Acquisition on just terms

If the operation of this Act would, apart from this section, result in an acquisition of property from a person otherwise than on just terms:

- (a) the person is entitled to receive from the Territory the compensation necessary to ensure the acquisition is on just terms; and
- (b) a court of competent jurisdiction may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.

190 Protection from liability

(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:

- (a) an authorised officer;
- (b) a person assisting an authorised officer;
- (c) a person assisting the Minister to take an action under section 172(2);
- (d) a person authorised under section 179(5)(b) to accept delivery of a seized thing.

(2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

(3) In this section:

exercise, of a power, includes the purported exercise of the power.

performance, of a function, includes the purported performance of the function.

[The next text page is NT - 891]

Division 2 – Regulations

191 Regulation-making power

- (1) The Administrator may make regulations under this Act.
- (2) A regulation may provide for any of the following:
- (a) procedures relating to mineral title applications and other applications, including procedures for the following:
 - (i) giving notice to the public, landowners, or occupiers of land;
 - (ii) making a decision about the application and notifying the applicant of the decision;
 - (iii) the applicant's entitlement to make submissions to the Minister;
 - (b) matters relating to mineral authorities and corresponding titles;
 - (c) information to be provided to the Minister relating to an application or mineral title, including:
 - (i) information to be included in a technical work program; and
 - (ii) statistics, plans or designs;
 - (d) matters relating to surveying or marking boundaries of:
 - (i) the title area or proposed title area of a mineral title; or
 - (ii) an access area or proposed access area of an access authority;
 - (e) the regulation of authorised activities to protect land, improvements or infrastructure (for example, by prescribing the distance at which shafts and other mine workings must be kept from public or private roads, rights of way or particular buildings);
 - (f) matters relating to geological samples recovered under a mineral title, including any of the following:
 - (i) giving notice of the recovery of samples;
 - (ii) the keeping or disposal of samples;
 - (iii) giving the Minister samples;
 - (iv) examination of samples given to the Minister;
 - (g) the way in which a holder of a mineral title may exercise a right or entitlement under the title, which may include limiting that exercise in relation to:
 - (i) other holders of mineral titles; or
 - (ii) landholders or occupiers of land; or
 - (iii) other persons using land in the title area;
 - (h) matters relating to the surrender of all or part of the title area of a mineral title, or the cancellation or partial cancellation of a mineral title, including procedures for any of the following:
 - (i) the variation of a mineral title following the surrender of part of the title area;
 - (ii) the variation of a mineral title following the cancellation of the title in relation to part of the title area;
 - (iii) the refund of rent paid by the holder of a mineral title following the surrender or cancellation;
 - (i) matters relating to the variation of conditions of a mineral title;
 - (j) matters relating to the division or amalgamation of title areas, including any of the following:

- (i) procedures for the division or amalgamation;
 - (ii) the maximum size of an amalgamated title area;
 - (iii) the minimum size of part of a divided title area;
 - (iv) the term of a replacement title;
 - (v) rent payable under a replacement title;
 - (vi) reports in relation to a replacement title;
- (k) the way in which something required or permitted to be done under this Act must, or may, be done;
- (l) the way in which a person may perform a function or exercise a power under this Act (including, for example, the way in which a person may exercise a discretion).
- (3)** A regulation may also do any of the following:
- (a) prescribe fees payable under this Act;
 - (b) apply, adopt or incorporate (with or without changes) a matter contained in another instrument as in force or existing at a particular time or from time to time;
 - (c) provide for the enforcement of a code of practice or standard, including by providing that a contravention of the code or standard is an offence against the regulations;
 - (d) prescribe a fine not exceeding 200 penalty units for an offence against the regulations;
 - (e) provide for an offence against this Act to be an offence of strict liability.

[The next text page is NT - 941]

TABLE OF AMENDING LEGISLATION

Principal legislation	Number	Date of gazettal/assent/ registration	Date of commencement
<i>Mineral Royalty Act</i>	31 of 1982	23 Jun 1982	1 Jul 1982

This legislation has been amended as follows:

Amending legislation	Number	Date of gazettal/assent/ registration	Date of commencement
<i>Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010</i>	40 of 2010	18 Nov 2010	Ss 84 and 85: 1 Mar 2011 (Gaz G7, 16 Feb 2011, p 4)
<i>Revenue Legislation Amendment Act 2013</i>	20 of 2013	28 Jun 2013	Ss 4–12: 1 Jul 2013
<i>Statute Law Revision Act 2014</i>	38 of 2014	13 Nov 2014	Sch 1: 13 Nov 2014
<i>Revenue Legislation Amendment Act 2018</i>	14 of 2018	28 Jun 2018	Ss 4–11: 1 Jul 2018; Pt 2 Div 3: 1 Jul 2019
<i>Mineral Royalty Amendment Act 2021</i>	11 of 2021	20 May 2021	S 5: 21 May 2021; ss 4 and 6: 1 Jul 2021
<i>Statute Law Amendment (NTCAT Conferral of Jurisdiction) Act 2023</i>	24 of 2023	21 Sep 2023	Sch: 27 Nov 2023 (Gaz G24, 23 Nov 2023, p 2)

[The next text page is NT-1851]

MINING
MINERAL ROYALTY ACT 1982

PART II – IMPOSITION AND ASSESSMENT, &C, OF ROYALTY

9 Royalty

(1) There is payable under this Act to the Crown in right of the Territory a royalty in respect of all minerals vested in the Crown in right of the Territory obtained from a production unit in a royalty year.

(2) The holders of mining tenements that form part of a production unit are jointly and severally liable for the payment of royalty in respect of the production unit.

9A Royalty payable

(1) The royalty payable under section 9 is the greater of:

- (a) 20% of the net value from a production unit in a royalty year, less \$10 000; and
- (b) the percentage of the gross production revenue, from the production unit in a royalty year, that applies to the royalty year as follows:
 - (i) 1% for the royalty payer's first royalty year that begins on or after 1 July 2019;
 - (ii) 2% for the royalty year that follows the royalty year mentioned in subparagraph (i);
 - (iii) 2.5% for each royalty year that follows the royalty year mentioned in subparagraph (ii).

Examples for subsection (1)(b)

- 1 For a mine that commenced production in 2010 with a royalty year beginning every 1 July, the rate under subsection (1)(b) is 1% for the royalty year starting on 1 July 2019, 2% for the royalty year starting 1 July 2020 and 2.5% for each royalty year afterwards.
- 2 For a mine commencing production on 1 January 2020 with a royalty year beginning every 1 January, the rate under subsection (1)(b) is 1% for the royalty year starting on 1 January 2020, 2% for the royalty year starting 1 January 2021 and 2.5% for each royalty year afterwards.

(2) The royalty payable under section 9 in a royalty year is nil if the gross production revenue from the production unit in the royalty year is \$500 000 or less.

[S 9A insrt Act 14 of 2018, s 16]

10 Net value

(1) [Repealed]

[Subs (1) rep Act 14 of 2018, s 17(2); am Act 21 of 2010, s 8(1) and (2); Act 77 of 1992, Sch]

(2) For calculating the rate of royalty under section 9A(1)(a), the net value from a production unit in a royalty year is calculated in accordance with the following formula:

$$NV = GR - (OC + CRD + EEE + AD)$$

where —

NV is the net value from a production unit in a royalty year.

GR is the gross realisation from the production unit in the royalty year.

OC is the operating costs of the production unit for the royalty year.

CRD is the capital recognition deduction.

EEE is any eligible exploration expenditure.

AD is any additional deduction under section 4CA.

[Subs (2) subst Act 14 of 2018, s 17(2); am Act 21 of 2010, s 8(3) and (4); Act 77 of 1992, s 8]

(3) For the purposes of subsection (2), the value adjustment for a capital asset scrapped, sold or removed without sale from the production unit, being an asset taken into account for the purposes of the definition of *eligible capital assets expenditure*, is such amount as is agreed between the royalty payer and the Secretary to be the value of the asset or, in the absence of agreement within such period as the Secretary allows, is such amount as is determined by the Secretary to be the value of the asset, less that portion of the cost of the asset remaining to be depreciated in the accounts of the production unit.

(4) For the purposes of subsection (2), eligible exploration expenditure shall not be included in calculating the net value if the royalty payable in respect of the relevant production unit in relation to the royalty year would, in the absence of that eligible exploration expenditure deduction, be nil.

(5) If:

- (a) a production unit has ceased the production of a saleable mineral commodity; and
- (b) after the cessation amounts have been expended on the rehabilitation of the tenement forming part of the production unit;

the royalty payer of the production unit may, after the rehabilitation of the tenement is completed, furnish the Secretary with a statement, verified in such manner as the Secretary may require, of the amounts expended.

[Subs (5) am Act 14 of 2018, s 17(3) and (4); Act 38 of 2014, s 2 and Sch 1; Act 77 of 1992, Sch]

(6) After being satisfied of the correctness of a statement furnished pursuant to subsection (5) and making any adjustments necessary, the Secretary shall —

- (a) apportion the sum of the amounts allowed in the statement ratably over the previous 5 royalty years of the production unit or the life of the production unit, whichever is shorter; and
- (b) allow the amount apportioned as a deduction to determine the net value of the saleable mineral commodity in each royalty year to which the amount has been apportioned; and
- (c) recalculate the net value and, if necessary, the royalty payable in each relevant royalty year.

[Subs (6) am Act 14 of 2018, s 17(5); Act 21 of 2010, s 8(5); Act 77 of 1992, Sch]

(7) For subsections (5) and (6) —

- (a) royalty does not include interest on royalty under section 42 or penal royalty under section 42A; and
- (b) where the specified accounting basis of the production unit is an accrual basis, amounts expended shall be interpreted as if that accounting basis were an incurred basis as described in paragraph (b) of the definition of *accounting basis* in section 4.

[Subs (7) am Act 14 of 2018, s 17(6)]

(8) Nothing in subsections (5) or (6) affects the liability of a royalty payer to furnish a statement under section 12 in respect of a saleable mineral commodity sold or removed

without sale from a production unit in a royalty year after the production unit has ceased active production of a saleable mineral commodity.

[Subs (8) am Act 77 of 1992, Sch]

(9) For the purpose of calculating or recalculating an amount of royalty under this section, subject to subsection (10), an amount or value that affects the calculation or recalculation is to be taken to be the amount or value exclusive of the amount of GST (if any) payable in relation to a supply to which that amount or value relates.

[Subs (9) insrt Act 32 of 2000, s 44(2)]

(10) Where an amount or value that affects the calculation or recalculation referred to in subsection (9) is directly attributable to an acquisition that relates to a supply that is input taxed, the amount or value is to be taken to be the amount or value inclusive of the amount of GST (if any) payable in relation to the acquisition to which that amount or value relates.

[Subs (10) insrt Act 32 of 2000, s 44(2)]

(11) In subsections (9) and (10), *acquisition*, *GST*, *input taxed* and *supply* have the same respective meanings as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

[Subs (11) insrt Act 32 of 2000, s 44(2)]

[S 10 am Act 14 of 2018, s 17(1); Act 38 of 2014; Act 32 of 2000; Act 77 of 1992]

SECTION 10 COMMENTARY

s 10 [700.10.10]

[700.10.10] s 10

North Flinders Mines Ltd v Neil Conn as under-treasurer of Northern Territory (1995) 123 FLR 330.

The proper meaning to be given to the word “sold” or “sale” in s 10 and in s 4A is the meaning that those words have under the *Sale of Goods Act 1972* (NT).

See notes to ss 4 and 10.

G Curd, “Gold: Finance Issues” [1983] AMPLA Yearbook 50–67; 66.

10A Responsible person

(1) The tenement holders of a production unit shall, at or before the time the production unit or proposed production unit comes into active operation, appoint a person who would usually be found on or about the production unit or proposed production unit to be responsible on behalf of the tenement holders to accept service of a document or process, furnish a statement or return or make a payment, pursuant to this Act.

(2) If the tenement holders fail to appoint a responsible person under subsection (1), the manager of the production unit or proposed production unit at the time it comes into active operation shall be deemed to have been appointed as the responsible person.

11 Information to be supplied

(1) Within 30 days after the date of active operation of a production unit or proposed production unit the responsible person for the production unit shall notify the Secretary in writing of that fact, and shall include in the notice —

- (a) his or her name, address and designation;
- (b) the location or locations of the production unit, a description of the nature of its operations and processes, the minerals and mineral commodities being or to be recovered, and its work programme and mining schedule;
- (c) the names and addresses of the tenement holders whose tenements form part of the production unit or proposed production unit;
- (d) the name and address of the manager of the production unit or proposed production unit;
- (e) the day in each year on which the royalty year of the production unit commences or will commence; and
- (f) an election as to the accounting basis on which royalty returns will be prepared.

[Subs (1) am Act 76 of 1998, s 6 and Sch]

(2) The responsible person for a production unit or proposed production unit shall, within 30 days after it happens, notify the Secretary in writing —

- (a) of every change in the name or address, or both, of the responsible person and manager of the production unit or proposed production unit;
- (b) of a change in the ownership of the production unit or proposed production unit or of a mining tenement which forms part of the production unit or proposed production unit;
- (c) of a significant change in the level of production of a mineral commodity by the production unit;
- (d) of a discontinuance of the commercial production of a mineral commodity; and
- (e) of a recommencement of the commercial production of mineral commodity after discontinuance.

Penalty: 40 penalty units.

[Subs (2) am Act 38 of 2010, s 4 and Sch 2]

[S 11 am Act 38 of 2010; Act 76 of 1998]

12 Royalty return

(1) Subject to subsection (7), a royalty payer shall, within 3 months after the expiration of a royalty year or such longer period as the Secretary, in writing, allows, deliver to the Secretary a detailed statement, relating to the whole production unit, containing or indicating —

- (a) the name and description of the production unit;
- (b) the name and address of each royalty payer in respect of the production unit;
- (c) the quantity of a mineral commodity sold or removed without sale from the production unit during the royalty year;
- (d) the name and address of the smelter, refinery or mill to which a mineral commodity recovered was sent;
- (e) the name and address of, and relationship between, any person with an interest in the production unit and the operator of the smelter, refinery or mill;
- (f) the value and the basis of valuation of a mineral commodity sold or removed without sale from the production unit;
- (g) details of all sales or shipments of a mineral commodity from the production unit; and
- (h) details of all contracts and sale or exchange agreements relating to a mineral commodity obtained from the production unit;

and such other information as the Secretary requires.

[Subs (1) am Act 14 of 2018, s 8]

(2) A statement referred to in subsection (1) shall, in addition to the matters required under that subsection to be contained or indicated, contain —

- (a) details of all expenditure claimed as eligible deductions in calculating net value under section 10(2);
- (b) by way of summary, a calculation of net value; and
- (ba) a calculation of gross production revenue; and
- (c) an estimate of the royalty payable.

[Subs (2) am Act 14 of 2018, s 18]

(3) The statement required under subsection (1) to be delivered shall be in an approved form and, subject to subsection (7), shall be signed by the holders of each mining tenement that forms part of the production unit or a person having knowledge of the affairs of the production unit on behalf of those mining tenement holders.

(4) The statement required by subsection (1) to be delivered shall be audited by an approved auditor whose written report shall accompany the statement, being a report indicating whether, in the opinion of the auditor, the statement —

- (a) is based on proper accounts and documents properly kept and is in agreement with those accounts and documents; and
- (b) complies with the relevant provisions of this Act.

[Subs (4) am Act 38 of 2004, s 6]

(5) Where eligible exploration expenditure within the meaning of paragraph (a) of the definition of *eligible exploration expenditure* is taken into account by a royalty payer in estimating the royalty payable by him or her, the statement required under subsection (1) to be delivered shall be accompanied by a certificate issued under section 7 or 8 or, where no such certificate has been issued in respect of that expenditure, details of the application under section 7 for the issue of the certificate.

[Subs (5) am Act 37 of 2003, s 8; Act 76 of 1998, s 6 and Sch]

(6) Where a statement required under subsection (1) to be delivered is accompanied by details of an application under section 7 for the issue of a certificate in respect of eligible exploration expenditure taken into account by the royalty payer in estimating the royalty payable by him or her, and a certificate is subsequently issued under that section in respect of that expenditure, the royalty payer shall, within 30 days after receiving the certificate, deliver it to the Secretary to be dealt with under section 8(1) as if it were a certificate delivered with the statement.

