

**NORTHERN TERRITORY OF AUSTRALIA**

**MINERAL TITLES REGULATIONS**

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**Subordinate Legislation No. 39 of 2011**

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# NORTHERN TERRITORY OF AUSTRALIA

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Subordinate Legislation No. 39 of 2011\*

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## *Mineral Titles Regulations*

I, Thomas Ian Pauling, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Mineral Titles Act*.

Dated 23 August 2011

T. I. PAULING  
Administrator

By His Honour's Command

D. P. LAWRIE  
Minister for Justice and Attorney-General  
acting for  
Minister for Primary Industry, Fisheries and Resources

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\* Notified in the *Northern Territory Government Gazette* on 31 August 2011.

## Part 1 Preliminary matters

### 1 Citation

These Regulations may be cited as the *Mineral Titles Regulations*.

### 2 Commencement

These Regulations commence on the commencement of the *Mineral Titles Act*.

### 3 Definitions

In these Regulations:

**administration fee**, for a mineral title, means the administration fee mentioned in regulation 77(3).

**airborne survey report** means a report required to be given under regulation 9.

**amalgamated report** means a report required to be given under regulation 87(6).

**annual report** means the report mentioned in section 94(2)(a) of the Act.

**approved airborne survey**, in relation to preliminary exploration, means an airborne geoscientific survey approved under regulation 6(3)(a).

**boundary marker**, see regulation 38(1).

**converted mineral title**, for Part 12, means a mineral title converted under section 202(1) of the Act to a mineral title mentioned in column 2 of the table in that subsection.

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

**development title** means an ML, EMP or EML.

**earlier applicant**, for Part 4, Division 3, means the person who made the earlier application relating to the existing proposed title area.

**existing proposed title area**, for Part 4, Division 3, see section 65(4) of the Act.

**existing title area**, for Part 4, Division 3, see section 65(4) of the Act.

**expenditure condition**, for an EL or ELR, means the condition in section 32(2)(a)(ii) of the Act, that the title holder must carry out technical work in accordance with the expenditure requirements specified in the title.

**exploration title**, for Part 6, Division 1, means an EL or EMEL.

**final report** means a report mentioned in section 94(2)(e) of the Act.

**fossicking notice**, see regulation 100(2).

**fossicking request**, see regulation 103(2).

**geological sample** means any geological sample recovered from a title area, including drill core and cuttings.

**late lodgment fee** means a fee payable under regulation 131(2).

**late lodgment period** means the late lodgment period mentioned in regulation 131(2).

**licensed surveyor**, see section 4 of the *Licensed Surveyors Act*.

**occupation right**, for Part 6, Division 1, means the right of a title holder, mentioned in section 80(1) of the Act, to enter and occupy land in the title area to conduct authorised activities under the title.

**overlapping land**, for Part 6, Division 1, means:

- (a) land in the title area of a mineral title that also comprises all or part of the title area of a mineral title held by another person;  
or
- (b) in relation only to the title area of an exploration title – land in the title area that also comprises all or part of the proposed title area specified in an application made by another person for the designation of an ELR or the grant of a development title.

**preliminary exploration notice**, see regulation 16(2).

**preliminary exploration request**, see regulation 18(2).

**production report** means the report mentioned in section 94(2)(c) of the Act.

**project area**, see regulation 80(1).

**relevant land**, for:

- (a) Part 2, Division 2 – see regulation 11; or
- (b) Part 9 – see regulation 98.

**relevant person**, for Part 3, Division 2, see regulation 36.

**rent**, for a mineral title, means the rent mentioned in regulation 77(1).

**reporting day**, for a particular report, means the day in a 12 month period on or before which a person must give the report to the Minister.

**reserves report** means the report mentioned in section 94(2)(d) of the Act.

**review notice**, see regulation 118.

**reviewable decision**, see regulation 117.

**specified person**, for:

- (a) Part 2, Division 2 – see regulation 12; or
- (b) Part 9 – see regulation 99.

**survey**, of an area of land, includes marking out the boundaries of the area.

**survey area**, see regulation 36.

**technical work**, in relation to expenditure under an EL or ELR, means the work mentioned in section 32(2)(a) of the Act.

**town boundary** means a boundary of a town constituted and defined under section 95(1) of the *Crown Lands Act*.

#### **4 Application of Regulations to MA**

Unless specified otherwise, a reference in these Regulations to an EL, ELR, ML, EMEL, EMP or EML includes a reference to the MA that corresponds to that mineral title.

#### **5 Giving documents**

- (1) If a person is required by or under the Act to give a document to an individual or body (the **recipient**), the person may do so:
  - (a) in a way mentioned in section 25 of the *Interpretation Act*; or

- (b) by sending the document by an electronic communication as defined in section 5 of the *Electronic Transactions (Northern Territory) Act*.
- (2) If the person does not know the name or address of the recipient:
- (a) the person may, with the Minister's approval, publish the document at least 3 times at intervals of at least 7 days in a newspaper circulating in the Territory; and
  - (b) the recipient is taken to have been given the document.
- (3) However, the person is not required to publish the document 3 times if the recipient contacts the person about the document after the first or second publication.

## **Part 2 Preliminary exploration of land**

### **Division 1 Approved airborne surveys**

#### **6 Application for approval of airborne geoscientific survey**

- (1) For section 17(3)(b) of the Act, a person who intends to conduct an airborne geoscientific survey for the preliminary exploration of land (an ***airborne survey***) must apply for approval to do so.
- (2) The application must:
  - (a) be made in the approved form to the Minister; and
  - (b) specify the date on which the person intends to start the airborne survey (which must be more than 30 days after the date on which the application is made); and
  - (c) include a description or map that clearly indicates the location and boundaries of the land; and
  - (d) if it will be necessary to land the aircraft on the land when conducting the airborne survey – specify the reasons for, and any other relevant information about, the landing.
- (3) The Minister must give the person:
  - (a) a notice of approval for the airborne survey, with effect for the period specified in the notice (which must not be more than 6 months); or
  - (b) a notice refusing to approve the airborne survey if the Minister is satisfied there are circumstances to justify the refusal.

- (4) A notice of approval may include conditions the Minister considers appropriate, including any of the following:
  - (a) the person must give written notice of the approved airborne survey and information about the survey, as specified in the notice of approval, to:
    - (i) if the land is in a title area – the title holder; or
    - (ii) otherwise – the landowner or occupier, as specified in the notice;
  - (b) if it will be necessary to land the aircraft on the land when conducting the airborne survey – the person given approval must obtain consent to the landing from the title holder, landowner or occupier of the land.
- (5) A notice of approval must include a statement about the requirement in subregulation (6).
- (6) If the person given a notice of approval does not conduct the approved airborne survey within the period the notice has effect, the person must give the Minister a notice of that fact within 14 days after the end of the period.

## **7 No airborne survey without approval**

- (1) A person must not conduct an airborne geoscientific survey that is not an approved airborne survey.

Maximum penalty: 100 penalty units.

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

## **8 Compliance with notice of approval of airborne survey**

- (1) A person who conducts an approved airborne survey must comply with the notice of approval for the survey.

Maximum penalty: 100 penalty units.

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

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

## **9 Airborne survey report**

- (1) A person who conducts an approved airborne survey must give the Minister a written report about the survey within 12 months after the notice of approval for the survey is given.

*Note for subregulation (1)*

*See regulation 131 for provisions about the late fee payable if the report is not given on or before the reporting day.*

- (2) The airborne survey report must contain the following information:
- (a) the specifications of the approved airborne survey and of the equipment used for conducting the survey;
  - (b) the geophysical data, hyperspectral data, navigation data and details of all data processing;
  - (c) any interpretations or conclusions made about the land surveyed;
  - (d) the expenditure for conducting the survey.
- (3) If a person owns the copyright in any of the information contained in the airborne survey report, the person giving the report must comply with regulation 126.

## **10 Release or publication of information contained in airborne survey report**

- (1) This regulation applies to the release or publication by the Minister of information about land contained in an airborne survey report.
- (2) The Minister may release or publish the information at any time following the expiry of 6 months after the reporting day for the report if, on the day of the release or publication, the land:
- (a) is not in the title area of a mineral title held by the person who conducted the approved airborne survey (the **explorer**); or
  - (b) is not in the proposed title area of an application made by the explorer.
- (3) The Minister may release or publish the information at any time following the expiry of 5 years after the reporting day for the report if, on the day of the release or publication, the land:
- (a) is in the title area of a mineral title held by the explorer; or
  - (b) is in the proposed title area of an application made by the explorer.

