



ANNO VICESIMO SEPTIMO

ELIZABETHAE II REGINAE

A.D. 1978

No. 51 of 1978

An Act to amend the Mining Act, 1971-1976, and to repeal the Mining Act Amendment Act, 1978.

[Assented to 20th July, 1978]

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

1. (1) This Act may be cited as the "Mining Act Amendment Act (No. 2), 1978". Short titles.

(2) The Mining Act, 1971-1976, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Mining Act, 1971-1978".

2. The Act (or purported Act) No. 34 of 1978, entitled "An Act to amend the Mining Act, 1971-1976" is repealed and shall be deemed never to have come into operation. Repeal of Mining Act Amendment Act, 1978.

3. Section 4 of the principal Act is amended by inserting after the item:
PART VI—MINING LEASES
the item: Amendment of principal Act, s. 4—Arrangement of Act.

PART VIA—RETENTION LEASES

4. Section 6 of the principal Act is amended— Amendment of principal Act, s. 6—Interpretation.
(a) by striking out the definition of "extractive minerals" and inserting in lieu thereof the following definitions:—
"extractive minerals" means sand, gravel, stone, shell, shale or clay but does not include—
(a) any such minerals that are mined for a prescribed purpose;
or
(b) fire clay, bentonite or kaolin:

“fossicking” means the gathering of minerals—

(a) as a recreation;

and

(b) without any intention to sell the minerals or to utilize them for a commercial or industrial purpose;

(b) by inserting in the definition of “mining” after the passage “the sea or a natural water supply” the passage “but does not include fossicking”;

(c) by striking out from the definition of “precious stones field” the passage “but does not include earth and minerals more than fifty metres below the surface of those lands” and inserting in lieu thereof the passage “but does not include earth and minerals at more than the proclaimed depth below the surface of those lands”;

(d) by inserting after the definition of “prospecting” the following definition:—

“radio-active mineral” means uranium or any other prescribed radio-active mineral;

and

(e) by striking out the definition of “the Director of Mines” and “Director” and inserting in lieu thereof the following definition:—

“the Director of Mines” or “the Director” means the person assigned by the Minister to exercise the powers and discharge the duties of the officer so designated by this Act.

Amendment of
principal Act,
s. 8—
Application
of Act.

5. Section 8 of the principal Act is amended by inserting in subsection (1) after paragraph (b) the following paragraph:—

(ba) declare the depth (which may vary from place to place but must be at least 50 metres) of any precious stones field;

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

6. Section 9 of the principal Act is amended by inserting after paragraph (b) of subsection (1) the following paragraphs:—

(ba) land—

(i) that is dedicated or reserved, pursuant to statute, for the purpose of waterworks;

(ii) that is vested in the Minister of Works for the purpose of waterworks;

or

(iii) that is comprised within an easement in favour of the Minister of Works;

(bb) land that constitutes a forest reserve under the Forestry Act, 1950-1974;

Enactment of
s. 10a of
principal Act—

7. The following section is enacted and inserted in the principal Act after section 10 thereof:—

Special
conditions
attaching
to mining of
radio-active
minerals.

10a. (1) Subject to this section, no person shall carry out mining operations (other than prospecting) for the recovery of any radio-active mineral unless he is the holder of a mining lease upon which the Minister has endorsed an authorization to carry out mining operations for that purpose.

(2) An authorization to carry out mining operations for the recovery of a radio-active mineral may be granted upon such conditions as the Minister thinks fit and may be revoked upon breach of any condition.

(3) This section does not prevent the recovery of any radio-active mineral in the course of mining operations carried out for the recovery of other minerals provided that the radio-active mineral—

(a) is stockpiled in accordance with conditions stipulated by the Minister;

or

(b) is of such low concentration that it may, in the opinion of the Minister, be safely discarded as waste and is in fact discarded as waste.

(4) Notwithstanding any other provision of this Act, the property in any radio-active mineral—

(a) stockpiled in pursuance of conditions imposed by the Minister under subsection (2) of this section;

or

(b) stockpiled in pursuance of paragraph (a) of subsection (3) of this section,

does not pass from the Crown unless and until the Minister, by instrument in writing, authorizes the person by whom the radio-active mineral was mined to sell and dispose of the mineral.