Penalty: 17 penalty units.

[Subs (6) am Act 38 of 2010, s 4 and Sch 2; Act 76 of 1998, s 6 and Sch]

(7) The Secretary may, with the consent in writing of all the royalty payers for a production unit, permit a royalty payer to deliver a statement under this section in respect of his or her operations in relation to the production unit separate from those of other royalty payers, and the Secretary may deal with that statement, and the statement or statements in relation to the remainder of the production unit, accordingly.

[Subs (7) am Act 76 of 1998, s 6 and Sch]

(8) Nothing in subsection (7) shall be construed as relieving a royalty payer from his or her liability for the payment of royalty in respect of the whole production unit.

[Subs (8) am Act 76 of 1998, s 6 and Sch]

[S 12 am Act 14 of 2018; Act 38 of 2010; Act 38 of 2004; Act 37 of 2003; Act 76 of 1998]

SECTION 12 COMMENTARY

Transitional: deduction of eligible exploration expenditure in respect of royalty years that commenced before 1 July 2003 [700.12.10]

[700.12.10] Transitional: deduction of eligible exploration expenditure in respect of royalty years that commenced before 1 July 2003

If, on or after the commencement of this Act (that is, the *Mineral Royalty Amendment Act 2003*), eligible exploration expenditure is deductible in respect of a royalty year that commenced before 1 July 2003, the eligible exploration expenditure that is deducted in respect of the royalty year is eligible exploration expenditure within the meaning of the Principal Act as in force immediately before the commencement of this Act.

13 Appointment of authorized person

The Secretary may, in writing, appoint a person to be an authorized person for the purposes of this Act.

[S 13 am Act 76 of 1998, s 6 and Sch]

14 Inspection of stock and documents

(1) For the purposes of this Act, an authorized person may, at reasonable times or, where he or she has reasonable cause to believe an offence against this Act has been, is being, or is about to be, committed, at any time, enter —

- (a) a production unit or any part thereof;
- (b) premises where there is stored, or where the authorized person has reasonable cause to believe is stored, a mineral commodity in respect of which royalty is payable or, in his or her opinion, is likely to be payable; or
- (c) premises where there are, or where he or she has reasonable cause to believe are kept, documents:
 - (i) relating to the mining, processing, storage or sale or other disposal of a mineral commodity; or
 - (ii) of a kind that a royalty payer is required to retain under section 17A(2);

and may —

- (d) inspect or take stock of a mineral commodity;
- (e) inspect the mining or processing of a mineral commodity;
- (f) inspect documents of a kind mentioned in paragraph (c); and
- (g) require a person in that production unit or on those premises to furnish the authorised person with that person's name or residential address, or both, and to answer questions put to the person relating to the subject of the inspection.

[Subs (1) am Act 20 of 2013, s 7; Act 38 of 2004, s 7; Act 76 of 1998, s 6 and Sch]

(1A) A person required under subsection (1)(g) to answer questions shall answer truthfully to the best of the person's knowledge and belief, but need not answer to a question if that answer might tend to incriminate the person or make the person liable to a penalty.

[Subs (1A) am Act 76 of 1998, s 6 and Sch]

(2) An authorized person may make and retain copies of, or extracts from, the documents inspected under this section by him or her.

[Subs (2) am Act 38 of 2004, s 7; Act 76 of 1998, s 6 and Sch]

(3) A person required under subsection (1) to furnish his or her name or address, or both his or her name and address, shall not —

- (a) refuse or fail to comply with the requirement;
- (b) furnish a name that is false in a material particular; or
- (c) furnish as his or her address an address other than the full and correct address of his or her ordinary place of residence.

Penalty: 4 penalty units.

[Subs (3) am Act 38 of 2010, s 4 and Sch 2; Act 76 of 1998, s 6 and Sch]

(4) The occupier or person in charge of a production unit or part of a production unit, or of premises referred to in subsection (1)(b) or (c), shall provide an authorized person with all reasonable facilities and assistance for the effective exercise of the authorized person's powers under this section.

Penalty: 40 penalty units.

[Subs (4) am Act 38 of 2010, s 4 and Sch 2]

[S 14 am Act 20 of 2013; Act 38 of 2010; Act 38 of 2004; Act 76 of 1998]

15 Power to require person to answer questions and produce documents

(1) The Secretary or an authorized person may, by notice in writing, in relation to a production unit, require the responsible person appointed for that production unit to attend before him or her at the time and place specified in the notice and there to answer questions and to produce to him or her such documents in relation to the mining, storage, transportation, processing or sale or other disposal of a mineral commodity, including in relation to any relevant transfer pricing, as are referred to in the notice.

[Subs (1) am Act 20 of 2013, s 8; Act 38 of 2004, s 8; Act 76 of 1998, s 6 and Sch]

(2) The Secretary or an authorized person may make and retain copies of, or extracts from, the documents produced under this section to him or her.

[Subs (2) am Act 38 of 2004, s 8; Act 76 of 1998, s 6 and Sch]

(3) A person is not excused from answering a question or producing documents when required under this section or section 14 so to do, on the ground that the answer to the question, or the production of the documents, might tend to incriminate the person or make the person liable to a penalty, but the person's answer to any such question is not admissible in evidence against the person in proceedings other than proceedings for an offence against this Act or an offence against or under this or any other law of the Territory in respect of the person's failure to provide information or the person's providing of false information.

[Subs (3) am Act 38 of 2004, s 8; Act 76 of 1998, s 6 and Sch]

[S 15 am Act 20 of 2013; Act 38 of 2004; Act 76 of 1998]

16 Power to examine on oath

The Secretary or an authorised person may examine on oath a person attending before the Secretary or authorised person under section 15.

[S 16 subst Act 40 of 2010, s 84; am Act 76 of 1998]

17 Proper books to be kept

(1) A royalty payer shall keep at the production unit, or at some other place in Australia agreed between the royalty payer and the Secretary or, in the absence of agreement, as determined by the Secretary, proper books of account in accordance with generally accepted accounting principles and the specified accounting basis showing in respect of that production unit —

- (a) the amount and particulars of each expenditure in each category of deduction;
- (b) details of all sales, transfers and other disposals of assets, being assets the costs of which have been included in calculating eligible capital assets expenditure;
- (c) details of the mass and grade of a mineral commodity recovered from the production unit and of sales, shipments, transfers and other disposals of a mineral commodity from the production unit, including the time, destination, value and basis of valuation and mass and grade of each sale, shipment, transfer or other disposal; and
- (d) details of all assets, being assets the costs of which have been included in calculating eligible capital assets expenditure, eligible exploration expenditure and eligible research and development expenditure.

Maximum penalty: 200 penalty units.

[Subs (1) am Act 20 of 2013, s 9(1)]

(2) A mineral commodity shall not be sold or removed from a production unit, or treated in a processing plant not included in the production unit, until its mass and grade have been ascertained and entered in a book of account referred to in subsection (1).

Penalty: 200 penalty units.

[Subs (2) am Act 20 of 2013, s 9(2); Act 38 of 2010, s 4 and Sch 2]

[S 17 am Act 20 of 2013; Act 38 of 2010]

17A Transfer pricing documentation

(1) This section applies if a saleable mineral commodity is removed from a production unit without sale and is dealt with by the royalty payer in circumstances that involve transfer pricing.

(2) A royalty payer must retain at the production unit, or at some other place in Australia agreed between the royalty payer and the Secretary or, in the absence of agreement, as determined by the Secretary, all documents that:

- (a) are created by, or come into the possession of, the royalty payer; and
- (b) are relevant for determining the gross value of the saleable mineral commodity.

Maximum penalty: 200 penalty units.

(3) Without limiting subsection (2)(b), the following are relevant for determining the gross value of the saleable mineral commodity:

- (a) any transfer pricing arrangement;
- (b) any relevant audit of the kind mentioned in section 4AAA(4);
- (c) any relevant advance pricing arrangement, as defined in section 4AAA(5);
- (d) if section 4AAB applies — all matters mentioned in that section.

[S 17A insrt Act 20 of 2013, s 10]

18 Assessment

(1) The Secretary must assess the following in respect of the royalty year to which the statement delivered under section 12 relates:

- (a) the net value;
- (b) the gross production revenue;
- (c) the royalty payable by the royalty payer.

(2) To make the assessment, the Secretary may use any information in the Secretary's possession, whether or not obtained under this Act.

[S 18 subst Act 14 of 2018, s 19; am Act 76 of 1998, s 6 and Sch]

19 Default assessment

(1) The Secretary may assess the net value and gross production revenue from a production unit on which, in the Secretary's opinion, royalty ought to be levied if:

- (a) the royalty payer fails to deliver the statement required under section 12; or
- (b) the Secretary is not satisfied that a statement delivered by the royalty payer is a full and accurate statement; or
- (c) the Secretary is of the opinion that the amount stated by the royalty payer to be the gross value of a saleable mineral commodity is not reasonable.

(2) If the Secretary is of the opinion that the amount stated by the royalty payer to be the gross value of a saleable mineral commodity is not reasonable:

- (a) the Secretary must, in assessing the net value and gross production revenue, by written notice to the royalty payer, declare the amount the Secretary considers to be a reasonable gross value for the mineral commodity concerned; and
- (b) the net value and gross production revenue must be assessed by reference to the gross value declared under paragraph (a).

(3) The amount assessed under this section is taken to be the net value or gross production revenue, as the case may be, on which royalty is payable.

[S 19 subst Act 14 of 2018, s 19; am Act 76 of 1998; Act 77 of 1992]

20 Amendment of assessment

(1) The Secretary may, subject to this Act, at any time amend an assessment notwithstanding that royalty may have been paid pursuant to it.

(2) If a royalty payer has not made to the Secretary a full and true disclosure of all the material facts necessary for an assessment and there has been an avoidance of royalty, whether pursuant to an arrangement under section 4G or otherwise, the Secretary may —

- (a) if the avoidance of royalty is due to fraud or evasion — at any time; and
- (b) in any other case — within 6 years after the date upon which the royalty became due and payable under the assessment;

amend the assessment to correct an error in calculation or a mistake of fact, or to prevent avoidance of royalty, as the case may be.

[Subs (2) am Act 14 of 2018, s 9(1)–(3)]

(3) If a royalty payer has made to the Secretary a full and true disclosure of all the material facts necessary for the Secretary's assessment, and an assessment is made after that disclosure, no amendment of the assessment varying the liability of the royalty payer in any particular shall be made except to correct an error in calculation or a mistake of fact, and no such amendment shall be made after the expiration of 3 years from the date upon which the royalty became due and payable under that assessment.

[Subs (3) am Act 14 of 2018, s 9(1)]

(4) Despite subsections (2) and (3), if an assessment for a royalty year is based on an estimate of the value of a saleable mineral commodity sold or removed without sale in that year from a production unit because the value was not ascertainable at the end of that year, the Secretary may, any time within 3 years after ascertaining the value of that mineral commodity, amend the assessment on the basis of that value, to ensure the completeness and accuracy of the assessment.

[Subs (4) subst Act 14 of 2018, s 20; am Act 77 of 1992, Sch]

(5) Despite subsections (2) and (3), if the assessment of net value in respect of a royalty year includes eligible exploration expenditure within the meaning of paragraph (a) of the definition of *eligible exploration expenditure*, the Secretary may, at any time within 3 years after refusing to issue a certificate under section 7 in respect of any part of that expenditure claimed, amend the assessment so as to ensure its completeness and accuracy on the basis of eligible exploration expenditure.

[Subs (5) am Act 14 of 2018, s 9(4)]

[S 20 am Act 14 of 2018; Act 77 of 1992]

21 Amended assessment to be assessment

An assessment amended under section 20 shall be an assessment for the purposes of this Act.

22 Notice of assessment

As soon as practicable after an assessment under this Act is made, the Secretary shall, by post or otherwise, serve a written notice of assessment on the royalty payer.

23 Validity of assessment

The validity of an assessment made under this Act shall not be affected by reason that a provision of this Act has not been complied with.

24 Judicial notice of signature

All courts and all persons having by law or consent of parties authority to hear, receive and examine evidence, shall take judicial notice of the signature of the Secretary.

25 Evidence

The production of a notice of assessment, or of a document under the hand of the Secretary that purports to be a copy of a notice of assessment, shall be conclusive evidence of the due making of the assessment and, except in objection, review or appeal proceedings under Part 11 of the *Taxation Administration Act 2007*, that the amount and all the particulars of the assessment are correct.

Note for Part II —

Part 11 of the *Taxation Administration Act* provides for objections, reviews and appeals in relation to assessments made in relation to a royalty payer under this Part.

[S 25 am Act 24 of 2023, s 147 and Sch , with effect from 27 November 2023]

[The next text page is NT - 1901]

MINING MANAGEMENT ACT 2001 [REPEALED]

Editor's note: The *Mining Management Act 2001* was repealed on 1 July 2024 by the *Environment Protection Legislation Amendment Act 2023*. Transitional arrangements in the Amendment Act ensure authorised mining activities under the Mining Management Act will continue under the Amendment Act, which introduces a new environmental (mining) licence framework (framework) for managing environmental impacts of mining. For further information on the scope and transitional arrangements please see https://depws.nt.gov.au/___data/assets/pdf_file/0009/1326996/transition-arrangements-fact-sheet.pdf

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Editor's Note: Repealed provisions in this Act have not been reproduced.

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<i>Mining Management Act</i>	43 of 2001	19 Jul 2001	1 Jan 2002

This legislation has been amended as follows:

Amending legislation	Number	Date of gazettal/assent/registration	Date of commencement
<i>Law Reform (Work Health) Amendment Act 2007</i>	30 of 2007	12 Dec 2007	1 Jul 2008
<i>Statute Law Revision Act 2009</i>	25 of 2009	1 Sep 2009	Sch 1: 16 Sep 2009 (Gaz G37, 16 Sep 2009, p 3)
<i>Mineral Titles (Consequential Amendments) Act 2010</i>	37 of 2010	18 Nov 2010	S 8: 7 Nov 2011
<i>Penalties Amendment (Children and Families, Health and Primary Industry, Fisheries and Resources) Act 2011</i>	28 of 2011	31 Aug 2011	Sch 3: 21 Sep 2011 (Gaz G38, 21 Sep 2011, p 4)
<i>Mining Management Amendment Act 2011</i>	35 of 2011	15 Nov 2011	Ss 4–21 and Sch: 1 Jul 2012 (Gaz G26, 27 Jun 2012, p 8)
<i>Mining Management Amendment Act 2013</i>	22 of 2013	12 Jul 2013	Ss 4–16 and Sch: 1 Oct 2013 (Gaz G39, 25 Sep 2013, p 4)
<i>Ports Management (Repeals and Related and Consequential Amendments) Act 2015</i>	12 of 2015	22 May 2015	Sch 1: 1 Jul 2015 (Gaz S57, 9 May 2015, p 2)

MINING
MINING MANAGEMENT ACT 2001 [REPEALED]

Principal legislation	Number	Date of gazettal/assent/ registration	Date of commencement
<i>Mining Management Act</i>	43 of 2001	19 Jul 2001	1 Jan 2002

This legislation has been amended as follows:

Amending legislation	Number	Date of gazettal/assent/ registration	Date of commencement
<i>Statute Law Revision Act 2018</i>	10 of 2018	23 May 2018	Sch: 20 Jun 2018 (Gaz G41, 20 Jun 2018, p 1)
<i>Water Legislation Amendment Act 2018</i>	29 of 2018	4 Dec 2018	Pt 4 Div 2: 31 Dec 2018 (Gaz S107, 17 Dec 2018, p 1)
<i>Environment Protection Act 2019</i>	31 of 2019	9 Oct 2019	Pt 15 Div 3: 28 Jun 2020 (Gaz G17, 29 Apr 2020, p 2)

[The next text page is NT-2051]

PART 1 – PRELIMINARY MATTERS

1 Short title

This Act may be cited as the *Mining Management Act 2001*.