- (4) The Minister may release or publish the information at any time after the land:
- (a) is no longer in the title area of a mineral title held by the explorer because:
    - (i) the title has been cancelled for the land; or
    - (ii) the explorer has surrendered the land; or
  - (b) is no longer in the proposed title area of an application for the grant of a mineral title made by the explorer because:
    - (i) the explorer withdrew the application or varied the application to exclude part of the land; or
    - (ii) the Minister refused to grant the title for the land.
- (5) The Minister may release or publish the information earlier than is specified in subregulation (2), (3) or (4) if the explorer gives written consent to the earlier release or publication.

## **Division 2 Preliminary exploration on land**

### **Subdivision 1 Preliminary matters**

#### **11 Meaning of *relevant land***

- (1) ***Relevant land***, for a preliminary exploration notice, is:
- (a) any of the following land, as mentioned in section 19 or 20 of the Act:
    - (i) vacant Crown land in relation to which a person holds a licence granted under Part 7 of the *Crown Lands Act*;
    - (ii) pastoral land or native title land; or
  - (b) in a circumstance mentioned in regulation 14(2)(a) or (b) – land in the title area of an EL or EMEL.
- (2) ***Relevant land***, for a preliminary exploration request, is:
- (a) any of the following land, as mentioned in section 21(1) of the Act:
    - (i) reserved land;
    - (ii) private land, Aboriginal land, an Aboriginal community living area or a park or reserve; or

- (b) in a circumstance mentioned in regulation 14(3)(a) or (b) – land in the title area of an EL or EMEL.

## **12 Meaning of *specified person***

- (1) The ***specified person***, for a preliminary exploration notice for relevant land, is:
  - (a) for land mentioned in regulation 11(1)(a)(i) – the licence holder; or
  - (b) for land mentioned in regulation 11(1)(a)(ii):
    - (i) the occupier; or
    - (ii) if the occupier cannot be located or there is no occupier – the landowner; or
  - (c) for land in a title area mentioned in regulation 11(1)(b) – the holder of the EL or EMEL.
- (2) The ***specified person***, for a preliminary exploration request for relevant land, is:
  - (a) for land mentioned in regulation 11(2)(a)(i) – the Minister; or
  - (b) for land mentioned in regulation 11(2)(a)(ii) – the landowner; or
  - (c) for land mentioned in regulation 11(2)(b) – the holder of the EL or EMEL.

## **13 Application of Division**

This Division does not apply to an approved airborne survey.

## **Subdivision 2 Requirements for notices, consent and entry onto relevant land**

### **14 Preliminary exploration in title areas**

- (1) For section 22(1) of the Act, this regulation prescribes the entitlement of a person to conduct preliminary exploration in the title area of a mineral title held by another person.

- (2) The person may conduct preliminary exploration in the following circumstances only after giving the title holder notice of the person's intention to do so:
  - (a) the mineral title is an EL and the preliminary exploration is for extractive minerals;
  - (b) the mineral title is an EMEL and the preliminary exploration is for minerals.
- (3) The person may conduct preliminary exploration in the following circumstances only with the written consent of the title holder:
  - (a) the mineral title is an EL and the preliminary exploration is for minerals;
  - (b) the mineral title is an EMEL and the preliminary exploration is for extractive minerals.

#### **15 Preliminary exploration in proposed title area of EL or EMEL**

For section 22(2)(b) of the Act, a person may conduct preliminary exploration for minerals or extractive minerals in the proposed title area of an EL or EMEL without:

- (a) giving notice to the applicant for the grant of the EL or EMEL of the person's intention to do so; or
- (b) obtaining the applicant's consent to enter the proposed title area.

#### **16 Requirement to give notice of intention to conduct preliminary exploration**

- (1) This regulation applies if a person intends to conduct preliminary exploration on relevant land and is required by the Act or these Regulations to give notice of the intention, or take all reasonable steps to give notice of the intention, to the specified person for the land.

*Note for subregulation (1)*

*Regulation 18 applies if consent to the preliminary exploration is required.*

- (2) The person must give the specified person a notice (a **preliminary exploration notice**) at least 14 days before entering the relevant land to start the preliminary exploration.

- (3) The preliminary exploration notice must include the following:
- (a) a statement that the person intends to conduct preliminary exploration on the relevant land;
  - (b) a description or map of the relevant land that clearly indicates its location and boundaries;
  - (c) the name and full contact details of:
    - (i) the person; and
    - (ii) if applicable – the person who will be in charge of the preliminary exploration and any others who will be engaged to conduct the preliminary exploration;
  - (d) the number of people who will be entering the relevant land to conduct the preliminary exploration;
  - (e) a brief description of the nature of the preliminary exploration;
  - (f) the equipment to be used in conducting the preliminary exploration;
  - (g) the date of intended entry onto the relevant land to start the preliminary exploration (which must be at least 14 days after the date on which the notice is given);
  - (h) any requirements for entry;
  - (i) an estimate of the duration of the preliminary exploration.
- (4) Regardless of the date of entry specified in the preliminary exploration notice, the specified person may agree to an earlier entry date.

**17 Pastoral land and native title land – notice to occupier on entry**

- (1) This regulation applies if a person enters pastoral land or native title land after giving the landowner a preliminary exploration notice (or taking all reasonable steps to do so) because, when the notice was given:
- (a) the person could not locate the occupier of the land; or
  - (b) there was no occupier.
- (2) As soon as practicable after entering the land, the person must:
- (a) give the occupier notice of the entry and start of preliminary exploration; or

- (b) take all reasonable steps to do so.
- (3) However, the person need not comply with subregulation (2) if:
  - (a) the person is still unable to locate the occupier; or
  - (b) there is still no occupier; or
  - (c) it is impractical to do so for another reason.

*Example for subregulation (3)(c)*

*The preliminary exploration is to be conducted in a remote area of pastoral land at a distance from the occupier's place of residence and it is not necessary to pass by the residence to reach the area.*

## **18 Requirement to obtain consent to conduct preliminary exploration**

- (1) This regulation applies if a person intending to conduct preliminary exploration on relevant land is required by the Act or these Regulations to obtain the written consent of the specified person for the land.
- (2) The person must give the specified person a notice (a **preliminary exploration request**) at least 14 days before the date of intended entry onto the land.
- (3) The preliminary exploration request must include the following:
  - (a) a request that the specified person give written consent to the entry onto the relevant land to conduct preliminary exploration;
  - (b) the information mentioned in regulation 16(3)(b) to (i);
  - (c) if the relevant land is private land or a park or reserve – a statement about the effect of section 168 of the Act if the specified person does not respond to the request.

*Note for subregulation (3)(c)*

*Because of section 4(1) of the Act, the right under section 168 of the Act in relation to Aboriginal land or an Aboriginal Community living area is restricted under other Acts in force in the Territory.*

- (4) Regardless of the date of intended entry onto the land specified in the preliminary exploration request, the specified person may consent to an earlier or later entry date.

## **19 Refusal of consent**

- (1) The specified person for relevant land may refuse a person's preliminary exploration request by written notice to the person, giving reasons for the refusal.
- (2) For section 21(5) of the Act, the specified person may be taken to have unreasonably withheld consent if the preliminary exploration described in the preliminary exploration request would not interfere substantially with the specified person's use of the land.
- (3) If a person has entered relevant land to conduct preliminary exploration as authorised by section 168 of the Act, and the landowner subsequently gives the person a notice refusing the person's preliminary exploration request, the person must leave the land without delay.

## **20 Withdrawal of consent**

- (1) The specified person for relevant land who has consented to a person's preliminary exploration request may, by written notice to the person, withdraw the consent if the specified person reasonably believes:
  - (a) the person has contravened requirements or obligations under the Act relating to conducting preliminary exploration on the land; or
  - (b) the preliminary exploration is interfering substantially with the person's use of the land.
- (2) The specified person must give reasons for the refusal in the notice.
- (3) On receipt of the notice, the person must leave the relevant land without delay.