8. Section 21 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “one year” and inserting in lieu thereof the passage “three years”;

and

(b) by striking out from subsection (2) the passage “one year” and inserting in lieu thereof the passage “three years”.

Amendment of principal Act, s. 21—
Term and renewal of miners right.

9. Section 26 of the principal Act is amended by inserting after subsection (2) the following subsection:—

(3) Where an application is made for a lease in respect of land comprised in a mineral claim, and the application is refused, the claim shall lapse.

Amendment of principal Act, s. 26—
Mineral claim not transferable, etc.

10. Section 27 of the principal Act is repealed and the following section is enacted and inserted in its place:—

27. Where a mineral claim lapses or is abandoned or forfeited, no claim covering any of the area of that previous claim shall, without the authority of the warden's court, be pegged out by or on behalf of the person who held the previous claim within two years of its lapse, abandonment or forfeiture.

Repeal of s. 27 of principal Act and enactment of section in its place—
Land not to be re-pegged where claim lapses.

11. The following Part is enacted and inserted in the principal Act after Part VI:—

PART VIA

RETENTION LEASES

41a. (1) The Minister may, subject to this section, grant to the holder of a registered mineral claim a retention lease of lands comprised in the claim.

Enactment of Part VIA of principal Act—

Grant of retention leases.

(2) A retention lease may, subject to subsection (3) of this section, be granted in any of the following cases:—

- (a) where for economic or other reasons the applicant is, in the opinion of the Minister, justified in not proceeding immediately to mine the lands in pursuance of a mining lease;
 - (b) where in the opinion of the Minister sufficient investigation has not yet been carried out to enable him to determine the terms and conditions upon which a mining lease should be granted;
- or
- (c) where the applicant seeks an authorization to carry out mining operations for the recovery of a radio-active mineral, and the Minister thinks it desirable to defer the granting of a mining lease endorsed with such an authorization.

(3) The Minister shall not grant a retention lease unless he is satisfied that there is a reasonable prospect that the lands in respect of which the lease is sought could be effectively and efficiently mined.

(4) A retention lease shall be subject to—

- (a) such terms and conditions as may be prescribed;
- and
- (b) such additional terms and conditions (if any) as the Minister thinks fit and specifies in the lease.

(5) The Minister shall in determining terms and conditions subject to which a lease is to be granted under this Part give proper consideration to the protection of—

- (a) the natural beauty of the area in respect of which the lease is to be granted;
 - (b) the flora and fauna for which that area, or any portion thereof, is a natural environment or habitat;
 - (c) any geological or physiographical features of the area that are of special interest;
- and
- (d) any buildings or other objects of architectural or historical interest,

and may take into consideration such other factors as he considers appropriate in the particular case.

Application
for retention
lease.

41b. (1) An application for a retention lease must be in the prescribed form and accompanied by the prescribed fee.

(2) The Minister may require the applicant to furnish him with such information and surveys as the Minister thinks fit.

Nature of
lease.

41c. (1) A retention lease must describe or delineate the land in respect of which it is granted with as much particularity as is reasonably practicable.

(2) A retention lease is not required to be registered under Part IX of the Real Property Act, 1886-1975.

41d. (1) A retention lease shall be granted for a term of one year.

Term of retention lease.

(2) The Minister may, from time to time, upon application and payment of the prescribed fee, renew a retention lease for a further period of one year.

41e. (1) A retention lease shall provide for the payment, by way of rental, of such sum as may be prescribed.

Rental.

(2) Where a retention lease has been granted in respect of freehold land, the amount paid to the Minister by way of rental under the lease shall, after deduction of one-twentieth of that amount, be paid to the person who holds an estate of fee simple in the land.

41f. A retention lease shall—

Rights conferred by lease.

(a) confer an exclusive right upon the holder of the lease to conduct operations for the purpose of prospecting, or proving the extent of mineral deposits, upon the area of the lease;

(b) confer on the holder of the lease such other rights in respect of prospecting for, or mining, minerals on the area of the lease as may be stipulated in the lease;

and

(c) confer on the holder of the lease an exclusive right to apply for a mining lease in respect of the area of the lease.

12. Section 44 of the principal Act is amended by inserting in subsection (1) after the passage "precious stones claim" the passage "in conformity with the regulations".

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

13. Section 46 of the principal Act is amended by striking out subsection (9) and inserting in lieu thereof the following subsection:—

Amendment of principal Act, s. 46—
Application for registration.