2 Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3 Objects

The objects of this Act are —

- (a) to ensure the development of the Territory's mineral resources in accordance with environmental standards consistent with best practice in the mining industry; and
- (b) to protect the environment by:
 - (i) the authorisation and monitoring of mining activities; and
 - (ii) requiring appropriate management of mining sites; and
 - (iii) requiring an operator for a mining site to establish, implement and maintain a management system for the site and, for that purpose, to facilitate consultation and cooperation between the operator, contractors and workers on the site; and
 - (iv) implementing audits, inspections, investigations, monitoring and reporting to ensure compliance with agreed standards and criteria; and
 - (v) specifying the obligations of all persons on mining sites with respect to protection of the environment; and

[Para (b) am Act 35 of 2011, s 5(1)]

- (c) to assist the mining industry to introduce programs of continuous improvement to achieve best practice environmental management; and
- (ca) to promote the development of relationships between the mining industry and communities affected by mining activities to facilitate the provision of economic and social benefits to those communities; and

[Para (ca) insrt Act 35 of 2011, s 5(2)]

- (d) to enable persons connected with the mining industry to participate in the implementation of this Act through the establishment of a Mining Board to advise the Minister on —
 - (i) guidelines for the industry; and
 - (ii) specification of competencies required by persons involved in the industry; and
 - (iii) best practice in mining activities; and

[Para (d) am Act 35 of 2011, s 5(3)]

- (e) to minimise the liability of the Territory by requiring the payment of security to provide for the rehabilitation of mining sites or to rectify environmental harm caused by mining activities; and

[Para (e) am Act 22 of 2013, s 4(1)]

- (f) to require the payment of a levy to provide funds for:
 - (i) a Mining Remediation Fund; and
 - (ii) the effective administration of this Act in relation to minimising or rectifying environmental harm caused by mining activities.

[Para (f) insrt Act 22 of 2013, s 4(2)]

[S 3 am Act 22 of 2013; Act 35 of 2011; Act 30 of 2007, s 17]

4 Definitions

In this Act —

act includes omission.

acting in an official capacity, in relation to an official, means the official is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

[Def insrt Act 35 of 2011, s 6(2)]

Atomic Energy Act means *Atomic Energy Act 1953* (Cth).

[Def am Act 35 of 2011, s 22 and Sch]

Authorisation means an Authorisation under Part 4, Division 2.

[Def am Act 35 of 2011, s 22 and Sch]

Chief Executive Officer [Repealed]

[Def rep Act 35 of 2011, s 6(1)]

Commonwealth Minister means the Commonwealth Minister of State for the time being administering section 41 of the *Atomic Energy Act*.

competent means having the skill and knowledge required to carry out the relevant task or function in accordance with the appropriate environmental standards.

[Def subst Act 30 of 2007, s 18(1) and (2)]

contaminant, see section 4(1) of the *Waste Management and Pollution Control Act*.

[Def am Act 35 of 2011, s 22 and Sch]

contractor means a person who under a contract performs work or supplies a service in connection with a mining activity on a mining site.

critical incident [Repealed]

[Def rep Act 35 of 2011, s 6(1); subst Act 30 of 2007, s 18(1) and (2)]

environment means land, air, water, organisms and ecosystems on a mining site and includes —

- (a) the well-being of humans; and
- (b) structures made or modified by humans; and
- (c) the amenity values of the site; and
- (d) economic, cultural and social conditions.

[Def am Act 35 of 2011, s 22 and Sch]

environmental harm means —

- (a) any harm to or adverse effect on the environment; or
 - (b) any potential harm (including the risk of harm and future harm) to or potential adverse effect on the environment,
- of any degree or duration and includes environmental nuisance.

environmental incident means an incident on a mining site that causes environmental harm.

[Def insrt Act 35 of 2011, s 6(2)]

environmental nuisance means —

- (a) an adverse effect on the amenity of land caused by noise, smoke, dust, fumes or odour; or
- (b) an unsightly or offensive condition on the land.

environmental obligation means an obligation imposed on a person under Part 3, Division 1.

[Def insrt Act 35 of 2011, s 6(2)]

exploration means all modes of searching for or evaluating deposits of minerals other than by remote sensing.

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.

Fund means the Mining Remediation Fund mentioned in section 46A(1).

[Def insrt Act 22 of 2013, s 5]

guideline means a guideline issued by the Minister under Part 5.

land means land within the jurisdictional limits of the Territory and includes waters within those limits.

levy, see section 44A(2).

[Def insrt Act 22 of 2013, s 5]

loss, in relation to material environmental harm and serious environmental harm, includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or rectify the environmental harm.

management system, for a mining site, means the environmental protection management system established, implemented and maintained under section 16(2)(c).

[Def subst Act 35 of 2011, s 6(1) and (2); Act 30 of 2007, s 18(1) and (2)]

material environmental harm means environmental harm that —

- (a) is not trivial or negligible in nature; or
- (b) consists of an environmental nuisance of a high impact or on a wide scale; or
- (c) results, or is likely to result, in not more than \$50 000 or the prescribed amount (whichever is greater) being spent in taking appropriate action to prevent or minimise the environmental harm or rehabilitate the environment; or
- (d) results in actual or potential loss or damage to the value of not more than \$50 000 or the prescribed amount (whichever is greater).

[Def am Act 35 of 2011, s 22 and Sch]

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; or
- (b) coal, lignite, peat or oil shale; or
- (c) extractive mineral; or
- (d) other substance declared by the Minister, by a notice in the *Gazette*, to be a mineral for the purposes of this Act,

but does not include —

- (e) water; or
- (f) petroleum as defined in section 5(1) of the *Petroleum Act*.

[Def am Act 35 of 2011, s 22 and Sch]

mining activity means any of the following activities:

- (a) exploration for minerals;
- (b) mining of minerals;
- (c) processing of minerals, tailings, spoil heaps or waste dumps;
- (d) decommissioning or rehabilitation of a mining site;
- (e) operations and works in connection with the activities in paragraphs (a), (b), (c) and (d), including —
 - (i) the removal, handling, transport and storage of minerals, substances, contaminants and waste; and
 - (ii) the construction, operation, maintenance and removal of plant and buildings;
- (ea) operations and works in connection with exploration or mining generally;
- (eb) the construction, maintenance and use of infrastructure authorised by an access authority granted under the *Mineral Titles Act*;
- (f) operations for the care and maintenance of a mining site when an activity referred to in another paragraph of this definition, except paragraph (e), is suspended.

[Def am Act 35 of 2011, s 6(3) and (4)]

mining interest means one of the following:

- (a) a mineral title as defined in section 11(1) of the *Mineral Titles Act*;
- (b) a non-compliant existing interest as defined in section 204(1) of the *Mineral Titles Act*;
- (c) an authority under section 41 of the *Atomic Energy Act*.

[Def subst Act 37 of 2010, s 8(2) and (3)]

mining management plan, see section 40(1).

[Def subst Act 35 of 2011, s 6(1) and (2)]

mining officer means a person appointed as a mining officer under Part 7.

mining site means an area of land —

- (a) in respect of which a person holds a mining interest; or
- (b) on which mining activities are being, or have been, carried out; or
- (c) that is declared by the Minister, by *Gazette* notice, to be a mining site for the purposes of this Act.

[Def am Act 35 of 2011, s 22 and Sch]

official means:

- (a) the Chief Executive Officer; or
- (b) a mining officer or an assistant mentioned in section 62(1)(a).

[Def insrt Act 35 of 2011, s 6(2)]

operator means the operator for a mining site referred to in section 9(1).

owner, in relation to a mining site, includes a person holding the mining interest in respect of the site, a person in possession of the site and an occupier of the site.

plant includes machinery, pressure vessels, equipment, appliances, implements, scaffolding and tools, any component of the plant and anything fitted or connected to the plant.

Ranger Project Area, see section 4 of the *Uranium Royalty (Northern Territory) Act 2009* (Cth).

[Def insrt Act 22 of 2013, s 5]

representative, for Part 9, Division 1, see section 71.

[Def insrt Act 35 of 2011, s 6(2)]

security means a security required by section 43(1).

[Def insrt Act 22 of 2013, s 5]

serious accident [Repealed]

[Def rep Act 35 of 2011, s 6(1); subst Act 30 of 2007, s 18(1) and (2)]

serious environmental harm means environmental harm that is more serious than material environmental harm and includes environmental harm that —

- (a) is irreversible or otherwise of a high impact or on a wide scale; or
- (b) damages an aspect of the environment that is of a high conservation value, high cultural value or high community value or is of special significance; or
- (c) results or is likely to result in more than \$50 000 or the prescribed amount (whichever is greater) being spent in taking appropriate action to prevent or minimise the environmental harm or rehabilitate the environment; or
- (d) results in actual or potential loss or damage to the value of more than \$50 000 or the prescribed amount (whichever is greater).

[Def am Act 35 of 2011, s 22 and Sch]

serious environmental incident means an incident on a mining site that causes material environmental harm.

[Def insrt Act 35 of 2011, s 6(2)]

substance means a natural or artificial substance, whether in solid, liquid, gas or vapour form.

this Act includes regulations made under this Act.

unsecured mining activities, see section 46B(2).

[Def insrt Act 22 of 2013, s 5]

uranium or thorium includes a derivative or compound of uranium or thorium.

waste, see section 4(1) of the *Waste Management and Pollution Control Act*.

[Def am Act 35 of 2011, s 22 and Sch]

worker means an individual on a mining site who, under a contract or agreement of any kind (whether express or implied, oral or in writing, or under a law of the Territory or not), performs work or supplies a service in connection with a mining activity on the site and includes —

- (a) an employee of the operator; and
- (b) a contractor or employee of a contractor.

[Def am Act 35 of 2011, s 22 and Sch]

[S 4 am Act 22 of 2013; Act 35 of 2011, s 22 and Sch; Act 37 of 2010; Act 30 of 2007]

5 Application

(1) Subject to section 7, this Act applies in relation to all mining sites and mining activities in the Territory.

(2) This Act does not apply in relation to fossicking within the meaning of section 135 of the *Mineral Titles Act*.

[Subs (2) am Act 37 of 2010, s 8(4)]

(3) This Act does not apply in relation to the extraction of material from temporary borrow pits required for the construction or maintenance of a road, railway or other infrastructure unless the extraction is carried out on a mining site in respect of which a person holds a mining interest.

(4) This Act does not apply to an area of land on which the port operator, as defined in section 3 of the *Ports Management Act*, of the Port of Darwin, as defined in that section, carries out, or has carried out, operations and works mentioned in paragraph (e) of the definition of *mining activity* in section 4.

[Subs (4) am Act 12 of 2015, s 65 and Sch 1; insrt Act 22 of 2013, s 6]

[S 5 am Act 12 of 2015; Act 22 of 2013; Act 37 of 2010]

6 Act to bind Crown

This Act binds the Crown in right of the Territory and, to the extent that the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

7 Exemptions

(1) The Minister may, by *Gazette* notice, exempt —

- (a) a person, mining site, part of a mining site or a class of mining sites; or
- (b) a mining activity or class of mining activities,

from this Act, or a specified provision of this Act, for the period and on the conditions that the Minister thinks fit and specifies in the notice.

[Subs (1) am Act 35 of 2011, s 22 and Sch]

(2) Before exempting under subsection (1) —

- (a) a person, mining site, part of a mining site or a class of mining sites in relation to a mining activity in respect of uranium or thorium; or
 - (b) a mining activity or class of mining activities in respect of uranium or thorium,
- the Minister must consult with the Commonwealth Minister and give effect to the advice given by the Commonwealth Minister.

(3) The Minister must not exempt a person, site or activity referred to in subsection (2) otherwise than in accordance with the advice of the Commonwealth Minister.

[S 7 am Act 35 of 2011]

8 Civil remedies and common law not affected

(1) Unless expressly provided for, this Act does not affect a civil right or remedy available to a person in respect of a matter to which this Act applies.

[Subs (1) am Act 35 of 2011, s 22 and Sch]

(2) Compliance with this Act is not of itself evidence that there has been no breach of a common law duty of care.

[S 8 am Act 35 of 2011]

8A Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 8A

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

[S 8A insrt Act 35 of 2011, s 7]

[The next text page is NT - 2071]

PART 2 – MANAGEMENT AND COMPETENCIES

9 Operator responsible for control and management

(1) The operator for a mining site is responsible for the control and management of the site and the mining activities carried out on the site.

(2) The operator for a mining site must take all reasonable and practicable measures to ensure that every person on the site complies with and does not contravene this Act.

Maximum penalty: 1 000 penalty units.

[Subs (2) am Act 35 of 2011, s 22 and Sch; Act 28 of 2011, s 5 and Sch 3]

[S 9 am Act 35 of 2011; Act 28 of 2011]

10 Owner may be operator or may appoint operator

(1) The owner of a mining site may also be the operator for the site.

(2) If the owner of a mining site is not also the operator for the site, the owner must appoint an operator for the site.

[Subs (2) am Act 35 of 2011, s 8(1)]

(3) The appointment must be in writing and include a condition that the operator must:

- (a) before mining activities are carried out on the mining site — establish a management system for the site; and
- (b) while mining activities are carried out on the mining site — implement and maintain the management system.

[Subs (3) subst Act 35 of 2011, s 8(2); am Act 25 of 2009, s 10 and Sch 1]

(4) If the operator resigns or the appointment is terminated after the notice mentioned in section 36(2)(b) has been given to the Minister, the owner must, not later than 14 days after the relevant date, give the Chief Executive Officer a written notice of the resignation or termination and the date on which it took effect.

Maximum penalty: 20 penalty units.

[Subs (4) subst Act 35 of 2011, s 8(2); am Act 28 of 2011, s 5 and Sch 3]

(5) If the owner appoints a different operator after the notice mentioned in section 36(2)(b) has been given to the Minister, the owner must, not later than 14 days after the relevant date, give the Chief Executive Officer a written notice of the appointment and the date on which it took effect.

Maximum penalty: 20 penalty units.

[Subs (5) subst Act 35 of 2011, s 8(2)]

(6) The owner of a mining site who has appointed an operator for the site must take all reasonable and practicable measures to ensure the operator does not contravene this Act.

Maximum penalty: 1 000 penalty units.

[Subs (6) subst Act 35 of 2011, s 8(2); am Act 28 of 2011, s 5 and Sch 3]

(7) An offence against subsection (4) or (5) is an offence of strict liability.

[Subs (7) subst Act 35 of 2011, s 8(2); am Act 28 of 2011, s 5 and Sch 3]

(8) In this section:

relevant date means the date on which the termination of appointment, or the resignation or appointment, of an operator takes effect.

[Subs (8) subst Act 35 of 2011, s 8(2)]

[S 10 am Act 35 of 2011; Act 28 of 2011; Act 25 of 2009]

11 Competencies

(1) The Minister may, by *Gazette* notice, specify the competencies required by a class of persons in respect of specified mining activities.

[Subs (1) am Act 35 of 2011, s 22 and Sch]

(2) The Minister may, by *Gazette* notice, specify that a worker requires a certificate of competency to carry out specified work.

[Subs (2) am Act 35 of 2011, s 22 and Sch]

(3) A worker must not carry out work referred to in subsection (2) without a current certificate of competency.

Maximum penalty: 200 penalty units.

[Subs (3) am Act 35 of 2011, s 22 and Sch; Act 28 of 2011, s 5 and Sch 3]

(4) An offence against subsection (3) is an offence of strict liability.

[Subs (4) am Act 35 of 2011, s 22 and Sch]

[S 11 am Act 35 of 2011; Act 28 of 2011]

[The next text page is NT - 2081]

PART 3 – THE ENVIRONMENT

Division 1 – Environmental obligations

12 Definition

In this Division, *practicable*, in relation to a hazard or risk, means practicable having regard to —

- (a) the severity of the hazard or risk; and

[Para (a) am Act 35 of 2011, s 22 and Sch]

- (b) the state of knowledge about the hazard or risk and the ways of removing or mitigating it; and

[Para (b) am Act 35 of 2011, s 22 and Sch]

- (c) the availability and suitability of ways to remove or mitigate the hazard or risk; and

- (d) the cost of removing or mitigating the hazard or risk.

[S 12 am Act 35 of 2011]

13 General obligation to take care of the environment

Every person on a mining site has an obligation to take care of the environment.

[S 13 subst Act 30 of 2007, s 21]

14 Obligations in respect of the site

(1) A person on a mining site must comply with instructions and procedures applying to the person that are included in the management system for the site.

(2) A person on a mining site must follow all reasonable directions given by the operator, or a person having the duty to give the person directions, about preventing environmental harm.

(3) A person must not wilfully or recklessly:

- (a) cause environmental harm on a mining site; or
- (b) interfere with or misuse anything provided on a mining site for environmental protection.