## **21 Offences relating to entry onto relevant land requiring notice**

- (1) A person commits an offence if the person:
  - (a) has entered relevant land mentioned in regulation 11(1) to conduct preliminary exploration on the land; and
  - (b) has not given a preliminary exploration notice to the specified person for the land.

Maximum penalty: 40 penalty units.

- (2) A person commits an offence if the person:
- (a) has given a preliminary exploration notice to the specified person for relevant land; and
  - (b) enters the relevant land earlier than the date specified in the preliminary exploration notice or as agreed with the specified person.

Maximum penalty: 40 penalty units.

- (3) Strict liability applies to subregulation (2)(a).

## **22 Offences relating to entry onto or remaining on relevant land requiring consent**

- (1) A person commits an offence if:
- (a) the person has entered relevant land mentioned in regulation 11(2) to conduct preliminary exploration on the land; and
  - (b) the specified person for the land:
    - (i) has given the person a notice of refusal under regulation 19(1); or
    - (ii) has not responded to the person's preliminary exploration request.

Maximum penalty: 80 penalty units.

- (2) However, a person does not commit an offence against subregulation (1) if:
- (a) the relevant land is private land or a park or reserve; and
  - (b) the landowner has not responded to the person's preliminary exploration request; and
  - (c) the person has entered the land as authorised by section 168 of the Act.
- (3) A person commits an offence if:
- (a) the person has entered relevant land mentioned in regulation 11(2) to conduct preliminary exploration on the land; and

- (b) the specified person for the land has given the person:
  - (i) a notice of refusal under regulation 19(1) after the person's entry is authorised by section 168 of the Act; or
  - (ii) a notice under regulation 20(1) withdrawing consent to the person's preliminary exploration request; and
- (c) the person does not leave the relevant land without delay.

Maximum penalty: 80 penalty units.

- (4) A person commits an offence if the person:
  - (a) has been given a notice by the specified person for relevant land consenting to the person's preliminary exploration request; and
  - (b) enters the relevant land earlier than the date specified in the request or as agreed with the specified person.

Maximum penalty: 40 penalty units.

- (5) Strict liability applies to subregulations (1)(b)(i) and (4)(a).

## **23 Documents required to be in person's possession**

- (1) For section 24(4) of the Act, a person conducting preliminary exploration on relevant land must have in the person's possession the following documents:
  - (a) photographic identification of the person;
  - (b) in relation to relevant land mentioned in regulation 11(1) – proof that the person:
    - (i) gave a preliminary exploration notice to the specified person for the land; or
    - (ii) if the land is pastoral land or native title land – took all reasonable steps to do so;
  - (c) in relation to relevant land mentioned in regulation 11(2):
    - (i) if the specified person for the land consented to the person's preliminary exploration request – the document giving consent; or
    - (ii) if the person has entered the land as authorised by section 168 of the Act – proof that the person gave a preliminary exploration request to the landowner.

(2) The person must show the documents to any of the following persons who ask to see them:

- (a) the occupier or landowner of the relevant land;
- (b) if the relevant land is in the title area of a mineral title – the title holder;
- (c) an authorised officer or police officer.

Maximum penalty: 20 penalty units.

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

### **Subdivision 3 General offences**

#### **24 Restriction relating to pastoral land**

(1) A person must not conduct preliminary exploration on pastoral land:

- (a) within 200 m of a building that is not enclosed by a fence; or
- (b) within 50 m of a fence that encloses a building.

Maximum penalty: 15 penalty units.

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

(3) For subregulation (1), a fence is taken to enclose a building only if it is within 150 m of the building.

#### **25 Contravention of obligation**

A person conducting preliminary exploration commits an offence if:

- (a) the person engages in conduct; and
- (b) the conduct results in a contravention of an obligation imposed on the person by section 24(1) to (3) of the Act.

Maximum penalty: 80 penalty units.

#### **26 Activities must relate to preliminary exploration**

A person conducting preliminary exploration must not engage in an activity on relevant land that is unrelated to the preliminary exploration.

Maximum penalty: 40 penalty units.

**27            No interference with infrastructure**

A person who has entered relevant land to conduct preliminary exploration must not interfere with:

- (a) infrastructure on the land; or
- (b) animals owned or under the control of the landowner or occupier of the land or on adjoining land.

Maximum penalty:        80 penalty units.

**28            No interference with lawful preliminary exploration**

A person commits an offence if:

- (a) another person is authorised by or under the Act to enter land and conduct preliminary exploration on the land (the **authorised explorer**); and
- (b) the person engages in conduct to prevent the authorised explorer:
  - (i) entering the land to conduct preliminary exploration; or
  - (ii) conducting preliminary exploration on the land.

Maximum penalty:        40 penalty units.

**Part 3            Surveying land**

**Division 1        General matters**

**29            Request for consent to survey declared fossicking area**

- (1) For section 18(2) of the Act, a person requiring consent to mark boundaries in a declared fossicking area must apply in writing to the Minister.
- (2) The application must be accompanied by a map of the land the person proposes to survey, clearly indicating its location and boundaries.

**30            ML – prescribed size and required survey**

- (1) For section 76(4)(a) and (b) of the Act, the prescribed size for the title area described in an application for the grant of an ML is 40 ha.

- (2) For section 76(4)(b) of the Act, if the title area does not exceed the prescribed size it must be surveyed in accordance with Division 2.

**31            EML not within town boundary – prescribed size and required survey**

- (1) For section 76(4)(a) and (b) of the Act, the prescribed size for the title area described in an application for the grant of an EML not within a town boundary is 20 ha.
- (2) For section 76(4)(b) of the Act, if the title area does not exceed the prescribed size it must be surveyed in accordance with Division 2.

**32            EML within town boundary – prescribed size and required survey**

- (1) For section 76(4)(a) and (b) of the Act, the prescribed size for the title area of an EML within a town boundary is 2 ha.
- (2) For section 76(4)(b) of the Act, if the title area does not exceed the prescribed size it must be surveyed in accordance with Division 2.

**33            ELR and EMP required survey**

For section 76(5) of the Act, the title area described in an application for the designation of an ELR, or for the grant of an EMP, must be surveyed in accordance with Division 2.

**34            No survey of land in title area already surveyed**

There is no requirement to survey an area of land under section 76 of the Act if:

- (a) the land is identical to the title area of a mineral title that is no longer in force; and
- (b) the title area was surveyed for that mineral title in accordance with these Regulations; and
- (c) the boundary markers and boundaries of the area are in good condition.

**35            Maintenance of boundary markers and boundary lines**

- (1) A person must maintain in good condition each boundary line cleared and boundary marker erected for a survey of a proposed title area, title area, or access area, while the person is:
- (a) the applicant for the mineral title for the proposed title area; or
- (b) the title holder of the mineral title for the title area; or

- (c) the holder of an access authority for the access area.
- (2) Subregulation (1) extends to a boundary surveyed and survey mark placed by a licensed surveyor.

## **Division 2            Surveys not required to be carried out by licensed surveyor**

### **36            Application of Division**

This Division applies in relation to a survey by a person (**relevant person**) required to survey one of the following areas (a **survey area**):

- (a) a title area mentioned in regulation 30(2), 31(2), 32(2) or 33;
- (b) the access area of an access authority that is subject to a condition under section 84(4) of the Act that the access area must be surveyed and a plan of survey must be given to the Minister.

### **37            Minister may approve different survey method**

- (1) On application by the relevant person, the Minister may approve a method of surveying a survey area that varies or excludes a method prescribed by this Division.
- (2) However, the Minister may approve the method only if satisfied there are circumstances that prevent the relevant person from surveying the survey area in accordance with this Division.

### **38            Boundary marker**

- (1) A **boundary marker** is a post or cairn of stones, with a height of at least 1 m above the surface of the ground.
- (2) For subregulation (1), a post used as a boundary marker must:
  - (a) have a significant metal component; and
  - (b) be at least 100 mm in diameter; and
  - (c) be firmly fixed to, or driven into, the ground.