(9) Where a precious stones claim lapses or is forfeited, no claim covering any of the area of that previous claim shall, without the authority of the warden's court, be pegged out by or on behalf of the person who held the previous claim.

14. Section 52 of the principal Act is amended by striking out subsections (2) and (3) and inserting in lieu thereof the following subsections:—

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

(2) The Minister shall, at least twenty-eight days before he grants a miscellaneous purposes licence under this Part, cause notice to be published in the *Gazette* specifying—

(a) the area over which he proposes to grant the licence;

and

(b) the purpose for which the licence is so granted.

(3) A licence may be granted for any of the following purposes:—

- (a) for the carrying on of any business that may conduce to the effective conduct of mining operations or provide amenities for persons engaged in the conduct of mining operations;
 - (b) for establishing and operating plant for the treatment of ore recovered in the course of mining operations;
 - (c) for drainage from a mine;
 - (d) for the disposal of overburden or any waste produced by mining operations;
- or
- (e) any other purpose ancillary to the conduct of mining operations,

and may be granted upon such terms and conditions as may be determined by the Minister and specified in the licence.

Amendment of
principal Act,
s. 59—
Use of declared
equipment.

15. Section 59 of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsections:—

(1) A mining operator shall not use declared equipment in the course of mining operations except—

- (a) upon land subject to a lease or licence granted under this Act;
 - (b) upon a registered claim situated within a precious stones field;
- or
- (c) in pursuance of an authorization granted by the Director of Mines under subsection (1a) of this section.

Penalty: One thousand dollars.

(1a) The Director of Mines may, upon the application of the holder of a claim, authorize him, subject to the provisions of this section and the conditions (if any) specified in the authorization, to use declared equipment upon land comprised in the claim.;

and

(b) by striking out from subsection (8) the passage “Subsections (2)” and inserting in lieu thereof the passage “Subsections (1a)”.

Amendment of
principal Act,
s. 68—
Cancellation
of miners
right or
precious stones
prospecting
permit, etc.

16. Section 68 of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) The warden’s court may upon the application of the Director of Mines make either or both of the following orders:—

- (a) an order cancelling a miner’s right of a precious stones prospecting permit;

(b) an order prohibiting a person from holding or obtaining a miner's right or a precious stones prospecting permit for a period specified in the order, or until further order of the warden's court.;

and

(b) by striking out from subsection (2) the passage "the holder of the miner's right or precious stones prospecting permit" and inserting in lieu thereof the passage "the person against whom the order is made".

17. Section 74 of the principal Act is amended by striking out paragraph (a) of subsection (1) and inserting in lieu thereof the following paragraph:—

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

(a) mines;

18. Section 76 of the principal Act is amended—

Amendment of principal Act, s. 76—
Returns.

(a) by striking out from subsection (1) the passage "(except a precious stones claim)";

and

(b) by inserting after subsection (3) the following subsection:—

(4) This section does not apply to—

(a) the holder of a precious stones prospecting permit;

(b) the holder of an exploration licence;

or

(c) the holder of a miscellaneous purposes licence.

19. Section 77 of the principal Act is amended by striking out subsections (1) and (2) and inserting in lieu thereof the following subsections:—

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

(1) The holding of a mining tenement (except a precious stones claim or a miscellaneous purposes licence) shall keep such records and geological samples as may be prescribed or as the Director of Mines may, by notice served upon him, require.

Penalty: Five hundred dollars.

(2) A person required to keep records and geological samples under subsection (1) of this section shall, at the request of the Director of Mines or any person acting under his written authority, produce those records or geological samples for inspection.

Penalty: Five hundred dollars.

20. Section 79 of the principal Act is amended by inserting after the present contents (which are hereby designated subsection (1) thereof) the following subsection:—

Amendment of principal Act, s. 79—
Minister may remit obligations of lease or licence.

(2) An exemption under this section—

(a) may be granted absolutely or on conditions;

and

(b) shall remain in force for a period determined by the Minister.

Amendment of
principal Act,
s. 92—
Regulations.

21. Section 92 of the principal Act is amended by inserting in paragraph (a) after the passage "precious stones prospecting permits" the passage "certificates of registration in respect of claims,".

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

K. D. SEAMAN, Governor