[S 14 subst Act 30 of 2007, s 21]

15 Obligations of owner who has appointed operator

The owner of a mining site who has appointed an operator for the site must —

- (a) provide the operator with all relevant information available to the owner that may assist the operator to establish and implement an appropriate environment protection management system; and
- (b) ensure that the operator —
 - (i) is competent; and
 - (ii) provides adequate resources to establish and implement the management system.

[S 15 subst Act 30 of 2007, s 22]

16 Obligations of operator

(1) The operator for a mining site must ensure that the environmental impact of mining activities is limited to what is necessary for the establishment, operation and closure of the site.

[Subs (1) subst Act 30 of 2007, s 23]

(2) For that purpose, the operator must:

- (a) establish and maintain an appropriate management structure of competent persons for the site; and
- (b) as far as practicable ensure that workers on the site are competent to perform their duties; and
- (c) establish, implement and maintain an appropriate environment protection management system for the site; and
- (d) provide adequate resources for the implementation and maintenance of the management system; and
- (e) ensure, by regular assessment, that the management system operates effectively.

[Subs (2) subst Act 30 of 2007, s 23]

(3) The operator for a mining site must display in a prominent place on the site all written instructions of a mining officer relating to the site and make those instructions available to a contractor or worker on request.

[S 16 am Act 30 of 2007]

16A Consultation and cooperation for taking care of environment

(1) For section 16(2)(c), the operator for a mining site must facilitate consultation and cooperation between the operator, contractors and workers in initiating, developing and implementing environment protection measures for the site's management system.

(2) Without limiting subsection (1), the measures may include one or more of the following:

- (a) establishing one or more environment protection committees for the mining site or for a particular mining activity;
- (b) establishing appropriate policies and procedures for dealing with issues involving risk of environmental harm;
- (c) ensuring, as far as practicable, that adequate information is available about environmental risks involved in operations on the site;
- (d) planning appropriate strategies for dealing with environmental incidents and serious environmental incidents on the site.

[S 16A insrt Act 35 of 2011, s 9]

17 Obligations of worker

(1) A worker must keep himself or herself informed about, and comply with, work instructions and procedures applying to the worker that are included in the management system for the site.

(2) A worker must, as soon as practicable, report to the operator for the site or, if employed by a contractor, to the contractor:

- (a) the occurrence of an environmental incident or serious environmental incident; or
- (b) a situation the worker has reason to believe may present a risk to the environment.

[Subs (2) am Act 35 of 2011, s 22 and Sch; subst Act 30 of 2007, s 24]

3 [Repealed]

[Subs (3) rep Act 30 of 2007, s 24]

[S 17 am Act 35 of 2011; Act 30 of 2007]

18 Obligations of contractor who is employer

(1) A contractor must ensure that the provisions of this Act and the management system for the site are complied with to the extent that they relate to the work performed or service provided by the contractor.

(2) A contractor must report an environmental incident or serious environmental incident to the operator for the site as soon as practicable after becoming aware of the incident.

[Subs (2) am Act 35 of 2011, s 22 and Sch; subst Act 30 of 2007, s 25]

(3) In this section, *contractor* means a contractor who employs a worker whether the contractor is a body corporate or an individual.

[Subs (3) am Act 35 of 2011, s 22 and Sch]

[S 18 am Act 35 of 2011; Act 30 of 2007]

21 Consequences of breach of obligation

(1) A person who breaches an obligation imposed by this Division may be found guilty of an offence under Division 3 but the breach does not of itself constitute an offence.

[Subs (1) am Act 30 of 2007, s 27(1)]

(2) The fact that environmental harm has occurred on a mining site is not of itself evidence of an offence under Division 3.

[Subs (2) subst Act 30 of 2007, s 27(2)]

[S 21 am Act 30 of 2007]

[The next text page is NT - 2091]

MINING
MINING MANAGEMENT ACT 2001 [REPEALED]

Division 3 – Environmental offences

25 Application of Division

This Division does not apply in relation to environmental harm caused by a substance that is prescribed under the *Waste Management and Pollution Control Act* to be an ozone-depleting substance.

[S 25 subst Act 35 of 2011, s 10]

26 Serious environmental harm — environmental offence level 1

- (1) A person commits an offence if:
 - (a) the person engages in conduct on a mining site; and
 - (b) the conduct results in:
 - (i) a contravention of an environmental obligation; and
 - (ii) serious environmental harm.
- (2) An offence against subsection (1) is an environmental offence level 1.

(3) In a proceeding for an offence against subsection (1), the person charged with the offence may be found guilty alternatively of an offence against section 26A(1), 27(1), 27A(1), 28(1) or 28A(1).

[S 26 subst Act 35 of 2011, s 10]

26A Serious environmental harm — environmental offence level 2

- (1) A person commits an offence if:
 - (a) the person engages in conduct on a mining site; and
 - (b) the conduct results in:
 - (i) a contravention of an environmental obligation; and
 - (ii) serious environmental harm; and
 - (c) the person is negligent about the result mentioned in paragraph (b)(ii).
- (2) An offence against subsection (1) is an environmental offence level 2.

(3) In a proceeding for an offence against subsection (1), the person charged with the offence may be found guilty alternatively of an offence against section 27(1), 27A(1), 28(1) or 28A(1).

[S 26A insrt Act 35 of 2011, s 10]

27 Material environmental harm — environmental offence level 2

- (1) A person commits an offence if:
 - (a) the person engages in conduct on a mining site; and
 - (b) the conduct results in:
 - (i) a contravention of an environmental obligation; and
 - (ii) material environmental harm.
- (2) An offence against subsection (1) is an environmental offence level 2.

(3) In a proceeding for an offence against subsection (1), the person charged with the offence may be found guilty alternatively of an offence against section 27A(1), 28(1) or 28A(1).

[S 27 subst Act 35 of 2011, s 10]

27A Material environmental harm — environmental offence level 3

- (1) A person commits an offence if:
- (a) the person engages in conduct on a mining site; and
 - (b) the conduct results in:
 - (i) a contravention of an environmental obligation; and
 - (ii) material environmental harm; and
 - (c) the person is negligent about the result mentioned in paragraph (b)(ii).

(2) An offence against subsection (1) is an environmental offence level 3.

(3) In a proceeding for an offence against subsection (1), the person charged with the offence may be found guilty alternatively of an offence against section 28(1) or 28A(1).

[S 27A insrt Act 35 of 2011, s 10]

28 Environmental nuisance — environmental offence level 3

- (1) A person commits an offence if:
- (a) the person engages in conduct on a mining site; and
 - (b) the conduct results in:
 - (i) a contravention of an environmental obligation; and
 - (ii) environmental nuisance.

(2) An offence against subsection (1) is an environmental offence level 3.

(3) In a proceeding for an offence against subsection (1), the person charged with the offence may be found guilty alternatively of an offence against section 28A(1).

[S 28 subst Act 35 of 2011, s 10]

28A Environmental nuisance — environmental offence level 4

- (1) A person commits an offence if:
- (a) the person engages in conduct on a mining site; and
 - (b) the conduct results in:
 - (i) a contravention of an environmental obligation; and
 - (ii) environmental nuisance; and
 - (c) the person is negligent about the result mentioned in paragraph (b)(ii).

(2) An offence against subsection (1) is an environmental offence level 4.

[S 28A insrt Act 35 of 2011, s 10]

[The next text page is NT - 2101]

Division 4 – Environmental incidents and serious environmental incidents

29 Operator must report environmental incident or serious environmental incident

(1) As soon as practicable after the operator for a mining site becomes aware of the occurrence of an environmental incident or serious environmental incident on the site, the operator must notify the Chief Executive Officer of the occurrence.
Maximum penalty: 200 penalty units.

(2) An operator who gives notice orally must, as soon as practicable after doing so, give a written notice to the Chief Executive Officer.
Maximum penalty: 200 penalty units.

(3) An offence against subsection (1) or (2) is an offence of strict liability.

[S 29 subst Act 35 of 2011, s 10; am Act 28 of 2011]

30 Investigation by mining officer

(1) As soon as practicable after receiving notice of an environmental incident or serious environmental incident, the Chief Executive Officer may instruct a mining officer to:

- (a) inspect the place where the incident occurred; and
- (b) if the mining officer considers circumstances require it — investigate the incident to determine, if possible, the nature, impact and cause of the incident; and
- (c) give the Chief Executive Officer a written report of the findings of any investigation.

[Subs (1) am Act 22 of 2013, s 7(1) and (2)]

(2) The Chief Executive Officer may recover the costs of an investigation under subsection (1)(b) as a debt payable by the operator for the site on which the incident occurred.

[Subs (2) insrt Act 22 of 2013, s 7(3)]

[S 30 am Act 22 of 2013; subst Act 35 of 2011, s 10]

31 Investigation by operator

(1) If a serious environmental incident occurs on a mining site, the operator for the site must:

- (a) carry out an investigation to determine, if possible, the cause of the incident; and
- (b) within the relevant time — give the Chief Executive Officer a written report about the incident that includes information about remedial actions taken, or to be taken, and recommendations for the prevention of further similar incidents.

(2) If an environmental incident occurs on a mining site, the Chief Executive Officer may, by written notice, require the operator for the site to:

- (a) carry out an investigation to determine, if possible, the cause of the incident; and
- (b) within the relevant time — give the Chief Executive Officer a written report about the incident that includes information about remedial actions taken, or to be taken, and recommendations for the prevention of further similar incidents.

(3) An operator must not contravene subsection (1) or a requirement under subsection (2).

Maximum penalty: 200 penalty units.

(4) An offence against subsection (3) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against subsection (3) if the defendant establishes a reasonable excuse.

(6) In this section:

relevant time means:

- (a) for subsection (1)(b) — 14 days after the day on which the serious environmental incident occurred or a longer period as approved by the Chief Executive Officer; or
- (b) for subsection (2)(b) — 14 days after the day on which the Chief Executive Officer gives the notice or a longer period as approved by the Chief Executive Officer.

[S 31 subst Act 35 of 2011, s 10; am Act 28 of 2011]

31A Publication of report

If the Chief Executive Officer considers it to be in the public interest, the Chief Executive Officer may publish all or part of a report given under section 30 or 31.

[S 31A insrt Act 35 of 2011, s 10]

32 No interference with place of serious environmental incident

(1) A person commits an offence if the person:

- (a) interferes with a place where a serious environmental incident occurred; and
- (b) does not have the permission of a mining officer to do so.

Maximum penalty: 200 penalty units.

(2) Strict liability applies to subsection (1)(b).

[S 32 subst Act 35 of 2011, s 10; am Act 28 of 2011; Act 30 of 2007]

[The next text page is NT - 2111]

Division 5 – General offence

33 No unauthorised release of waste or contaminant

(1) A person commits an offence if:

- (a) the person releases waste or a contaminant that is from a mining site; and
- (b) the release is not authorised by the mining management plan for the site.

Maximum penalty: 200 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes a reasonable excuse.

(4) Subsection (1) applies regardless of whether the release:

- (a) occurs on or outside the mining site; or
- (b) causes, or has the potential to cause, environmental harm.

[S 33 subst Act 35 of 2011, s 10]

[The next text page is NT - 2151]

MINING
MINING MANAGEMENT ACT 2001 [REPEALED]

PART 4 – MINING ACTIVITIES

Division 1 – Exercise of powers by Minister

34 Minister to have regard to mining interest etc

(1) Before exercising a power or performing a function under this Part in relation to an Authorisation, the Minister must have regard to the mining interest held for the mining site to which the Authorisation relates and any conditions of that mining interest.

[Subs (1) am Act 35 of 2011, s 22 and Sch]

(2) In granting or varying an Authorisation that relates to a mining interest held under the *Mineral Titles Act*, the Minister must ensure that the conditions of the Authorisation are not inconsistent with the conditions of the mining interest.

[Subs (2) am Act 37 of 2010, s 8(5)]

(3) Before exercising a power or performing a function under this Part in relation to an Authorisation that relates to uranium or thorium, the Minister —

- (a) must consult with the Commonwealth Minister about matters agreed in writing between them relating to the mining of uranium or thorium; and
- (b) must act in accordance with any advice provided by the Commonwealth Minister.

(4) In granting or varying an Authorisation that relates to the Ranger Project Area, the Minister must ensure that the Authorisation incorporates or adopts by reference (with the necessary modifications) the Ranger Project Environmental Requirements.

(5) In subsection (4) —

Ranger Project Area, see section 4 of the *Atomic Energy Act*.

[Def am Act 35 of 2011, s 22 and Sch]

Ranger Project Environmental Requirements means the environmental requirements relating to the Ranger Project Area as set out in Appendix A to the Schedule to the authority under section 41 of the *Atomic Energy Act* and dated 14 November 1999.

[S 34 am Act 35 of 2011; Act 37 of 2010]

[The next text page is NT - 2161]

MINING
MINING MANAGEMENT ACT 2001 [REPEALED]

Division 2 – Authorisation to carry out mining activities

35 Requirement for Authorisation

(1) The operator for a mining site may carry out mining activities on the site only if the Minister has granted the operator an Authorisation to do so.

(2) However, subsection (1) applies in relation to the carrying out of exploration for minerals on a mining site only if the exploration will involve substantial disturbance of the mining site.

(3) For subsection (2), substantial disturbance of a mining site includes any of the following:

- (a) land clearing;
- (b) earthworks (for example, cutting, filling, excavating or trenching);
- (c) aboveground works (for example, works for building roads, buildings, bridges, railways or airstrips or works for establishing conveyors, pipelines, telephone lines or power lines);
- (d) underground works (for example, works in connection with tunnels, wells, pipelines, conduits or cables);
- (e) waterworks (for example, works in connection with dams, impoundments, canals or the drainage or alteration of river or creek banks, water courses or shorelines);
- (f) extracting resources from the surface of the land, underground, riverbeds or under the sea;
- (g) stockpiling ore, overburden, waste materials or by-products;
- (h) establishing seismic lines, drill pads, drill holes, grids, tracks or costeans;
- (i) establishing a camp for the workers;
- (j) blasting;
- (k) active remote sensing and seismic techniques in water;
- (l) an activity that is likely to have a significant impact on flora or fauna.

(4) The operator for a mining site commits an offence if:

- (a) the operator carries out a mining activity on the site; and
- (b) the mining activity is an activity for which an Authorisation is required because of subsection (1); and
- (c) there is no Authorisation in force for the mining activity.

Maximum penalty: 5 000 penalty units.

(5) Strict liability applies to subsection (4)(b) and (c).

[S 35 subst Act 35 of 2011, s 11; am Act 28 of 2011]

[710.35.20] Mine expansion — Ministerial authorisation — Invalid approval

Lansen v Minister for Mines and Energy (NT) (2007) 20 NTLR 6; [2007] NTSC 28.

The third defendant company was granted an authorisation by the Minister to expand its operations from underground to open-cut mining. The plaintiffs argued the approval was invalid because the *Mining Management Act 2001* (NT) required approval to relate to the original authorisation.

Held: (allowing the application)

- (1) The Minister had invalidly approved the mine's expansion.
- (2) The original authorisation did not authorise the proposed open-cut mining operation.
- (3) Accordingly, the Minister's approval of the amended Mining Management Plan was of no effect because it was not in respect of the mining activities to which the original authorisation related.

[Editorial note: The decision in this case has been overturned by amendments to the *McArthur River Project Agreement Ratification Act* (NT), which retrospectively approves all mining activity at the mine.] [Related proceedings - *McArthur River Mining Pty Ltd v Lansen* (2007) 21 NTLR 6; [2007] NTCA 5.]

36 Approval of mining management plan and grant of Authorisation

(1) An operator for a mining site who requires an Authorisation because of section 35(1) must apply in writing to the Minister for the Authorisation.

(2) The application must be accompanied by:

- (a) the mining management plan for the mining site; and
- (b) if the operator is not the owner of the mining site — a notice stating the date on which the operator was appointed.

(3) The Minister may, by written notice to the operator, request further information to be given within the time specified in the notice.

(4) The Minister may decide the application by:

- (a) approving the mining management plan and granting the Authorisation; or
- (b) refusing to approve the mining management plan and refusing to grant the Authorisation.