*Example for subregulation (2)*

*A star picket over which a metal or non-metal sleeve (including a PVC pipe) is placed.*

### **39 Erecting boundary markers**

- (1) The relevant person must erect a boundary marker at each corner of the survey area and in the angle of at least 2 trenches:
  - (a) that clearly indicate the direction of the boundary of the survey area; and
  - (b) each of which must be at least 1 m in length and 150 mm in width and depth.
- (2) However, if it is impracticable to cut trenches because of the nature of the ground, the relevant person must place a row of stones, at least 1 m in length and 150 mm in width and height, to indicate the boundary.
- (3) In addition, if it is impracticable to erect a boundary marker at an actual corner of the survey area (for example, because of the presence of water), the relevant person must:
  - (a) instead, erect the boundary marker on the boundary line as near as possible to the corner; and
  - (b) mark the boundary marker with:
    - (i) the letters "W.P." (denoting "Witness Post"); and
    - (ii) the distance in metres to the corner; and
    - (iii) the direction to the corner.
- (4) If the relevant person is surveying a survey area that has the same boundary corner as a related area of land, the relevant person may erect only one boundary marker at the corner.
- (5) For subregulation (4), a related area of land is land for which the relevant person:
  - (a) has made, or is making, an application for the grant of a mineral title; or
  - (b) holds a mineral title; or
  - (c) holds an access authority.

### **40 Clearing boundary lines**

- (1) The relevant person must:
  - (a) clear the boundary line between 2 corner boundary markers to a width not exceeding 1 m; and

- (b) provide a clear line of sight between 2 corner boundary markers or mark the boundary line as specified in this regulation.
- (2) If the view between 2 corner boundary markers is obscured by a tree, the relevant person may:
- (a) in relation to an immature tree – cut it down and remove it; or
  - (b) in relation to a mature tree – attach a flag to it.
- (3) If it is not possible to provide a clear line of sight between 2 corner boundary markers, the relevant person must erect additional boundary markers so there is a clear line of sight between:
- (a) 2 boundary markers; or
  - (b) 2 flagged trees; or
  - (c) a boundary marker and a flagged tree.
- (4) When clearing the boundary line, the relevant person:
- (a) must do as little damage to the environment as is practicable; and
  - (b) may cut down and remove a tree only as provided by subregulation (2)(a).

#### **41 Meridian bearings of boundaries and datum post**

- (1) The relevant person must:
- (a) survey the boundaries of the survey area as near as possible to the true meridian bearings of north-south and east-west; and
  - (b) when the survey is completed – fix to the datum post a metal plate on which is etched, stamped, or printed in durable oil-based paint, so that it remains clearly legible:
    - (i) if the survey is for an application for the grant of a mineral title – the type and number (when allocated) of the title; and
    - (ii) if the survey is for an access area – the number of the access authority; and
    - (iii) the size of the survey area; and
    - (iv) the full name and address of the relevant person.

- (2) For subregulation (1)(b), the datum post is the boundary marker at the north-eastern corner of the survey area.

#### **42 Plan of survey and other information**

- (1) The plan of survey mentioned in section 76(2) of the Act or regulation 36(b) must clearly depict the survey area in a way that enables it to be accurately located (for example, by showing significant topographical features and boundaries of land held under the *Land Titles Act*).
- (2) The plan of survey must include the latitude and longitude in GDA94 of each boundary marker and the dimensions of the boundary lines.
- (3) The coordinates of the corners of the survey area must be determined to an accuracy of less than 1 m.
- (4) The relevant person must give the Minister sufficient information to enable the accuracy of the survey to be validated.

#### **43 Effect of surveying too much land**

If the relevant person has surveyed an area of land that is larger than the survey area, the Minister must require the person to make a further survey, reducing the survey area as specified by the Minister.

## **Part 4 Mineral title applications and other applications**

### **Division 1 General provisions**

#### **44 Necessary criteria for mineral title application**

- (1) For section 58(2)(d) of the Act, the necessary criteria are as follows:
- (a) if the applicant was previously the title holder of a mineral title that is no longer in force – the applicant must have:
- (i) paid all outstanding fees (including any late lodgment fees) and rent payable by the applicant in relation to the title; and
  - (ii) complied with the rehabilitation requirements for the title area;

- (b) if the applicant currently holds one or more mineral titles – the applicant must have substantially complied with the rehabilitation requirements for each title area;
- (c) if the applicant is currently engaged in negotiations under ALRA or NTA in relation to the grant of another mineral title – the Minister must be satisfied the applicant is actively negotiating in good faith.

(2) In this regulation:

***rehabilitation requirements***, for a title area, means the requirements for rehabilitation of the area under the *Mining Management Act*.

#### **45 Shape of proposed title area**

- (1) This regulation applies to an application for the grant of a mineral title other than an EL or EMEL.
- (2) The proposed title area must be in the shape of a rectangle, the length of which must not exceed twice the width, unless:
  - (a) a topographic feature or cadastral boundary of the Territory makes that shape impracticable; and
  - (b) the Minister approves another shape.

*Examples of boundaries for subregulation (2)(a)*

1 A topographic feature such as a river or mountain ridge.

2 A cadastral boundary of Aboriginal land or pastoral land.

#### **46 Application fees**

- (1) The application fee payable for an application mentioned in Schedule 1, Part 1 is specified opposite the application.
- (2) A person who pays an application fee is not entitled to a refund of any of the amount paid, even if the application is refused.

#### **47 Refund of amount paid for advertising costs**

- (1) This regulation applies if the applicant for the grant of a mineral title has paid the advertising costs of giving public notice of the application as mentioned in section 71(1)(b) of the Act.
- (2) The Minister must refund the whole amount paid if, before the notice is published, the Minister refuses under section 70 of the Act to grant the mineral title.

**48 Deciding application for designation of ELR after EL ceases to be in force**

If the holder of an EL has applied under section 33 of the Act for the designation of an ELR and the EL ceases to be in force for the proposed title area of the ELR, the Minister may continue to consider the application and decide it as if the EL were still in force.

**49 Notice of change**

- (1) A person who has made an application under the Act that has not been decided must give the Minister a notice of change relating to any of the following:
  - (a) the person's name;
  - (b) the person's address or other contact details;
  - (c) if the person has nominated an agent – the name or contact details of the agent.
- (2) In addition, the person must give the Minister a notice of change of circumstances, specifying the relevant details, if:
  - (a) for a corporation – an administrator, liquidator or controller is appointed under the Corporations Act 2001 for the corporation; or
  - (b) for an individual – he or she:
    - (i) becomes bankrupt; or
    - (ii) has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
    - (iii) has compounded with his or her creditors or has assigned his or her remuneration for their benefit.

**Division 2 Applications for grant of mineral title for Aboriginal land**

**50 Geographical coordinates**

The geographical coordinates mentioned in this Division are based on the national Australian Geodetic Datum 1966, known as AGD66, used for surveying, mapping and spatial referencing of geographical data.

## 51 **Noranda Project Area**

For section 63(2)(d) of the Act, the Noranda Project Area (also known as the Koongarra Project Area) is the area of about 1 197 ha bounded by a line starting at the point of 12° 52' 20" south, 132° 49' 41" east, then running progressively as follows:

- (a) to the point of 12° 51' 27" south, 132° 51' 44" east;
- (b) to the point of 12° 52' 54" south, 132° 52' 17" east;
- (c) to the point of 12° 53' 58" south, 132° 50' 37" east;
- (d) to the starting point.

## 52 **Pancontinental Project Area**

For section 63(2)(e) of the Act, the Pancontinental Project Area (also known as the Jabiluka Project Area) is the area of about 7 282 ha bounded by a line starting at the point of 12° 36' south, 132° 55' east, then running progressively as follows:

- (a) to the point of 12° 30' 10" south, 132° 51' 40" east;
- (b) to the point of 12° 29' south, 132° 52' 22" east;
- (c) to the point of 12° 29' south, 132° 55' east;
- (d) to the point of 12° 29' 45" south, 132° 55' east;
- (e) to the intersection of 12° 29' 45" south with the western boundary of Kakadu National Park as defined in *Commonwealth Gazette* No. S61 dated 5 April 1979;
- (f) south along that boundary to the point where it intersects a line joining:
  - (i) the point of 12° 36' south, 132° 55' east; and
  - (ii) the point of 12° 33' 20" south, 133° east;
- (g) to the starting point.

## **Division 3 Applications for grant of mineral title for existing title area or existing proposed title area**

### **53 Application of Division**

For section 65(3) of the Act, this Division prescribes a person's entitlement to make an application for:

- (a) the grant of a mineral title for an area of land in or comprising an existing title area or existing proposed title area; or
- (b) the designation of an ELR for an area of land in or comprising an existing title area or existing proposed title area.