(5) Before approving the mining management plan, the Minister must be satisfied:

- (a) the management system for the mining site, as detailed in the plan:
 - (i) is appropriate for the mining activities described in the plan; and
 - (ii) will, as far as practicable, operate effectively in protecting the environment; and
 - (iii) will, as far as practicable, protect any water rights under sections 9, 10, 11, 13, 14, 41, 45, 57, 60, 63 and 67 of the *Water Act* that are held in the vicinity of the mining site; and
- (b) the mining activities described in the plan will be carried out in accordance with good industry practice.

[Subs (5) am Act 29 of 2018, s 57]

(5A) If a mining activity is required to be referred to the NT EPA under Part 4, Division 3 of the *Environment Protection Act 2019*, the Minister must not approve a mining management plan covering that activity or grant an Authorisation for that activity unless:

- (a) the NT EPA has determined that an environmental impact assessment is not required under that Act for that activity; or
- (b) if the NT EPA has determined that an environmental impact assessment is required—an environmental approval has been granted under that Act for the activity; or
- (c) the *Environment Protection Act 2019* otherwise permits the granting of the approval of the mining management plan and the granting of that Authorisation.

[Subs (5A) insrt Act 31 of 2019, s 309]

(6) If the Minister refuses to approve the mining management plan and grant the Authorisation, the Minister must give the operator written reasons for the refusal.

[S 36 am Act 31 of 2019; Act 29 of 2018; subst Act 35 of 2011, s 11; am Act 30 of 2007]

[710.36.20] Mine expansion — Ministerial authorisation — Invalid approval

Lansen v Minister for Mines and Energy (NT) (2007) 20 NTLR 6; [2007] NTSC 28.

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Held: (allowing the application)

- (1) The Minister had invalidly approved the mine's expansion.
- (2) The original authorisation did not authorise the proposed open-cut mining operation.
- (3) Accordingly, the Minister's approval of the amended Mining Management Plan was of no effect because it was not in respect of the mining activities to which the original authorisation related.

[Editorial note: The decision in this case has been overturned by amendments to the *McArthur River Project Agreement Ratification Act* (NT), which retrospectively approves all mining activity at the mine.] [Related proceedings - *McArthur River Mining Pty Ltd v Lansen* (2007) 21 NTLR 6; [2007] NTCA 5.]

37 Duration and conditions of Authorisation

(1) An Authorisation is granted for the period and subject to the conditions specified in it.

(2) An Authorisation is subject to the following conditions:

- (a) the operator for the mining site to which the Authorisation relates must comply with the mining management plan in force for the site;
- (b) unless the Authorisation relates to the Ranger Project Area — the operator must:
 - (i) provide a security of the amount, in the form, and on the terms, specified in the condition; and
 - (ii) pay a levy of an amount specified in the condition;
- (c) any other conditions the Minister considers appropriate for the mining activities specified in the mining management plan.

[Subs (2) subst Act 22 of 2013, s 8]

(3) Without limiting subsection (2)(c), the Minister may impose conditions on an Authorisation about any of the following matters:

- (a) the protection of the environment;
- (b) [Repealed]
- (c) the provision of social and economic benefits to communities outside the mining site that will be directly affected by the mining activities to be carried out on the site;
- (d) the form and frequency of periodic reports about mining activities carried out on the mining site;
- (e) the requirement for the operator to make an environmental mining report available to the public at specified intervals;
- (f) the requirement to make other reports, or parts of reports, available to the public.

Note for subsection (3)(e) and (f)

See section 45A if the operator does not comply with the condition.

[Subs (3) am Act 31 of 2019, s 310(1); subst Act 22 of 2013, s 8]

(4) For subsection (3)(e), an *environmental mining report* is a report about an operator's environmental performance in carrying out activities for mining minerals.

[Subs (4) subst Act 31 of 2019, s 310(2); Act 22 of 2013, s 8]

(5) An environmental mining report must:

- (a) be in the form approved by the Chief Executive Officer; and
- (b) include the information required by the approved form; and
- (c) be made available to the public in a way that is specified in the approved form.

[Subs (5) subst Act 22 of 2013, s 8]

(6) In this section:

minerals does not include extractive minerals.

[S 37 am Act 31 of 2019; Act 22 of 2013; subst Act 35 of 2011, s 11; am Act 30 of 2007]

38 Variation or revocation of Authorisation

(1) An operator may apply in writing to the Minister for a variation of an Authorisation, stating the reasons for the application.

Note for subsection (1)

If the mining management plan is being amended in connection with the variation, section 41(2) to (5) applies.

(2) The Minister may on the Minister's own initiative, by written notice to an operator, vary or revoke an Authorisation.

[Subs (2) am Act 22 of 2013, s 17 and Sch]

(3) The Minister must not vary an Authorisation unless satisfied the management system detailed in the current mining management plan, or in the amended plan submitted for approval in connection with the variation:

- (a) is appropriate for the mining activities described in the plan; and
- (b) as far as practicable — will operate effectively in protecting the environment.

(4) Before varying or revoking an Authorisation, the Minister may in writing request the operator to give the Minister specified information, documents or plans within a specified time.

(5) A variation or revocation of an Authorisation takes effect:

- (a) on the date on which the notice of variation or revocation is given to the operator; or
- (b) if a later date is specified in the notice — on the later date.

[S 38 am Act 22 of 2013; subst Act 35 of 2011, s 11; am Act 30 of 2007]

39 Contravention of Authorisation

The operator for a mining site commits an offence if:

- (a) the operator engages in conduct; and
- (b) the conduct results in a contravention of the Authorisation in force for the site.

Maximum penalty: 250 penalty units.

[S 39 subst Act 35 of 2011, s 11; am Act 28 of 2011, s 5 and Sch 3]

[The next text page is NT - 2171]

Division 3 – Mining management plan

40 Mining management plan and required information

(1) A *mining management plan* is a plan for the management of a mining site for which the operator requires an Authorisation to carry out mining activities.

(2) A mining management plan must include the following:

- (a) details of the mining interest held for, or associated with, the mining site;
- (b) details of the ownership of the mining interest;
- (c) a description of the mining activities for which the operator requires an Authorisation;
- (d) details of the organisational structure for carrying out the mining activities;
- (e) details of the management system;
- (f) plans of proposed and current mine workings and infrastructure;
- (g) a plan and costing of closure activities;
- (h) other details or plans required by the Minister.

[S 40 subst Act 35 of 2011, s 12; am Act 30 of 2007, s 34]

41 Review and amendment of mining management plan

(1) The operator for a mining site must, at intervals specified in the Authorisation for the site or as required in writing by the Minister:

- (a) review and, if necessary, amend the mining management plan for the site; and
- (b) if the plan is amended — submit the amended plan to the Minister for approval.

(2) If at any other time it is necessary to amend the mining management plan, the operator must submit the amended plan to the Minister for approval.

(3) An amended mining management plan must clearly identify the amendments.

(4) The Minister may, by written notice to the operator, approve the amended plan or refuse to do so.

(5) An amended mining management plan has no effect unless it has been approved by the Minister in accordance with section 36(5).

[Subs (5) am Act 29 of 2018, s 58]

[S 41 am Act 29 of 2018; subst Act 35 of 2011, s 12]

42 Notification of proposed cessation of mining activities

(1) The operator for a mining site must notify the Minister in writing of the proposed cessation of mining activities on the site that is not in accordance with the mining management plan as soon as practicable before cessation.

Maximum penalty: 20 penalty units

[Subs (1) am Act 35 of 2011, s 22 and Sch; Act 28 of 2011, s 5 and Sch 3]

(2) An offence against subsection (1) is an offence of strict liability.

[Subs (2) am Act 35 of 2011, s 22 and Sch]

[S 42 am Act 35 of 2011; Act 28 of 2011]

[The next text page is NT - 2181]

MINING
MINING MANAGEMENT ACT 2001 [REPEALED]

Division 4 – Security and levy

42A Application of Division

This Division does not apply in relation to the following:

- (a) an operator who carries out mining activities under an Authorisation relating to the Ranger Project Area;
- (b) an Authorisation granted in relation to the Ranger Project Area.

[S 42A insrt Act 22 of 2013, s 10]

43 Requirement for and purpose of security

(1) An operator who carries out mining activities under an Authorisation must provide the Minister with a security in relation to the activities in accordance with the condition of the Authorisation mentioned in section 37(2)(b)(i).

(2) The purpose of the security is to secure any of the following:

- (a) the operator's obligation to comply with this Act and the Authorisation;
- (b) the payment of costs and expenses in relation to the Minister taking an action to prevent, minimise or rectify environmental harm caused by mining activities:
 - (i) on the mining site to which the Authorisation relates; or
 - (ii) outside the mining site if the environmental harm results from or may result from a mining activity carried out on the site;
- (c) the payment of costs and expenses in relation to the Minister taking an action to complete rehabilitation of the mining site.

[S 43 subst Act 22 of 2013, s 10]

43A Calculation of security

(1) The Minister is to calculate the amount of security to be provided by an operator by reference to the level of disturbance likely to be caused by the mining activities to be carried out under the Authorisation granted to the operator.

(2) A regulation may deal with any of the following:

- (a) a minimum amount of a security to be provided by an operator;
- (b) procedures relevant to the calculation of a security;
- (c) criteria on which the calculation of a security is to be based.

(3) Any part of a security not required for a purpose mentioned in section 43(2) is refundable.

[S 43A insrt Act 22 of 2013, s 10]

44 Claim on security

(1) In this section, *claim on a security* means any method of taking the benefit of a security provided by an operator.

(2) If the Minister intends to make a claim on a security, the Minister must give the operator a written notice including —

- (a) the reason for making the claim; and
- (b) if action is to be taken, or has been taken, under section 83 — a summary of that action; and

(c) the amount of the security that is to be claimed.

[Subs (2) am Act 35 of 2011, s 22 and Sch]

(3) The operator may, within 30 days after being given a notice under subsection (2), make submissions to the Minister in relation to the matters in the notice.

(4) The Minister may make a claim on a security if he or she has —

- (a) given the operator a notice under subsection (2); and
- (b) considered any submission made by the operator; and
- (c) notified the operator of his or her decision to claim on the security.

[Subs (4) am Act 35 of 2011, s 22 and Sch]

(5) If the amount recovered by the Minister by a claim on a security is less than the reasonable costs and expenses incurred by or on behalf of the Minister, he or she may, by written notice, require the operator to pay a specified amount within a specified time.

[Subs (5) am Act 35 of 2011, s 22 and Sch]

(6) The amount specified under subsection (5) is to be the difference between the costs and expenses claimed on the security and the reasonable costs and expenses incurred in relation to the matter to which the claim relates.

(7) The amount specified in a notice under subsection (5) is a debt due to the Territory and is payable by the date specified in the notice.

(8) Costs and expenses may be recovered under this section even though they were incurred as a result of an act or matter that occurred before the security was provided to the Minister.

[S 44 am Act 35 of 2011]

44A Requirement for and purpose of levy

(1) An operator who carries out mining activities under an Authorisation must pay an annual levy in accordance with the condition of the Authorisation mentioned in section 37(2)(b)(ii).

(2) A *levy* is a tax in relation to mining activities that is levied for the purpose of providing revenue:

- (a) for the Fund; and
- (b) for the effective administration of this Act in relation to minimising or rectifying environmental harm caused by mining activities.

[S 44A insrt Act 22 of 2013, s 11]

44B Amount of levy

(1) The levy to be paid by an operator is 1% of the security provided by the operator.

(2) A regulation may deal with matters relevant to the levy.

(3) A levy paid by an operator is non-refundable.

[S 44B insrt Act 22 of 2013, s 11]

[The next text page is NT - 2191]

Division 5 – Miscellaneous matters

45 Minister may require information

(1) The Minister may give the operator for a mining site a written notice requiring the operator to provide the Minister with specified information, statistics or plans relevant to the site, or a mining activity on the site, within the time specified in the notice.

(2) The operator must comply with the notice.

Maximum penalty: 20 penalty units

[Subs (2) am Act 35 of 2011, s 22 and Sch; Act 28 of 2011, s 5 and Sch 3]

(3) An offence against subsection (2) is an offence of strict liability.

[Subs (3) am Act 35 of 2011, s 22 and Sch]

[S 45 am Act 35 of 2011; Act 28 of 2011]

45A Minister may publish report

If an operator is required under section 37(3)(e) or (f) to make all or part of a report available to the public and does not do so, the Minister may publish the report or part.

[S 45A am Act 22 of 2013, s 17 and Sch; insrt Act 35 of 2011, s 13]

46 Certificate of closure

(1) On completion of the rehabilitation of a mining site to the satisfaction of the Minister, the operator for the site may apply to the Minister for a certificate of closure in respect of the site.

(2) When the operator has met the closure criteria for the mining site, the Minister must

- (a) issue to him or her a certificate of closure in respect of the site; and
- (b) return or relinquish any outstanding security provided by the operator.

(3) In this section, *closure criteria* means the standard or level of performance, as specified in the mining management plan for the mining site, that demonstrates successful closure of the site.

[The next text page is NT - 2195]

MINING
MINING MANAGEMENT ACT 2001 [REPEALED]

PART 4A – MINING REMEDIATION FUND

46A Establishment of Fund

(1) The Mining Remediation Fund must be established under the *Financial Management Act*.

(2) A regulation may deal with matters relevant to the Fund.

[S 46A insrt Act 22 of 2013, s 12]

46B Purpose of Fund

(1) The purpose of the Fund is to hold money in trust to be used by the Agency in connection with minimising or rectifying environmental harm caused by unsecured mining activities.

(2) *Unsecured mining activities* are mining activities, whether carried out by a person before or after the commencement of this section, in relation to which the person:

- (a) provided no security; or
- (b) provided a security that has been expended.

(3) The money held in the Fund may be used for the purpose mentioned in subsection (1) regardless of whether:

- (a) there is an operator currently carrying out mining activities on land on which the unsecured mining activities were carried out; and
- (b) the operator is not the person mentioned in subsection (2); and
- (c) the operator has provided security or paid a levy in relation to the activities currently being carried out.

[S 46B insrt Act 22 of 2013, s 12]

46C Payments into Fund

(1) Subject to subsection (2), at least 33% of the amount of each levy paid by an operator must be paid into the Fund.

(2) A regulation may increase the minimum percentage required to be paid to the Fund.

[S 46C insrt Act 22 of 2013, s 12]

46D Payments from Fund

Without limiting the purpose for which money in the Fund may be used, as specified in section 46B(1), payments may be made from the Fund for costs and expenses incurred in relation to any of the following:

- (a) the identification of environmental harm caused by unsecured mining activities;
- (b) the assessment of the risk of that harm;
- (c) investigations and scientific studies relating to that harm;
- (d) the preparation of remediation plans necessary because of that harm;
- (e) carrying out both long-term and short-term remedial works required because of that harm;

(f) engaging persons with appropriate expertise to carry out other activities in relation to that harm.

[S 46D insrt Act 22 of 2013, s 12]

[The next text page is NT - 2201]

PART 5 – GUIDELINES

47 Minister may issue guidelines

- (1) The Minister may issue, vary or revoke guidelines.
- (2) Guidelines may refer to or incorporate, wholly or partially and with or without modification, a standard, code or other document formulated or published by a body referred to in the guidelines as in force at the time the guideline is issued or as amended, formulated or published from time to time.
- (3) The Minister must give notice in the *Gazette* of the issuing, variation or revocation of guidelines and specify in the notice the place at which copies of the guidelines that are in force, and all documents incorporated or referred to in those guidelines, may be inspected during normal business hours.
- (4) The Minister must make all guidelines that are in force, and all documents incorporated or referred to in those guidelines, available for general inspection free of charge.

48 Purpose of guidelines

The purpose of guidelines is to provide guidance on matters referred to in this Act, including known best practice in respect of mining activities, and to encourage continual improvement in the carrying out or the management of mining activities.

[The next text page is NT - 2221]

MINING
MINING MANAGEMENT ACT 2001 [REPEALED]

PART 6 – MINING BOARD

49 Establishment of Mining Board

The Mining Board is established.

50 Functions and powers of Mining Board

(1) The functions of the Mining Board are as follows:

- (a) to advise or report to the Minister on matters relevant to mining activities and their management, including the following:
 - (i) [Repealed]
 - (ii) best practice in mining activities inside and outside Australia;
 - (iii) consistency of legislation, guidelines and competencies inside and outside Australia;
 - (iv) levels of competencies required by persons in respect of specified mining activities;
 - (v) competencies required by mining officers;
- (b) to recommend guidelines to the Minister for his or her approval;
- (c) to develop guidelines and other forms of assistance to persons involved in mining activities;
- (d) to investigate and research matters relevant to mining activities and their management;
- (e) to constitute a review panel for the purposes of Part 8;
- (f) other functions imposed by the Minister or prescribed by regulations.

[Subs (1) am Act 35 of 2011, s 22 and Sch; Act 30 of 2007, s 35]

(2) The Mining Board may exercise the powers conferred on it by this Act or that are necessary or incidental to the performance of its functions.

[S 50 am Act 35 of 2011; Act 30 of 2007]

51 Membership of Mining Board

(1) The Mining Board is constituted by at least 5 members appointed in writing by the Minister.

(2) Before appointing a member of the Mining Board, the Minister must request each organisation in the Territory representing the mining industry to nominate one or more persons for appointment.

(3) If sufficient nominations are received by the Minister after making a request under subsection (2), the Minister must ensure that the majority of the members of the Mining Board comprises persons nominated by organisations representing the mining industry.

(4) A member of the Mining Board who is not nominated by an organisation representing the mining industry must have the experience in the mining industry or matters connected with the mining industry that the Minister thinks fit.

(5) A member holds office for the period (not exceeding 3 years) specified in the instrument of appointment and is eligible for reappointment.

52 Chairperson

(1) The Minister must in writing appoint a member of the Mining Board who is not a public sector employee to be the Chairperson of the Board.

[Subs (1) am Act 35 of 2011, s 22 and Sch]

(2) The Chairperson holds office for the period (not exceeding 3 years) specified in the instrument of appointment and is eligible for reappointment.

(3) The Chairperson must preside at all meetings of the Mining Board but if the Chairperson is absent from a meeting the members present at the meeting must elect one of their number to act as the Chairperson for the purposes of that meeting.

(4) A member has the same powers as the Chairperson when acting as the Chairperson.

[S 52 am Act 35 of 2011]

53 Termination of appointment

(1) The Minister may terminate the appointment of the Chairperson or a member of the Mining Board for inability, inefficiency, misbehaviour or physical or mental incapacity.

(2) The Minister must terminate the appointment of a member who —

- (a) is absent from 3 consecutive meetings of the Mining Board without the leave of the Board; or
- (b) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of remuneration for their benefit.

54 Resignation of member

A member or the Chairperson of the Mining Board may resign from office by written notice given to the Minister.

55 Acting members

(1) The Minister may appoint a person to act as a member of the Mining Board (other than as the Chairperson) —

- (a) during a vacancy in the office of the member, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the member is for any reason unable to perform the functions of the office.

(2) A person appointed to act as a member under subsection (1)(a) must not act in that office continuously for more than 12 months.

(3) A person is not to be appointed to act as a member under subsection (1) unless the person is eligible under section 51(2) to be appointed as a member.

(4) Anything done by or in relation to a person purporting to act under an appointment under this section is not invalid on the ground that —

- (a) the appointment was ineffective or had ceased to have effect; or
- (b) the occasion to act had not arisen or had ceased.

[Subs (4) am Act 35 of 2011, s 22 and Sch]

(5) An acting member of the Mining Board has the same functions and powers as a member when acting as a member.

(6) The Minister may terminate the appointment of an acting member at any time.

[S 55 am Act 35 of 2011]

56 Meetings of Mining Board

(1) The Mining Board must hold at least one meeting each year at a time and place determined by the Chairperson and notified in writing to the members of the Board.

(2) The Chairperson —

- (a) may convene a meeting of the Mining Board at any time; and
- (b) must convene a meeting of the Mining Board, as soon as practicable, if requested in writing to do so by the Minister or 3 other members.

(3) At a meeting of the Mining Board, one half of the number of the members then holding office (including a person appointed under section 55(1)(a) to act as a member) plus one member of the Board constitute a quorum.

(4) At a meeting of the Mining Board, questions arising are to be determined by a majority of the members present and voting but, in the event of an equality of votes, the Chairperson may exercise a casting vote.

(5) Subject to this Act, the Mining Board is to determine the procedures to be followed at or in connection with its meetings.

57 Committees

(1) The Mining Board may establish committees to advise and make recommendations to the Board on those matters within the Board's powers and functions that are referred to the committees by the Board.

(2) The Mining Board is to determine the membership of a committee and the way in which it is to carry out its functions.

(3) A committee may be constituted by members of the Mining Board or other persons, or both.

58 Validity of actions

The exercise of a power or performance of a function by the Mining Board is not affected by reason only that —

- (a) there is a vacancy in the membership of the Board; or

[Para (a) am Act 35 of 2011, s 22 and Sch]

- (b) there is a defect in the appointment of a member or the election of an acting Chairperson; or
- (c) a person has acted in office after the termination of his or her appointment as a member.

[S 58 am Act 35 of 2011]

[The next text page is NT - 2251]

MINING
MINING MANAGEMENT ACT 2001 [REPEALED]

PART 7 – MINING OFFICERS

59 Appointment of mining officer

- (1) The Minister may in writing appoint a person to be a mining officer.
- (2) The appointment of a mining officer may be subject to conditions specified in the instrument of appointment.
- (3) The Minister must be satisfied that a person appointed under this section has the appropriate competencies or adequate experience required for the performance of his or her functions as a mining officer.
- (4) A mining officer must perform the functions and may exercise the powers that are imposed or conferred on him or her by or under this Act or any other Act or delegated to him or her by the Minister or the Chief Executive Officer.

60 Identity cards

- (1) The Chief Executive Officer must issue to each mining officer an identity card containing —
 - (a) the mining officer's name, signature and photograph; and
 - (b) the date of appointment of the mining officer and the date on which the appointment is to cease (if applicable).
- (2) A mining officer must produce his or her identity card on being requested to do so by a person in respect of whom the mining officer has exercised or is about to exercise his or her powers under this Act or any other Act.

(3) A mining officer must return his or her identity card to the Chief Executive Officer as soon as practicable after ceasing to be a mining officer.
Maximum penalty: 20 penalty units.

[Subs (3) am Act 35 of 2011, s 22 and Sch; Act 28 of 2011, s 5 and Sch 3]

- (4) An offence against subsection (3) is an offence of strict liability.

[Subs (4) am Act 35 of 2011, s 22 and Sch]

[S 60 am Act 35 of 2011; Act 28 of 2011]

61 Functions of mining officer

Subject to the conditions of his or her appointment, a mining officer has the following functions:

- (a) to enforce this Act;
- (b) to monitor the management systems on mining sites;
- (c) to inspect and audit mining sites and mining activities to assess:
 - (i) levels of environmental risk; and
 - (ii) whether the applicable Authorisation and management system are being complied with;
- (d) to ensure that timely corrective or remedial action is taken to prevent environmental harm or risk of environmental harm;

- (e) to investigate and report on serious accidents and critical incidents;
- (f) to receive and investigate complaints in relation to mining sites or mining activities;
- (g) to provide advice and information to the Minister, the Chief Executive Officer, persons involved in mining activities and the public;
- (h) to collect and collate statistics about mining activities and the mining industry as required by the Minister.

[S 61 am Act 30 of 2007, s 36]

62 Powers of mining officer

- (1) Subject to this Act, a mining officer may, in respect of a mining site —
- (a) enter and inspect the site at any time, with the assistants that the mining officer considers necessary, but not so as to unnecessarily impede or obstruct mining activities; or
 - (b) require the assistance of the owner, operator, contractors or workers to obtain access to parts of the site or to information necessary to enable the mining officer to perform his or her functions; or
 - (c) require a person to provide information that is reasonably necessary —
 - (i) to assist the mining officer to perform a function under this Act; or
 - (ii) for the administration or enforcement of this Act; or
 - (d) require the owner, operator, a contractor or a worker to attend and answer questions for the purposes of an investigation into:
 - (i) a critical incident or serious accident; or
 - (ii) a complaint received by the mining officer; or
 - (iii) other matters relevant to this Act; or
 - (e) issue written instructions to the operator; or
 - (f) direct the operator to take action to ensure compliance with the Authorisation, the management system or other obligations under this Act; or
 - (g) close the site or part of the site if the mining officer has assessed there is an immediate risk of a serious accident; or
 - (h) take any other action that may be reasonably necessary to:
 - (i) protect the environment; or
 - (ii) ensure compliance with this Act, the Authorisation or the management system.

[Subs (1) am Act 35 of 2011, s 14(1)]

(2) A person must comply with a requirement, instruction or direction of a mining officer given under subsection (1).
Maximum penalty: 100 penalty units.

[Subs (2) insrt Act 35 of 2011, s 14(2)]

(3) An offence against subsection (2) is an offence of strict liability.

[Subs (3) insrt Act 35 of 2011, s 14(2)]

(4) It is a defence to a prosecution for an offence against subsection (2) if the defendant establishes a reasonable excuse.

[Subs (4) insrt Act 35 of 2011, s 14(2)]

[S 62 am Act 35 of 2011; Act 30 of 2007, s 37(1)–(4)]

63 Mining officer not to disclose name of complainant

A mining officer who receives a complaint mentioned in section 61(f) must not disclose the name of the person who made the complaint.

Maximum penalty: 100 penalty units.

[S 63 am Act 35 of 2011, s 22 and Sch; Act 28 of 2011, s 5 and Sch 3]

64 Obstruction of official

(1) A person commits an offence if the person:

- (a) obstructs an official who is acting in an official capacity; and
- (b) knows the official is acting in an official capacity.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(2) In this section:

obstruct includes resist and hinder.

[S 64 subst Act 35 of 2011, s 15; am Act 28 of 2011]

64A Falsely representing to be mining officer

(1) A person commits an offence if:

- (a) the person represents, by words or conduct, that the person or someone else is a mining officer; and
- (b) the person or other person is not a mining officer; and
- (c) the person makes the representation with an intention to deceive.

Maximum penalty: 100 penalty units.

(2) Strict liability applies to subsection (1)(b).

[S 64A insrt Act 35 of 2011, s 15]

[The next text page is NT - 2271]

MINING
MINING MANAGEMENT ACT 2001 [REPEALED]

PART 8 – REVIEW OF DECISIONS

65 Applications for review

(1) A person may apply for a review of a decision of the Minister or a delegate of the Minister —

- (a) under section 36(6) refusing to approve a mining management plan and grant an Authorisation; or
- (b) under section 37 imposing a condition of an Authorisation; or
- (c) under section 38 varying or refusing to vary, revoking or refusing to revoke, a condition of an Authorisation; or
- (ca) under section 41(4) refusing to approve an amended management plan; or
- (d) under section 44 claiming on a security.

[Subs (1) am Act 35 of 2011, s 16]

(2) A person affected by a decision of a mining officer under this Act may apply for a review of the decision.

(3) A person applying for a review of a decision must lodge the application with the Chief Executive Officer within 28 days after the date of the decision or service of the notice relating to the decision (as applicable).

(4) An application for a review of a decision is to be in a form approved by the Chief Executive Officer and is to set out the reasons for the application.

(5) In subsection (2), *decision* includes a requirement of or instruction or direction given by a mining officer in the exercise or performance, or purported exercise or performance, of the officer's powers or functions under this Act.

[S 65 am Act 35 of 2011]

66 Review

(1) If a person applies under section 65(1) for a review of a decision of the Minister or a delegate of the Minister —

- (a) the Chief Executive Officer must provide the Chairperson of the Mining Board with a copy of the application as soon as practicable after it is lodged; and
- (b) the decision is to be reviewed by a review panel.

(2) If a person applies under section 65(2) for a review of a decision of a mining officer, the decision is to be reviewed by the Chief Executive Officer or a delegate of the Chief Executive Officer.

67 Application for further review

(1) A person who applies under section 65(2) for a review of a decision of a mining officer may, after the review of that decision under section 66(2), apply for a further review of the decision of the mining officer.

(2) A person applying for a further review under this section must lodge the application with the Chief Executive Officer within 28 days after the date of service of the notice referred to in section 70(6).

(3) An application under this section is to be in a form approved by the Chief Executive Officer and is to set out the reasons for the application.

68 Further review

If a person applies under section 67 for a further review of a decision of a mining officer —

- (a) the Chief Executive Officer must provide the Chairperson of the Mining Board with a copy of the application as soon as practicable after it is lodged; and
- (b) the further review is to be by a review panel.

69 Constitution and procedure of review panel

(1) A review panel is constituted by the Chairperson of the Mining Board and 2 other members of the Board appointed in writing by the Chairperson for the purposes of that review.

(2) Subject to section 70, the procedure in connection with a review by a review panel is in the discretion of the review panel.

70 Review procedure generally

(1) In this section —

review means a review of a decision under section 66 or a further review of a decision under section 68.

reviewer means the person or persons conducting the review.

(2) A review is to be a review on the merits and is to be decided —

- (a) in the case of a review by the Chief Executive Officer or his or her delegate — within 21 days after the date on which the application for review is lodged; or
- (b) in the case of a review by a review panel — within 28 days after the date on which the application for review is lodged.

(3) The reviewer must conduct the review in a manner that is fair and expeditious and must give proper consideration to all relevant issues.

(4) The reviewer may stay the operation of the decision under review if the reviewer considers it to be appropriate in the circumstances.

(5) The reviewer must decide the review by —

- (a) confirming the decision under review; or
- (b) varying the decision under review; or
- (c) setting aside the decision under review and making a decision in substitution for it.

[Subs (5) am Act 35 of 2011, s 22 and Sch]

(6) The reviewer must give the person who applied for the review a written notice of the reviewer's decision and the reasons for the decision.

(7) A decision varied or made under subsection (5)(b) or (c) is to be taken to be the decision of the person who made the decision under review.

[S 70 am Act 35 of 2011]

[The next text page is NT - 2281]

PART 9 – OFFENCES, LIABILITY AND CRIMINAL PROCEEDINGS

Division 1 – Offences

71 Definition

In this Division:

representative, of a person, means an employee or agent of the person.

[S 71 subst Act 35 of 2011, s 17]

72 Misleading information or document

(1) A person commits an offence if:

- (a) the person gives information to another person; and
- (b) the other person is an official; and
- (c) the person knows the information is misleading; and
- (d) the person knows the official is acting in an official capacity.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(2) A person commits an offence if:

- (a) the person gives a document to another person; and
- (b) the other person is an official; and
- (c) the person knows the document contains misleading information; and
- (d) the person knows the official is acting in an official capacity.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(3) Strict liability applies to subsections (1)(b) and (2)(b).

(4) Subsection (2) does not apply if the person, when giving the document:

- (a) draws the misleading aspect of the document to the official's attention; and
- (b) to the extent to which the person can reasonably do so — gives the official the information necessary to correct the document.

(5) In this section:

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

[S 72 subst Act 35 of 2011, s 17; am Act 30 of 2007]

73 Continuing offence

(1) This section applies if a court has found a person guilty of an offence against a section of this Act.

(2) The court may, in addition to any penalty imposed for the offence, impose a penalty not exceeding 10 penalty units for each day during which the offence continues after the day the offence is committed.

[S 73 subst Act 35 of 2011, s 17]

74 Liability of representative

(1) It is not a defence to a prosecution for an offence against a provision of this Act that the defendant was, at the time of the commission of the offence, another person's representative.

(2) However, it is a defence if the defendant proves the defendant was, at the time of the commission of the offence:

- (a) another person's representative; and
- (b) under the direct or indirect supervision of the other person.

[S 74 subst Act 35 of 2011, s 17]

75 Conduct of representative

(1) This section applies to a prosecution for an offence against a provision of this Act.

Note for subsection (1)

This section deals with prosecutions of individuals. Part IIAA, Division 5, of the Criminal Code contains provisions about corporate criminal responsibility.

(2) Conduct engaged in by a representative of a person within the scope of the representative's actual or apparent authority is taken to have been also engaged in by the person.

(3) However, subsection (2) does not apply if the person proves the person took reasonable steps to prevent the conduct.

(4) In deciding whether the person took reasonable steps to prevent the conduct, a court must consider:

- (a) any action the person took to ensure the representative had a reasonable knowledge and understanding of the requirement to comply with the contravened provision; and
- (b) the level of management, control or supervision that was appropriate for the person to exercise over the representative.

(5) Subsection (4) does not limit the matters the court may consider.