*Notes for regulation 53*

- 1 *Section 78(5) of the Act deals with the Minister's discretion to refuse to grant a mineral title to a person who applies for the grant as prescribed by this Division.*
- 2 *Regulations 74 and 75 deal with the occupation right under a mineral title granted on application as prescribed by this Division.*
- 3 *This Division does not affect a person's right to conduct preliminary exploration in an existing title area or existing proposed title area in accordance with Part 2 of the Act and Part 2 of these Regulations.*

### **54 Application for grant of EL**

A person is entitled to apply for the grant of an EL for any of the existing title area or existing proposed title area of an ELR, ML, EMEL, EMP or EML.

### **55 Application for designation of ELR**

- (1) The holder of an EL with a title area in or comprising the existing title area or existing proposed title area of an EMEL (***the EMEL area***) is entitled to apply for the designation of an ELR for any of the EMEL area that does not also comprise the title area or proposed title area of a development title (***the development area***).
- (2) Subregulation (1) does not prevent the holder of the EL from applying for the designation of an ELR for any of the EMEL area surrounding the development area.

### **56 Application for grant of ML**

- (1) A person is entitled to apply for the grant of an ML for any of the existing title area or existing proposed title area of an EMEL.

- (2) A person is entitled to apply for the grant of an ML for any of the existing title area or existing proposed title area of an EL or ELR only with the written consent of the title holder or earlier applicant.
- (3) For subregulation (2), the holder of an EL or an earlier applicant for the grant of an EL must not unreasonably withhold consent if the ML is required to enable the person requesting consent to conduct activities ancillary to mining conducted under another ML held by the person.

**57 Application for grant of EMEL**

A person is entitled to apply for the grant of an EMEL for any of the existing title area or existing proposed title area of an EL, ELR or development title.

**58 Application for grant of EMP**

- (1) A person is entitled to apply for the grant of an EMP for any of the existing title area or existing proposed title area of an EL.
- (2) A person is entitled to apply for the grant of an EMP for any of the existing title area or existing proposed title area of an EMEL only with the written consent of the title holder or earlier applicant.

**59 Application for grant of EML**

- (1) A person is entitled to apply for the grant of an EML for any of the existing title area or existing proposed title area of an EL.
- (2) A person is entitled to apply for the grant of an EML for any of the existing title area or existing proposed title area of an EMEL only with the written consent of the title holder or earlier applicant.

**Division 4 Grant of mineral title**

**60 Procedures relating to payment of rent and giving security**

- (1) The Minister may grant a person a mineral title only if the person has paid the required rent, and given the required security, for the title.
- (2) If the person has paid the required rent and given the required security when the Minister decides to grant the mineral title, the grant takes effect on the day the Minister makes the decision.

- (3) If the person has not paid the required rent or given the required security and the Minister considers it will be appropriate to grant the mineral title if the person does so, the Minister must give the person a notice specifying:
- (a) the Minister will grant the mineral title for the title area specified in the notice if the person pays the required rent and gives the required security before the date specified in the notice; and
  - (b) the matters mentioned in subregulations (5) and (6).
- (4) The date specified under subregulation (3)(a) must be at least 30 days after the date of the notice.
- (5) If the person pays the required rent and gives the required security before the specified date, the grant of the mineral title takes effect on the date the Agency receives the rent and security.
- (6) If the person does not pay the required rent and give the required security before the specified date:
- (a) the person's application for the grant of the mineral title is refused; and
  - (b) the application is prescribed for section 166(3) of the Act.

*Note for subregulation (6)(b)*

*The Minister is not required to give any further notice relating to the refusal to grant the mineral title that would otherwise be required under section 166(2) of the Act.*

- (7) In this regulation:

**required rent** means:

- (a) for an EMEL – the rent payable for the term of the EMEL; or
- (b) for any other mineral title – the rent payable for the first operational year of the title.

**required security**, for a mineral title, means the security (if any) for compensation required under section 106 of the Act before or during the consideration of an application for the grant of the title.

## **61 Granting ML to holder of EL or ELR**

- (1) If the Minister grants an ML to the holder of an EL for part of the title area of the EL:
- (a) the EL remains in force for the title area of the ML; but

- (b) the title holder may exercise the rights given by the ML only in the title area of the ML.
- (2) If the Minister grants an ML to the holder of an ELR for part of the title area of the ELR:
- (a) the title area of the ML is removed from the title area of the ELR; and
  - (b) the Minister may cancel the ELR if it no longer complies with the Act or these Regulations after the grant of the ML.

*Example for subregulation (2)(b)*

*The remaining title area of an ELR may no longer contain an ore body.*

- (3) If the Minister grants an ML to the holder of an EL or ELR for all of its title area, the ML replaces the EL or ELR.
- (4) The term and title area of the EL or ELR are not affected by:
- (a) the making of the application for the grant of the ML; or
  - (b) a refusal of the application by the Minister.

## **62 Granting EMP or EML to holder of EMEL**

- (1) If the Minister grants an EMP or EML to the holder of an EMEL for part of the title area of the EMEL:
- (a) the EMEL remains in force for the title area of the EMP or EML; but
  - (b) the title holder may exercise the rights given by the EMP or EML only in the title area of the EMP or EML.
- (2) If the Minister grants an EMP or EML to the holder of an EMEL for all of the title area of the EMEL, the EMP or EML replaces the EMEL.
- (3) The term and title area of the EMEL are not affected by:
- (a) the making of the application for the grant of the EMP or EML; or
  - (b) a refusal of the application by the Minister.

## **Part 5                    Amalgamations, surrenders and cancellations**

### **63                    Amalgamation of title areas**

- (1) For section 102(1) of the Act, the Minister may amalgamate the original title areas of any original titles except EMELs.
- (2) An application under section 102(2)(b) of the Act must:
  - (a) be in the approved form; and
  - (b) identify the original titles to be amalgamated; and
  - (c) relate only to original titles that are in force; and
  - (d) if the application relates to a replacement title that is an EL:
    - (i) identify the blocks to be amalgamated, which must not exceed 250; and
    - (ii) include a technical work program for the first operational year of the EL; and
  - (e) if the application relates to another replacement title:
    - (i) identify the proposed title area, which must not exceed the maximum size specified for that type of mineral title under Part 3 or 4 of the Act; and
    - (ii) include a summary of the work to be carried out for conducting the authorised activities in the proposed title area.
- (3) The term of a replacement title must not exceed the maximum term for that type of title specified under Part 3 or 4 of the Act.
- (4) Before issuing a replacement title, the Minister may require the title holder to have the proposed title area surveyed:
  - (a) by a licensed surveyor; or
  - (b) in accordance with Part 3, Division 2.
- (5) The method of survey required by the Minister does not need to correspond to the method of survey otherwise prescribed by these Regulations for the grant of the same type of title as the replacement title.

- (6) The holder of the replacement title:
- (a) is not entitled to a refund of rent paid for any of the land that was in the original title areas but is not included in the title area of the replacement title; and
  - (b) if any land in the original title areas of an EL, ELR or ML is not included in the title area of the replacement title – must give the Minister a final report for that land within 60 days after the date on which the Minister cancels the original titles and issues the replacement title.

*Notes for subregulation (6)(b)*

- 1 See regulation 86(3) to (5) for provisions about the content of the final report.
- 2 See regulation 131 for provisions about the fee payable if the report is not given on or before the reporting day.

- (7) Rent is payable for a replacement title as follows:
- (a) for an EL – as if it had been in force for the period calculated by averaging of the number of operational years of the original titles and adding 1 operational year;
  - (b) for any other title – as if it had been granted under Part 3 or 4 of the Act.

- (8) In this regulation:

**replacement title** means the mineral title issued to replace the original titles.

## **64 Application for acceptance of surrender**

- (1) This regulation applies in relation to an application under section 103(1) of the Act for the acceptance of the surrender of all or part of a title area.
- (2) The Minister need not accept the surrender if any rent or fees are owed in relation to the mineral title.
- (3) If the Minister accepts the surrender of all or part of the title area of an EL, ELR or ML, the applicant must give the Minister a final report relating to the surrendered land within 60 days after the surrender takes effect.

*Notes for subregulation (3)*

- 1 See regulation 86(3) to (5) for provisions about the content of the final report.
- 2 See regulation 131 for provisions about the fee payable if the report is not given on or before the reporting day.