(6) If it is relevant to prove a person had a fault element in relation to a physical element of an offence, it is enough to show:

- (a) the conduct relevant to the physical element was engaged in by a representative of the person within the scope of the representative's actual or apparent authority; and
- (b) the representative had the fault element in relation to the physical element.

(7) A person may rely on section 43AX of the Criminal Code in relation to conduct by a representative that would be an offence by the person only if:

- (a) the representative was under a mistaken but reasonable belief about the facts that, had they existed, would have meant that the conduct would not have constituted an offence; and
- (b) the person proves the person exercised due diligence to prevent the conduct.

Note for subsection (7)

Section 43AX of the Criminal Code provides a person is not criminally responsible if the person engaged in conduct under a mistake of fact in relation to an offence of strict liability.

(8) A person (the *defendant*) may not rely on section 43BA of the Criminal Code in relation to a physical element of an offence brought about by another person if the other person is a representative of the defendant.

Note for subsection (8)

Section 43BA of the Criminal Code provides a person is not criminally responsible in circumstances of an intervening conduct or event.

(9) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (2) or (6).

(10) In this section:

fault element includes intention, knowledge, recklessness, opinion, belief and purpose, but does not include negligence.

person means an individual.

[S 75 subst Act 35 of 2011, s 17]

76 Offence — other partners and managers taken to have committed offence of partner

(1) If a person (the *offender*) who is a partner in a partnership commits an offence against a provision of this Act in the course of the activities of the partnership, each other partner in the partnership, and each other person who is concerned with, or takes part in, the management of the partnership, is:

- (a) taken to have committed the offence; and
- (b) liable to the same penalty for the offence as an individual.

(2) Subsection (1) does not apply if:

- (a) the other partner or person was not in a position to influence the conduct of the offender; or
- (b) the other partner or person, being in a position to influence the conduct of the offender, took reasonable steps and exercised due diligence to prevent the conduct.

Note for subsection (2)

The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).

(3) This section does not affect the liability of the offender.

(4) This section applies whether or not the offender is prosecuted for, or convicted of, the offence.

(5) This section does not apply if the offender would have a defence to a prosecution for the offence.

(6) In this section:

partnership does not include an incorporated limited partnership formed under the *Partnership Act*.

[S 76 subst Act 35 of 2011, s 17; am Act 30 of 2007]

77 Offence — managers of unincorporated associations taken to have committed offence of other manager

(1) If a person (the *offender*) who is concerned with, or takes part in, the management of an unincorporated association commits an offence against a provision of this Act in the course of the activities of the association, each other person who is concerned with, or takes part in, the management of the unincorporated association is:

- (a) taken to have committed the offence; and
- (b) liable to the same penalty for the offence as an individual.

[Subs (1) am Act 10 of 2018, s 6 and Sch]

(2) Subsection (1) does not apply if:

- (a) the other person was not in a position to influence the conduct of the offender; or
- (b) the other person, being in a position to influence the conduct of the offender, took reasonable steps and exercised due diligence to prevent the conduct.

Note for subsection (2)

The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).

(3) This section does not affect the liability of the offender.

(4) This section applies whether or not the offender is prosecuted for, or convicted of, the offence.

(5) This section does not apply if the offender would have a defence to a prosecution for the offence.

[S 77 am Act 10 of 2018; subst Act 35 of 2011, s 17]

77A Criminal liability of executive officer of body corporate

(1) An executive officer of a body corporate commits an offence if:

- (a) the body corporate commits an offence (a *relevant offence*) by contravening a provision of this Act; and
- (b) the officer was in a position to influence the conduct of the body corporate in relation to the contravention; and
- (c) the officer failed to take reasonable steps to prevent the contravention; and
- (d) the officer was reckless about whether the contravention would happen.

Maximum penalty: The maximum penalty that may be imposed on an individual for the relevant offence.

(2) In deciding whether the executive officer took (or failed to take) reasonable steps to prevent the contravention, a court must consider the following:

- (a) any action the officer took directed towards ensuring the following (to the extent the action is relevant to the contravention):
 - (i) the body corporate arranged regular professional assessments of the body corporate's compliance with the contravened provision;
 - (ii) the body corporate implemented any appropriate recommendation arising from an assessment under subparagraph (i);
 - (iii) the body corporate's representatives and contractors had a reasonable knowledge and understanding of the requirement to comply with the contravened provision;
- (b) any action the officer took when the officer became aware that the contravention was, or could be, about to happen.

(3) Subsection (2) does not limit the matters the court may consider.

(4) This section does not affect the liability of the body corporate.

(5) This section applies whether or not the body corporate is prosecuted for, or convicted of, the relevant offence.

(6) This section does not apply if the body corporate would have a defence to a prosecution for the relevant offence.

(7) In this section:

executive officer, of a body corporate, means a director or other person who is concerned with, or takes part in, the management of the body corporate.

[S 77A insrt Act 35 of 2011, s 17]

[The next text page is NT - 2291]

MINING
MINING MANAGEMENT ACT 2001 [REPEALED]

Division 2 – Criminal proceedings

78 Starting proceeding

- (1) A proceeding for an offence against this Act may be started:
- (a) only by, or with the written approval of, the Chief Executive Officer; and
 - (b) within 3 years after the day on which the Chief Executive Officer first became aware of the commission of the alleged offence.

[Subs (1) am Act 22 of 2013, s 13]

(2) A certificate of the Chief Executive Officer stating the day on which the Chief Executive Officer first became aware of the commission of an alleged offence is, in the absence of evidence to the contrary, evidence of that fact.

[S 78 am Act 22 of 2013; subst Act 35 of 2011, s 17]

79 Averments

(1) Subsection (2) applies if, in a proceeding, an averment in the information or complaint states that at a specified time:

- (a) a specified place was a mining site or specified mining activities were being carried out; or
- (b) a specified person was:
 - (i) the owner of, or operator for, a specified mining site; or
 - (ii) an employer of workers at a specified mining site; or
 - (iii) a worker at a specified mining site; or
 - (iv) a mining officer; or
- (c) a specified person was, or was not, the holder of an Authorisation; or
- (d) a specified Authorisation had been granted, varied or revoked; or
- (e) a specified Authorisation contained specified conditions; or
- (f) a specified substance was a contaminant or waste; or
- (g) a direction, instruction, notice or requirement permitted or required to be given or imposed under this Act had been given or imposed or had not been given or imposed; or
- (h) a specified guideline was in force.

(2) The statement is taken to have been proved in the absence of evidence to the contrary.

[S 79 subst Act 35 of 2011, s 17; am Act 30 of 2007]

80 Defence if conduct in accordance with guideline or code

(1) It is a defence to a prosecution for an offence against this Act if the defendant establishes that the defendant's conduct relevant to establishing guilt was in accordance with a guideline or code in force at the time the defendant engaged in the conduct.

(2) A reference in subsection (1) to a code includes a standard, practice and methodology.

[S 80 subst Act 35 of 2011, s 17]

80A Court may order reimbursement of investigation costs

If a person is found guilty of an offence against this Act, the Court may, in addition to any other order it may make under this Act or the *Sentencing Act*, make an order requiring the offender to reimburse the costs and expenses incurred by the Agency in investigating the offence.

[S 80A insrt Act 22 of 2013, s 14]

[The next text page is NT - 2301]

PART 10 – MISCELLANEOUS MATTERS

Division 1 – Delegation and exercise of powers by Minister etc

81 Delegation by Minister or Chief Executive Officer

The Minister or Chief Executive Officer may delegate to a person any of his or her powers and functions under this Act, other than this power of delegation.

[S 81 am Act 35 of 2011, s 22 and Sch]

82 Protection of environment

[S 82 heading am Act 30 of 2007, s 43(1)]

In exercising a power or performing a function under this Act in connection with a mining site or mining activities, the Minister or Chief Executive Officer must have regard to —

- (a) [Repealed]
- (b) the desirability of protecting the environment; and
- (c) any environmental approval for the activities granted under the *Environment Protection Act 2019*.

[Para (c) subst Act 31 of 2019, s 311]

[S 82 am Act 31 of 2019; Act 30 of 2007, s 43(2)]

82A Social and economic benefits for affected communities

In exercising a power or performing a function under this Act in connection with a mining site, the Minister or Chief Executive Officer must have regard to the desirability of the operator for the site providing social and economic benefits to communities outside the site that are directly affected by the mining activities carried out on the site.

[S 82A insrt Act 35 of 2011, s 18]

83 Minister may cause action to be taken on mining site

- (1) If a person —
 - (a) does an act on a mining site that is prohibited by this Act or an Authorisation; or
 - (b) fails to do an act on a mining site that is required by this Act or an Authorisation,the Minister may cause action to be taken on the mining site that the Minister considers necessary.
- (2) The Minister may cause action to be taken on or outside a mining site that the Minister considers necessary to prevent, minimise or rectify a hazardous situation or environmental harm that results from or may result from a mining activity.
- (3) The Minister may cause action to be taken to complete rehabilitation of a mining site.
- (4) A person authorised in writing by the Minister to take action for the purposes of this section may enter a mining site and take the action.

(5) Subject to section 44, the costs and expenses incurred by the Minister in having action taken under this section is a debt payable to the Territory by the person whose act or failure to act made the action necessary.

[The next text page is NT - 2311]

Division 2 – Other matters

85 No dismissal of worker for making complaint etc

(1) An employer must not dismiss a worker, or act in a way detrimental to a worker employed by the employer, for the sole reason that —

- (a) the worker has assisted or given information to a mining officer; or
- (b) the worker has made a reasonable complaint to the employer or a mining officer about an issue related to environment protection.
- (c) [Repealed]

Maximum penalty: 200 penalty units.

[Subs (1) am Act 35 of 2011, s 19; Act 28 of 2011, s 5 and Sch 3; Act 30 of 2007, s 45]

(2) If a person is found guilty of an offence against subsection (1), the court may, in addition to imposing a penalty on the person, make one or both of the following orders:

- (a) an order that the person must pay to the worker an amount of compensation that the court thinks fit;
- (b) an order that the worker be reinstated or re-employed in the worker's former position or, if the position is no longer available, in a similar position.

[S 85 am Act 35 of 2011; Act 28 of 2011; Act 30 of 2007]

86 Evidence

(1) In a proceeding, it is not necessary to prove —

- (a) the appointment of the Chief Executive Officer, a mining officer or a member of the Mining Board; or
- (b) the authority of the Minister, the Chief Executive Officer, a mining officer or a member of the Mining Board to exercise a power or perform a function under this Act; or
- (c) a delegation of a power or function by the Minister or the Chief Executive Officer to a person; or
- (d) the authority of the Chief Executive Officer to commence and conduct a proceeding for an offence against this Act.

[Subs (1) am Act 35 of 2011, s 22 and Sch]

(2) In a proceeding, a certificate by the Chief Executive Officer certifying any of the following matters or things is evidence of that matter or thing:

- (a) a copy of —
 - (i) an instrument of appointment under this Act;
 - (ii) a direction, instruction or notice given under this Act; or
 - (iii) a document or extract of a document kept under this Act;
- (b) a decision, or a copy of a decision, made under this Act;
- (c) that on a specified day, or during a specified period, a specified appointment of a mining officer or a member of the Mining Board was or was not in force;
- (d) that on a specified day a specified person was given a specified direction, instruction or notice, or was informed of a specified requirement imposed, under this Act.

(3) Apparatus used by or under the direction of a mining officer in accordance with conditions specified in a document for the use of the apparatus is to be taken to be accurate in the absence of evidence to the contrary.

(4) A signature purporting to be the signature of the Minister, the Chief Executive Officer, a mining officer or a member of the Mining Board is evidence of the signature it purports to be.

[S 86 am Act 35 of 2011]

87 Certificate of costs

In a proceeding by the Territory to recover costs and expenses under this Act, a certificate by the Chief Executive Officer certifying that an amount specified in the certificate was the amount of costs and expenses incurred by the Territory in relation to the matter specified in the certificate is conclusive evidence of the fact certified.

88 Debt due to Territory etc

- (1) If a debt is payable to the Territory under this Act —
- (a) the debt is to bear interest at the rate determined by the Chief Executive Officer by *Gazette* notice; and
 - (b) the debt may be recovered, together with that interest, as a debt due to the Territory; and
 - (c) if the debt was incurred by the debtor in relation to acts performed or not performed on land owned by the debtor — the debt is a statutory charge, within the meaning of the *Land Title Act*, on the land.

[Subs (1) am Act 35 of 2011, s 22 and Sch]

(2) If under this Act 2 or more persons are liable for a debt to the Territory, they are jointly and severally liable for the whole debt.

(3) A person who under this Act is liable for a debt may recover contribution from another person who is jointly liable, either by joining the other person as a party to a proceeding commenced by the Territory to recover the debt or by commencing a separate proceeding in a court of competent jurisdiction.

(4) A court, when hearing a claim for contribution under subsection (3) in relation to a debt payable under section 83, must consider the relative benefit each party to the proceeding has derived from the action taken under that section and may make an order as to contribution and costs as it thinks fit.

[S 88 am Act 35 of 2011]

89 Immunity from liability

No liability attaches to the Chief Executive Officer or his or her delegate, a mining officer or person assisting a mining officer or a member of the Mining Board for an act done in the exercise or performance, or purported exercise or performance, of a power or function under this Act unless it is done in bad faith.

90 Confidentiality

A person must not disclose information obtained in the course of his or her duties under this Act unless —

- (a) the information is otherwise available to the public; or

[Para (a) am Act 35 of 2011, s 22 and Sch]

- (b) the disclosure is made in the course of exercising a power or performing a function under this Act; or

[Para (b) am Act 35 of 2011, s 22 and Sch]

- (c) authorised or required by law, or by the Minister or Chief Executive Officer, to do so; or

[Para (c) am Act 35 of 2011, s 22 and Sch]

(d) the disclosure is for the purposes of court proceedings.
Maximum penalty: 500 penalty units or imprisonment for 2 years.
[S 90 am Act 35 of 2011; Act 28 of 2011, s 5 and Sch 3]

[The next text page is NT - 2321]

MINING
MINING MANAGEMENT ACT 2001 [REPEALED]

Division 3 – Regulations

92 Regulations

(1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters —

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The Regulations may deal with the following matters:

- (a) [Repealed]
- (b) the minimising of environmental harm;
- (c) matters to be included in management systems;
- (d) the provision of information, statistics, plans or design information relating to mining activities;
- (e) the functions of the Mining Board;
- (f) the procedures to be followed —
 - (i) at or in connection with the meetings of the Mining Board; or
 - (ii) in connection with an application for a review of a decision under Part 8 and with the review of the decision;
- (g) the manner of doing or performing any thing required or permitted by this Act to be done or performed;
- (h) fees payable in respect of any matter under this Act, the time and manner of payment of those fees, and the recovery, refund, waiver or reduction of those fees;
- (ha) charges that may be imposed for an activity carried out in the administration of this Act;
 - (i) [Repealed]
- (j) the designation of an offence against the Regulations to be an environmental offence level 3 or level 4 within the meaning of the *Environmental Offences and Penalties Act* or the designation of an offence against the Regulations to be an offence of strict liability;
- (k) the payment of a prescribed amount instead of a penalty that may otherwise be imposed for an offence against this Act or the Regulations (other than an environmental offence within the meaning of the *Environmental Offences and Penalties Act*);
- (l) the service of a notice in respect of payment of a prescribed amount on a person alleged to have committed an offence against this Act or the Regulations and the particulars to be included in that notice.

[Subs (2) am Act 22 of 2013, s 15; Act 35 of 2011, s 22 and Sch; Act 30 of 2007, s 46]

[S 92 am Act 22 of 2013; Act 35 of 2011; Act 30 of 2007]

93 Regulations may incorporate other instrument

(1) In this section, *instrument* means a standard, code, specification, method or other document.

(2) The Regulations may apply, adopt, incorporate or apply by reference (either wholly or in part or with or without modification) an instrument as in force at a particular time or as in force from time to time prescribed or published by an authority or body, whether or not a Territory authority or body.

(3) An instrument applied, adopted or incorporated under this section may require anything referred to in that instrument to be in accordance with another instrument to which that instrument refers.

(4) The Chief Executive Officer must ensure that each instrument applied or adopted by or incorporated in the Regulations, and each other instrument referred to in that instrument, is available for viewing by members of the public at an office of the Agency responsible for administering this Act.