**65 Survey for surrender application**

- (1) This regulation applies in relation to a survey mentioned in section 103(3)(a) of the Act.
- (2) The remaining title area of an ML must be surveyed:
  - (a) by a licensed surveyor if it exceeds 40 ha; or
  - (b) in accordance with Part 3, Division 2 if it does not exceed 40 ha.
- (3) The remaining title area of an EML must be surveyed:
  - (a) by a licensed surveyor if:
    - (i) it exceeds 2 ha and is within a town boundary; or
    - (ii) it exceeds 20 ha and is not within a town boundary; or
  - (b) in accordance with Part 3, Division 2 if paragraph (a) does not apply.
- (4) The remaining title area of an ELR or EMP must be surveyed in accordance with Part 3, Division 2.

**66 Request for surrender**

- (1) For section 104(1) of the Act, each of the following is a purpose beneficial to the Territory:
  - (a) public recreation or amusement;
  - (b) the protection of a scenic area;
  - (c) the preservation and protection of a place of cultural or historic interest;
  - (d) a national park, public park or public garden;
  - (e) the protection of flora and fauna;
  - (f) the protection of coastal foreshores;
  - (g) water conservation;
  - (h) the construction or maintenance of public infrastructure;
  - (i) forestry or reforestation.

- (2) The notice given under section 104(1) of the Act must specify:
  - (a) the purpose for which the land to which the request relates is to be used if it is surrendered; and
  - (b) the holder of the EL has 2 months in which to respond in writing to the Minister's request; and
  - (c) the title holder will be taken to have agreed to the surrender if the title holder does not respond within that period.
- (3) After the surrender of all or part of the title area of the EL, the Minister must refund to the title holder or former title holder, with effect from the date of surrender, any rent paid for the surrendered title area for the remaining period of the current operational year.
- (4) For subregulation (3), the date of surrender is the date on which the title holder:
  - (a) gives the Minister a written notice agreeing to the surrender; or
  - (b) is taken to have agreed to the surrender as mentioned in section 104(2) of the Act.

**67 Notice and submission relating to intention to cancel**

- (1) For section 105(3) of the Act, the notice of intention to cancel a mineral title must specify:
  - (a) the reason for the intended cancellation; and
  - (b) the period within which the title holder may:
    - (i) take action, as specified by the Minister, to avoid cancellation; or
    - (ii) make a submission to the Minister in relation to the proposed cancellation.
- (2) The period specified under subregulation (1)(b) must be at least 30 days after the date on which the title holder is given the notice.
- (3) The notice must be given:
  - (a) by registered post; or
  - (b) if the contact details of the title holder include an email address – by email.

- (4) A submission by the title holder must include all the information necessary to enable the Minister to make a proper decision about whether or not to cancel the mineral title.

#### **68 Notice following submission about intention to cancel**

- (1) If the Minister receives a submission within the period specified in the notice of intention to cancel a mineral title given under regulation 67, or the longer period as extended under section 167 of the Act, the Minister must consider the submission and may:
- (a) give the title holder a notice requiring the title holder to take an action specified, within the period specified, to avoid cancellation; or
  - (b) cancel the mineral title.
- (2) The period specified under subregulation (1)(a) must be at least 30 days after the notice is given.
- (3) If the title holder is given a notice under subregulation (1)(a) and does not take the specified action within the specified period, or a longer period if extended under section 167 of the Act, the Minister may cancel the mineral title.
- (4) The Minister must give the former title holder a notice confirming cancellation under this regulation.

#### **69 Cancellation of EL for part of title area**

The cancellation of an EL for part of the title area during the term for which the EL is first granted does not affect the requirement to reduce the remaining title area under section 29 of the Act.

#### **70 Notice of land ceasing to be title area**

- (1) This regulation applies if:
- (a) under section 29 of the Act, the title area of an EL is reduced; or
  - (b) under section 103 or 104 of the Act, all or part of a title area is surrendered; or
  - (c) under section 105 of the Act, the Minister cancels an EL, ELR, ML, EMP or EML for all or part of its title area; or
  - (d) land ceases for another reason to be all or part of the title area of an EL, ELR, ML, EMP or EML.

- (2) As soon as practicable after the reduction, surrender, cancellation or cessation (the **relevant occurrence**), the Minister must publish a notice on the Agency's website that includes the following information:
- (a) the number of the mineral title affected by the relevant occurrence;
  - (b) a map, clearly indicating the location and boundaries, of:
    - (i) the land that has ceased to be all or part of the title area of the mineral title or former mineral title; and
    - (ii) if applicable – the land that remains in the title area of the mineral title;
  - (c) the date on which the relevant occurrence took effect.

## **Part 6 Rights and conditions under mineral titles**

### **Division 1 Entry onto and use of land**

#### **71 Notice before starting authorised activities for exploration**

- (1) This regulation prescribes the procedures for section 32(1) or 49 of the Act to be followed by the title holder of an EL or EMEL in relation to conducting authorised activities on the land in the title area of the EL or EMEL.
- (2) At least 14 days before the title holder intends to start conducting authorised activities on the land, the title holder must give written notice of the intention to the landowners or occupiers of the land.
- (3) The notice must include the following information:
- (a) the name and contact details of the title holder;
  - (b) the name and contact details of the person who will be in charge of conducting the authorised activities;
  - (c) the nature of the exploration to be conducted on the land;
  - (d) the intended start date, and an estimate of the duration, of the exploration;
  - (e) a map of the land on which the exploration is to be conducted, clearly indicating its location and boundaries;
  - (f) details of the proposed place of entry onto the land.

- (4) As soon as practicable after entering the land, the title holder must take all reasonable steps to advise the occupiers of the land of the entry before starting to conduct the authorised activities.
- (5) However, subregulation (4) does not prevent the title holder from starting to conduct the authorised activities if, after taking all reasonable steps to find an occupier, the occupier cannot be found.

## **72 Exploration under EMEL**

In conducting exploration under an EMEL, the title holder may remove, only from the natural surface of the land in the title area, small amounts of extractive minerals for evaluation.

## **73 Conducting authorised activities on pastoral land**

- (1) The holder of a mineral title must not conduct authorised activities on pastoral land:
  - (a) within 200 m of a building that is not enclosed by a fence; or
  - (b) within 50 m of a fence that encloses a building.
- (2) For subregulation (1), a fence is taken to enclose a building only if it is within 150 m of the building.

## **74 Right to exercise occupation right on overlapping land**

- (1) The holder of a development title may exercise the occupation right under the title on overlapping land to the exclusion of the holder of an ELR or exploration title.
- (2) The holder of an ELR may exercise the occupation right under the ELR on overlapping land to the exclusion of the holder of an exploration title.
- (3) The holder of an exploration title may exercise the occupation right under the exploration title on overlapping land concurrently with the holder of another exploration title.

## **75 Conditions of exercising occupation right on overlapping land**

- (1) The holder of an ELR must not exercise the occupation right under the ELR on overlapping land for which another person holds a development title.
- (2) The holder of an exploration title must not exercise the occupation right on overlapping land for which another person:
  - (a) holds an ELR or development title; or

- (b) has made an application for the designation of an ELR, or the grant of a development title, that has not been decided by the Minister.
- (3) The holder of an exploration title must not exercise the occupation right under the title on overlapping land that also comprises all or part of:
- (a) the title area of an ELR or development title; or
  - (b) the proposed title area of an ELR or development title.

## **76 Access authority – consent of landowner**

- (1) This regulation applies to the holder of a mineral title who has the right mentioned in section 84(1) of the Act to enter land outside the title area to construct, maintain and use infrastructure associated with conducting authorised activities under the mineral title.
- (2) For section 84(3)(c) of the Act, the title holder is required to obtain consent to the entry from the owners of the following classes of land:
- (a) private land;
  - (b) Aboriginal land;
  - (c) an Aboriginal community living area.
- (3) The landowner of land prescribed under subregulation (2) must not unreasonably refuse to consent to the title holder's entry onto the land.
- (4) A dispute about a refusal may be decided by the Tribunal on application by the title holder.
- (5) The title holder must give the Minister a copy of a landowner's consent to the title holder's entry to prescribed land with the application under section 84(2) of the Act.

## **Division 2 Rent, fees, expenditure and reports**

### **77 Rent and administration fee**

- (1) The annual rent payable for the title area of a mineral title is the amount specified for the title in Schedule 1, Part 2.
- (2) No GST is payable in relation to the rent.

- (3) If rent is payable for each hectare of a title area, and the title area does not divide equally into hectares, rent is payable for the remaining area as if it were a whole hectare.
- (4) The annual administration fee payable for a mineral title (except an EMEL) is the amount specified for the title in Schedule 1, Part 3.
- (5) Before the start of the second and each subsequent operational year, the holder of a mineral title (except an EMEL) must pay the rent and administration fee for the title.

*Notes for subregulation (5)*

- 1 See regulation 60 for payment of rent before the grant of a mineral title.
- 2 See section 67 of the Act for payment of rent before the renewal of a mineral title.

- (6) If a title holder does not pay the rent or administration fee as required by subregulation (5), the Minister must give the title holder a notice requiring payment within 30 days from the date of the notice.
- (7) If the title holder does not pay the rent or administration fee as required under subregulation (5), the Minister may take action under section 105(3) of the Act for a contravention of section 95(1) of the Act.

*Note for subregulation (7)*

*Regulations 67 and 68 set out the procedures for the cancellation mentioned in section 105(3) of the Act.*

- (8) Despite subregulation (5), the Minister may waive all or part of the amount payable by the title holder, but only if satisfied there are circumstances that justify the waiver.
- (9) To avoid doubt, a person who is required to pay annual rent or an annual administrative fee must pay the rent or fee for the full operational year of the mineral title even if the title ceases to be in force, or is renewed, before the end of the year.

*Note for regulation 77*

*See section 16(4) of the Act for the application of Schedule 1 to part of a block.*

## **78 Annual report for EL, ELR or ML**

- (1) The holder of an EL, ELR or ML must give the Minister an annual report within 60 days after the end of each operational year of the mineral title.

*Note for subregulation (1)*

*See regulation 131 for provisions about the late fee payable if the report is not given on or before the reporting day.*

- (2) The annual report must contain the details and history of the mineral title and information about the following activities conducted under the title during the operational year:
- (a) programs involving geological sciences (such as geological, geophysical and geochemical surveys), which may include desktop reviews, data assessment and interpretation and target generation;
  - (b) the collection and analysis of rock, soil, sediment, mineral, groundwater or vegetation samples;
  - (c) drilling programs;
  - (d) technical investigations related to exploration (such as pre-feasibility studies, feasibility studies, metallurgical or mineral processing studies, groundwater and geotechnical studies).
- (3) The annual report must also contain information about all exploration conducted in the operational year in sufficient detail to substantiate the expenditure specified in the expenditure report for the exploration.
- (4) The information about exploration must include the following:
- (a) a summary of exploration rationale and activities;
  - (b) maps showing the location, in relation to the boundaries of the title area, of the exploration, survey boundaries, drilling and recovery of geological samples;
  - (c) details of each geological sample recovered from the title area during the operational year;
  - (d) survey and analytical results, raw and processed data and imagery and other spatial data, as appropriate;
  - (e) descriptions of survey, drilling and sampling methodology, logistics, data processing and modelling;

- (f) any consultant or laboratory reports;
  - (g) interpretation of all exploration results, including maps, sections, logs and models;
  - (h) details of office studies and data reviews.
- (5) If a person owns the copyright in all or any part of the annual report, the title holder giving the report must comply with regulation 126.

## **79 Annual report for ML and mining management report**

- (1) The holder of an ML may apply to the Minister for approval to give the annual report on the same day as one or more reports the title holder is required to give under the *Mining Management Act* (a **mining management report**).
- (2) The title holder must nominate in the application the preferred reporting day for giving the reports.
- (3) After considering the application, the Minister may:
  - (a) if satisfied it is appropriate:
    - (i) approve the application for the annual report to be given on the same day as all or some of the mining management reports specified in the application; and
    - (ii) approve a reporting day for giving the reports; or
  - (b) otherwise – refuse the application.
- (4) If the Minister approves the application, the title holder must give the Minister the annual report and each mining management report, as approved, on or before the reporting day.

*Note for subregulation (4)*

*See regulation 131 for provisions about the late fee payable if the annual report is not given on or before the reporting day.*

## **80 Expenditure project area for ELs**

- (1) The holder of multiple ELs may apply to the Minister for approval of an expenditure project area for the title areas of 2 or more of the ELs (the **project area**) if the title holder intends to expend a substantial amount on carrying out technical work in the project area.

- (2) The title holder must nominate in the application a reporting day for giving the Minister a notice (a **project expenditure notice**) of:
  - (a) the amount the title holder proposes to expend on carrying out technical work in the project area during the next 12 months; and
  - (b) the amount actually expended for that purpose during the previous 12 months.
- (3) The Minister may:
  - (a) if satisfied it is appropriate:
    - (i) approve the application for all or some of the ELs specified in the application; and
    - (ii) approve a reporting day for giving the project expenditure notice; or
  - (b) otherwise – refuse the application.
- (4) If the Minister approves the application:
  - (a) it is a condition of each EL in the project area that the title holder must give a project expenditure notice on or before the reporting day specified in the notice of approval; and
  - (b) the project expenditure notice and expenditure condition for the project area apply in relation to all of the ELs specified in the notice of approval; and
  - (c) the amounts for proposed and actual expenditure, as specified in the project expenditure notice, apply to all of those ELs but may be expended in any part of the project area.
- (5) Despite subregulation (4)(a), the title holder must also comply with requirements in this Division to give an expenditure report, and any other report, for each EL in the project area (including an amalgamated report for any of those ELs if approved under regulation 87).

## **81 Expenditure report for EL, ELR or ML**

- (1) The holder of an EL, ELR or ML must give the Minister an expenditure report, in the approved form, for an operational year:
  - (a) for an EL or ELR – within 30 days after the end of the year; or

- (b) for an ML – within 60 days after the end of the year.

*Note for subregulation (1)*

*See regulation 131 for provisions about the late fee payable if the report is not given on or before the reporting day.*

- (2) The expenditure report for an EL, ELR or ML must include the following information:
- (a) the amount the title holder proposes to expend on carrying out technical work for the next operational year;
  - (b) the amount expended on technical work carried out during the operational year for which the report is given.
- (3) For the first operational year of an EL, the title holder may also include in the expenditure report details of any amount, as specified in an airborne survey report, expended by the title holder on an approved airborne survey of land now in the title area of the EL.

## **82 Compliance with expenditure condition**

- (1) In considering an expenditure report for an EL or ELR, the Minister must be satisfied the title holder has complied with the expenditure condition.

*Note for subregulation (1)*

*The Minister may exercise the discretion under section 105 of the Act to cancel the EL or ELR, or cancel the title for part of the title area, for a contravention of a condition.*

- (2) If the title holder of an EL has contravened the expenditure condition during an operational year when the title area of the EL must be reduced under section 29 of the Act, the Minister need not consider any application made by the title holder under section 29(4) of the Act.
- (3) Subregulation (2) does not prevent the Minister from also taking action under section 105 of the Act to cancel the EL for all or part of the title area.
- (4) If the title holder of the ELs in a project area contravenes the expenditure condition for the project area:
- (a) this regulation applies in relation to all of the ELs for the area;  
and

- (b) the Minister may take the action the Minister considers appropriate in relation to all or any of the ELs.

*Examples for subregulation (4)(b)*

- 1 The Minister need not consider an application under section 29(4) of the Act relating to any one or more of the ELs.
- 2 The Minister may cancel some of the ELs and take no action in relation to the others.
- 3 The Minister may cancel all of the ELs in relation to some of the blocks in each title area of the ELs.
- 4 The Minister may cancel all of the ELs.

**83 Reserves report for ELR**

The holder of an ELR must give the Minister a reserves report, in the approved form, within 14 days after the end of each financial year.

**84 Production report and reserves report for ML**

- (1) The holder of an ML must give the Minister a production report and reserves report, each in the approved form, within 14 days after the end of each financial year.
- (2) The reports may be combined or in one document.
- (3) Subregulation (1) does not apply in relation to an ML that gives the title holder the right to conduct activities in the title area that are ancillary to mining conducted under another ML granted to the title holder.

**85 Production report for EML or EMP**

The holder of an EML or EMP must give the Minister a production report, in the approved form, within 14 days after the end of each financial year.