94 Regulations may be limited or provide for exemptions

(1) The Regulations may —

- (a) be of general application or limited in application according to the persons, areas, times or circumstances to which they are expressed to apply; and
- (b) provide that a matter in respect of which regulations may be made is to be determined, regulated or prohibited according to the discretion of the Minister or Chief Executive Officer.

(2) The Regulations may contain provisions for or in relation to exemptions (whether or not subject to conditions) from compliance with all or any specified regulations, including provisions authorising the Chief Executive Officer or the Minister to grant an exemption.

95 Regulations may contain savings and transitional provisions

(1) The Regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) The Regulations may provide that a savings or transitional provision takes effect from a date that is earlier than the date of its publication or notification in the *Gazette* but, if they do so, the provision does not operate so as —

- (a) to affect, in a manner prejudicial to any person (other than the Territory), the rights of that person existing before the date of its publication or notification; or
- (b) to impose liabilities on a person (other than the Territory) in respect of anything done or omitted to be done before the date of its publication or notification.

[The next text page is NT - 2351]

PART 11 – TRANSITIONAL MATTERS FOR MINING MANAGEMENT AMENDMENT ACT 2011

96 Definitions

In this Part:

amendment Act means the *Mining Management Amendment Act 2011*.

commencement day means the day on which the *Mining Management Amendment Act 2011* commences.

former Act means this Act as in force immediately before the commencement day.

[S 96 subst Act 35 of 2011, s 21]

[710.96.10] s 96

As to the operation of the *Uranium Mining (Environmental Control) Act 1979*, repealed by the *Mining Management Act 2001*, see *Margarula v Minister for Resource Development* (1998) 86 FCR 195; 147 FLR 377 and see *AMPLA News*, No 12, July 1999, 1–2 for a summary of the *Margarula* cases. Note the continuing effect of existing authorisations granted under the repealed Act by s 103.

97 Offences

(1) This Act as in force on and after the commencement day applies in relation to an offence against a provision of this Act only if the offence is alleged to have been committed on or after the commencement day.

(2) An offence alleged to have been committed against a provision of the former Act must be dealt with as if the amendment Act had not come into force.

[S 97 subst Act 35 of 2011, s 21]

98 Reporting and investigating environmental incidents and serious environmental incidents

(1) Sections 29 to 31A apply only in relation to an environmental incident or serious environmental incident that occurs on or after the commencement day.

(2) Sections 29 to 31 of the former Act continue to apply in relation to a critical incident or serious accident that occurred before the commencement day.

[S 98 subst Act 35 of 2011, s 21]

99 Applications and decisions

(1) If a relevant application made under the former Act was not decided before the commencement day, the former Act continues to apply in relation to the application and decision as if the amendment Act had not come into force.

(2) For subsection (1), a *relevant application* is an application for:

- (a) an Authorisation; or
- (b) the variation of an Authorisation; or

(c) a review of the Minister's decision refusing to grant an Authorisation.
[S 99 subst Act 35 of 2011, s 21]

[The next text page is NT - 2361]

PART 12 – TRANSITIONAL MATTERS FOR MINING MANAGEMENT AMENDMENT ACT 2013

[Pt 12 insrt Act 22 of 2013, s 16]

100 Definition

In this Part:

commencement day means the day on which this Part commences.

[S 100 reinsrt Act 22 of 2013, s 16; rep Act 35 of 2011, s 21]

101 Payment of levy

(1) This section applies in relation to an operator who is carrying out mining activities under an Authorisation that:

- (a) was granted before the commencement day; and
- (b) includes a condition that the operator must provide a security in relation to those mining activities.

(2) As soon as practicable after the commencement day, the Minister must give the operator a notice under section 38(2) varying the Authorisation to include the condition mentioned in section 37(2)(b).

(3) The variation must not have retrospective operation to a day earlier than the commencement day.

(4) A regulation may deal with matters relevant to the variation of the Authorisation.

(5) Without limiting subsection (4), a regulation may deal with the following:

- (a) payment of the levy on a pro rata basis;
- (b) the entitlement of the operator to enter into an arrangement with the Minister for payment of the levy in instalments.

[S 101 reinsrt Act 22 of 2013, s 16; rep Act 35 of 2011, s 21]

102 Starting proceeding

Section 78(1)(b) as in force on and after the commencement day applies regardless of whether the Chief Executive Officer first became aware of the commission of the alleged offence before the commencement day.

[S 102 reinsrt Act 22 of 2013, s 16; rep Act 35 of 2011, s 21]

103 Court order for reimbursement of investigation costs

Section 80A applies regardless of whether:

- (a) the offence was committed before the commencement day; or
- (b) the costs and expenses were incurred before the commencement day.

[S 103 reinsrt Act 22 of 2013, s 16; rep Act 35 of 2011, s 21]

[The next text page is NT - 2381]

MINING
MINING MANAGEMENT ACT 2001 [REPEALED]

PART 13 – TRANSITIONAL MATTERS FOR ENVIRONMENT PROTECTION ACT 2019

[Pt 13 insrt Act 31 of 2019, s 312]

104 Definition

In this Part:

commencement means the commencement of section 294 of the *Environment Protection Act 2019*.

[S 104 reinsrt Act 31 of 2019, s 312; rep Act 37 of 2010, s 8(6)]

105 Environmental assessment completed before commencement

(1) This section applies if:

- (a) an application for an Authorisation under Part 4, Division 2 or the approval of a mining management plan for a mining activity was made before the commencement or within 3 years after the commencement; and
- (b) an environmental assessment of the mining activity was completed under the *Environmental Assessment Act 1982* before the commencement; and
- (c) the Authorisation was not granted or the approval was not given before the commencement.

(2) This Act as in force immediately before the commencement continues to apply to the determination of the application for the Authorisation or approval.

[S 105 insrt Act 31 of 2019, s 312]

[The next text page is NT - 2391]

MINING
MINING MANAGEMENT ACT 2001 [REPEALED]

Schedule – Repealed Acts

section 96

<i>Mine Management Act 1990</i>	No. 37, 1990
<i>Mine Management Amendment Act 1990</i>	No. 54, 1990
<i>Mine Management Amendment Act 1995</i>	No. 9, 1995
<i>Mine Management Amendment Act 1996</i>	No. 38, 1996
<i>Mine Management Amendment Act 1998</i>	No. 46, 1998
<i>Silicosis and Tuberculosis (Mine-workers and Prospectors) Ordinance 1966</i>	No. 20, 1966
<i>Silicosis and Tuberculosis (Mine-workers and Prospectors) Ordinance 1972</i>	No. 44, 1972
<i>Silicosis and Tuberculosis (Mine-workers and Prospectors) Amendment Act 1986</i>	No. 67, 1986
<i>Uranium Mining (Environment Control) Act 1979</i>	No. 46, 1979
<i>Uranium Mining (Environment Control) Amendment Act 1981</i>	No. 61, 1981
<i>Uranium Mining (Environment Control) Amendment Act 1987</i>	No. 50, 1987

[The next text page is NT - 2401]

MINING
MINING MANAGEMENT ACT 2001 [REPEALED]

MINING MANAGEMENT REGULATIONS 2001 [REPEALED]

Editor's note: The *Mining Management Regulations 2001* was repealed on 1 July 2024 by the *Environment Protection Legislation Amendment Act 2023*. Transitional arrangements in the Amendment Act ensure authorised mining activities under the Mining Management Regulations will continue under the Amendment Act, which introduces a new environmental (mining) licence framework (framework) for managing environmental impacts of mining. For further information on the scope and transitional arrangements please see https://depws.nt.gov.au/__data/assets/pdf_file/0009/1326996/transition-arrangements-fact-sheet.pdf

PART 1 – PRELIMINARY MATTERS

- 1 Citation
- 2 Commencement
- 2A Definitions

PART 2 – REPORTS AND RELEASE OF INFORMATION

- 3 Operator may be required to report
- 4 Operator to provide quarterly production returns [Repealed]
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- 5A Amount of levy payable
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- 6 Infringement notice offence and prescribed amount payable
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SCHEDULE – INFRINGEMENT NOTICE OFFENCES AND PRESCRIBED AMOUNTS

Editor's Note: Repealed provisions in this Act have not been reproduced.

[The next text page is NT-2411]

MINING
MINING MANAGEMENT REGULATIONS 2001 [REPEALED]

TABLE OF AMENDING LEGISLATION

Table of Amending Legislation			
Principal legislation	Number	Date of gazettal/assent/registration	Date of commencement
<i>Mining Management Regulations</i>	50 of 2001	12 Dec 2001	1 Jan 2002

This legislation has been amended as follows:

Amending legislation	Number	Date of gazettal/assent/registration	Date of commencement
<i>Penalties Amendment (Children and Families, Health and Primary Industry, Fisheries and Resources) Act 2011</i>	Act 28 of 2011	31 Aug 2011	Sch 3: 21 Sep 2011 (Gaz G38, 21 Sep 2011, p 4)
<i>Mining Management Amendment Regulations 2012</i>	21 of 2012		Regs 3–7: 30 May 2012
<i>Mining Management Amendment Regulations 2013</i>	35 of 2013		Regs 4–6: 1 Oct 2013

[The next text page is NT-2421]

MINING
MINING MANAGEMENT REGULATIONS 2001 [REPEALED]

PART 1 – PRELIMINARY MATTERS

[Pt 1 heading insrt SL 21 of 2012, reg 3]

1 Citation

These Regulations may be cited as the *Mining Management Regulations 2001*.

2 Commencement

These Regulations come into operation on the commencement of the *Mining Management Act 2001*.

2A Definitions

In these Regulations:

infringement notice, see regulation 7.

infringement notice offence, see regulation 6(1).

prescribed amount, see regulation 6(2).

reasonably believes means believes on reasonable grounds.

[Reg 2A insrt SL 21 of 2012, reg 4]

[The next text page is NT - 2431]

MINING
MINING MANAGEMENT REGULATIONS 2001 [REPEALED]

PART 2 – REPORTS AND RELEASE OF INFORMATION

[Pt 2 heading insrt SL 21 of 2012, reg 4]

3 Operator may be required to report

(1) The Chief Executive Officer may give the operator for a mining site a notice requiring the operator to give the Chief Executive Officer information relating to mining activities that are being carried out, or have been carried out, on the site.

(2) The information must be given within the period specified in the notice and in the form approved by the Chief Executive Officer.

(3) Without limiting subregulation (1), the information required may relate to any of the following:

- (a) compliance with environmental obligations, including:
 - (i) statistics about workers on the mining site; and
 - (ii) competencies of the workers on the site; and
 - (iii) the transfer, storage and use of hazardous materials on the site; and
 - (iv) standards of construction of infrastructure on the site;
- (b) the occurrence of environmental incidents and serious environmental incidents during a period specified in the notice, including:
 - (i) the number of occurrences; and
 - (ii) a brief description of the incidents; and
 - (ii) the remedial actions taken following the incidents.

(4) An operator given a notice under subregulation (1) must comply with the notice. Maximum penalty 20 penalty units.

(5) An offence against subregulation (4) is an offence of strict liability.

[Reg 3 subst SL 35 of 2013, reg 4; am SL 21 of 2012; Act 28 of 2011]

5 Release of information

The Minister may authorise or require a person to release information obtained in the administration of the Act if the Minister determines that —

- (a) the release of the information will assist in promoting the objects of the Act; or
- (b) it is necessary in the circumstances that the information be released.

[The next text page is NT - 2441]

MINING
MINING MANAGEMENT REGULATIONS 2001 [REPEALED]

PART 2A – LEVY AND FUND

[Pt 2A insrt SL 35 of 2013, reg 5]

5A Amount of levy payable

(1) As soon as practicable after the first day of each financial year, the Minister must give the operator for a mining site written notice of the amount of levy payable for that financial year.

(2) The amount of levy payable for a financial year is calculated by reference to the amount of security provided by the operator that is held by (or for) the Agency on 1 July of that year.

(3) Despite subregulations (1) and (2), if an Authorisation is granted to an operator of a mining site during a financial year:

- (a) the amount of levy payable by the operator for that financial year is calculated on a pro rata basis by reference to the amount of security the operator must provide on the grant of the Authorisation; and
- (b) the Minister must give the operator a written notice of the amount of levy payable.

(4) In addition, if the Minister varies an Authorisation under section 101(2) of the Act, the amount of levy payable by the operator in relation to the current financial year is calculated by reference to the amount of security provided by the operator that is held by (or for) the Agency on the day on which this regulation commences.

[Reg 5A insrt SL 35 of 2013, reg 5]

5B Payment of levy by instalments

(1) The Minister may, on written application by the operator for a mining site, approve the payment of a levy in instalments during the financial year for which the levy is payable.

(2) An approval under subregulation (1) must be in writing and specify:

- (a) the date on or before which the operator must pay each instalment; and
- (b) the amount of each instalment.

(3) The Minister must ensure that the approval requires payment of the final instalment no later than 15 June.

[Reg 5B insrt SL 35 of 2013, reg 5]

5C Information relating to Fund in annual report

The annual report of the Agency mentioned in section 28 of the *Public Sector Employment and Management Act* must contain the following information relating to the Fund:

- (a) the specific purposes for which money has been paid out;
- (b) the activities carried out for those purposes.

[Reg 5C insrt SL 35 of 2013, reg 5]

[The next text page is NT - 2451]

MINING
MINING MANAGEMENT REGULATIONS 2001 [REPEALED]

PART 3 – INFRINGEMENT NOTICE OFFENCES

[Pt 3 insrt SL 21 of 2012, reg 7]

6 Infringement notice offence and prescribed amount payable

(1) An *infringement notice offence* is an offence against a provision specified in the Schedule.

(2) The *prescribed amount* for an infringement notice offence is the amount equal to the monetary value of the number of penalty units specified for the offence in the Schedule.

[Reg 6 insrt SL 21 of 2012, reg 7]

7 When infringement notice may be given

If a mining officer reasonably believes a person has committed an infringement notice offence, the mining officer may give a notice (an *infringement notice*) to the person.

[Reg 7 insrt SL 21 of 2012, reg 7]

8 Contents of infringement notice

(1) The infringement notice must specify the following:

- (a) the name and address of the person, if known;
- (b) the date the infringement notice is given to the person;
- (c) the date, time and place of the infringement notice offence;
- (d) a description of the offence;
- (e) the prescribed amount payable for the offence;
- (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act*, to whom the prescribed amount is payable.

(2) The infringement notice must include a statement to the effect of the following:

- (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
- (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;
- (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act*, including (but not limited to) action for the following:
 - (i) suspending the person's licence to drive;
 - (ii) seizing personal property of the person;
 - (iii) deducting an amount from the person's wages or salary;
 - (iv) registering a statutory charge on land owned by the person;
 - (v) making a community work order for the person and imprisonment of the person if the person breaches the order.

(3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b).

[Reg 8 insrt SL 21 of 2012, reg 7]

9 Payment by cheque

If the person tenders a cheque in payment of the prescribed amount, the amount is not taken to have been paid unless the cheque is cleared on first presentation.

[Reg 9 insrt SL 21 of 2012, reg 7]

10 Withdrawal of infringement notice

(1) The Chief Executive Officer may withdraw the infringement notice by written notice given to the person.

(2) The notice must be given:

- (a) within 28 days after the infringement notice is given to the person; and
- (b) before payment of the prescribed amount.

[Reg 10 insrt SL 21 of 2012, reg 7]

11 Application of Part

(1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.

(2) Also, this Part does not:

- (a) require an infringement notice to be given; or
- (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
- (c) prevent more than one infringement notice for the same offence being given to a person.

(3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

[Reg 11 insrt SL 21 of 2012, reg 7]

[The next text page is NT - 2471]

Schedule – Infringement notice offences and prescribed amounts

regulation 6

Provision	Penalty units
section 10(4) of Act	4
section 10(5) of Act	4
section 29(1) of Act	10
section 29(2) of Act	5
section 31(3) of Act	10
section 33(1) of Act	10
section 42(1) of Act	4
section 45(2) of Act	4
section 60(3) of Act	4
section 62(2) of Act	10
regulation 3(4)	4

[Sch am SL 35 of 2013, reg 6; insrt SL 21 of 2012, reg 7]

[The next text page is NT - 2501]

MINING
MINING MANAGEMENT REGULATIONS 2001 [REPEALED]