**86 Final report for EL, ELR or ML**

- (1) For section 94(2)(e)(i) of the Act, the holder of an EL, ELR or ML must give the Minister the final report within 60 days after the mineral title has ceased to be in force for all or part of the title area.

*Note for subregulation (1)*

*See regulation 131 for provisions about the late fee payable if the report is not given on or before the reporting day.*

- (2) For section 94(2)(e)(ii) of the Act, the holder of an EL, ELR or ML must give the Minister the final report as specified under Part 5 in relation to the particular application.

- (3) A final report relating to all of the title area of the EL, ELR or ML must include:
  - (a) a summary of all of the information given in all of the annual reports for the mineral title; and
  - (b) information about the authorised activities conducted in the title area since the end of the operational year for which the latest annual report was given; and
  - (c) the amount expended on authorised activities conducted in the title area since the last expenditure report for the title was given.
- (4) A final report relating to part of the title area of the EL, ELR or ML must include information about all of the authorised activities conducted in that part since the title was granted.
- (5) For subregulation (3)(b) and (4), the information about the authorised activities must include the information that would otherwise be required to be included in an annual report for the EL, ELR or ML under regulation 78.
- (6) If a person owns the copyright in all or any part of a final report, the title holder giving the report must comply with regulation 126.

**87 Amalgamated report for ELs, ELRs or MLs**

- (1) This regulation applies in relation to ELs, ELRs and MLs.
- (2) A person may apply to the Minister for approval to give an amalgamated report for the annual reports or expenditure reports for 2 or more of the mineral titles if all of the following circumstances apply:
  - (a) the reports relate to titles held by the person or, if the person is a body corporate, a related body corporate;
  - (b) the titles are of the same type and same geological province;
  - (c) the title areas are adjoining or substantially contiguous.
- (3) For subregulation (2)(c), title areas are substantially contiguous if they:
  - (a) are not separated by more than 5 blocks; or
  - (b) are separated only by a proposed title area in an application made by the person or, if the person is a body corporate, a related body corporate.

- (4) The person must nominate in the application a preferred reporting day for giving the amalgamated report.
- (5) The Minister may:
  - (a) if satisfied it is appropriate:
    - (i) approve the application for all or some of the mineral titles specified in the application; and
    - (ii) approve a reporting day for giving the amalgamated report; or
  - (b) otherwise – refuse the application.
- (6) If the Minister approves the application, the person must give the Minister the amalgamated report on or before the reporting day.

*Note for subregulation (6)*

*See regulation 131 for provisions about the late fee payable if the report is not given on or before the reporting day.*

- (7) In this regulation:

***related body corporate***, see section 9 of the Corporations Act 2001.

## **88 Information contained in report**

- (1) It is a condition of a mineral title that the title holder must, in giving a report under this Division, include in the report all of the information to be given under the Act.
- (2) It is also a condition that the title holder must:
  - (a) if there is an approved form for a document that is part of the report – give the information as required by the form; and
  - (b) otherwise – format particular information (for example, geophysical data) in a way that is acceptable to the Minister.
- (3) The Minister may refuse to consider the report if the title holder has contravened a condition mentioned in this regulation.
- (4) However, before taking any other action in relation to a contravention, the Minister must require the title holder under section 165(2) of the Act to:
  - (a) give the Minister particular information; or

- (b) take any other action in relation to the report, as specified in the requirement.

### **Division 3 Miscellaneous conditions**

#### **89 Geological samples**

- (1) For section 93 of the Act, the holder of an EL, ELR or EMEL must store geological samples in a way that protects them from damage or deterioration until the title holder:
  - (a) disposes of the samples with the Minister's consent; or
  - (b) gives the samples to the Minister.
- (2) After considering a notice of the recovery of a geological sample given under section 93(1) of the Act, the Minister may consent to the disposal of the sample.
- (3) For section 93(3) of the Act, a title holder must give the Minister a remaining sample as soon as practicable after:
  - (a) if the title is surrendered or ceases to be in force for all of the title area – the date on which the surrender or cessation takes effect; or
  - (b) if the title area is surrendered or ceases to be in force for a part of the area that includes the place where the remaining sample was recovered – the date on which the surrender or cessation takes effect; or
  - (c) for an EL or ELR under which work described in an annual report ceases to be carried out – the date on which the work ceases.
- (4) The remaining sample must be given with the approved form.
- (5) In this regulation:

***remaining sample*** means a sample that has not been disposed of with the Minister's consent.

#### **90 Notice of change**

- (1) For section 98(1)(c) of the Act, the holder of a mineral title who is an individual must give the Minister a notice of change if the title holder:
  - (a) becomes bankrupt; or

- (b) has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
- (c) has compounded with the title holder's creditors or has assigned the title holder's remuneration for their benefit.

*Note for subregulation (1)*

*Section 98(3) of the Act applies to a corporation.*

- (2) Also, if the holder of a mineral title has nominated an agent whose name or contact details have changed, the title holder must give the Minister a notice of change under section 98 of the Act.
- (3) A notice of change must specify the new details or circumstances relevant to the title holder.

## **Part 7                      General reserved land**

### **91                      Variation or revocation if notice of intention to be given**

- (1) This regulation applies if:
  - (a) the Minister intends to vary or revoke the reservation of general reserved land under section 113(4) of the Act; and
  - (b) the notice of reservation of the land includes a statement mentioned in section 113(3)(g) of the Act.
- (2) For section 113(4)(c) of the Act, the Minister must give notice in a newspaper circulating in the locality of the general reserved land of the Minister's intention to vary or revoke the reservation under section 113(4) of the Act.
- (3) The notice must include the following:
  - (a) a description of the land to which the intended variation or revocation relates;
  - (b) the reason for the intended variation or revocation;
  - (c) the period (which must be at least 30 days after publication of the notice) within which persons may make written submissions to the Minister about the intended variation or revocation;
  - (d) the address where submissions may be given to the Minister.

- (4) If the Minister made the decision to reserve the general reserved land after considering a written request for the reservation, the Minister must give the person who made the request a copy of the notice.
- (5) Before deciding whether or not to vary or revoke the reservation, the Minister must take into account each submission received within the period mentioned in subregulation (3)(c).
- (6) If the Minister decides to vary or revoke the reservation, the Minister must do so by *Gazette* notice that includes the following:
  - (a) a description of the land to which the variation or revocation relates;
  - (b) if the reservation is varied – details of the variation;
  - (c) the date on which the variation or revocation will take effect;
  - (d) the reason for the variation or revocation.
- (7) If the Minister decides not to revoke or vary the reservation, the Minister must, by *Gazette* notice, give the following information:
  - (a) brief details of the intention as notified under subregulations (2) and (3);
  - (b) the Minister's decision and the reason for the decision.
- (8) The Minister must give a copy of the notice under subregulation (6) or (7) to each person who made a submission within the period mentioned in subregulation (3)(c).

## **92 Variation or revocation if no notice of intention to be given**

- (1) This regulation applies if:
  - (a) the Minister varies or revokes the reservation of general reserved land under section 113(4) of the Act; and
  - (b) the notice of reservation of the land does not include a statement mentioned in section 113(3)(g) of the Act.
- (2) The variation or revocation must be by *Gazette* notice that includes the following information:
  - (a) a description of the land to which the variation or revocation relates;
  - (b) if the reservation is varied – details of the variation;

- (c) the date on which the variation or revocation will take effect;
- (d) the reason for the variation or revocation.

## **Part 8 Mineral Titles Register**

### **93 Applications for grant of title – entry of information**

The Minister must enter the following information in the register in relation to an application for the grant of a mineral title:

- (a) the type of mineral title the subject of the application;
- (b) the name and contact details of the applicant;
- (c) the date and time of lodgment with the Agency;
- (d) the number allocated to the mineral title the subject of the application;
- (e) a description of the proposed title area;
- (f) if the application is made by more than one person – the interest in the mineral title proposed to be held by each applicant;
- (g) details (including the date and time of lodgment with the Agency) of any of the following:
  - (i) an application for approval and registration of the transfer of a mineral rights interest in the application;
  - (ii) an application for registration of the devolution of a mineral rights interest in the application;
  - (iii) an application for registration of a general dealing relating to a mineral rights interest in the application;
  - (iv) the lodgment of a caveat claiming a legal or equitable interest in the application;
- (h) a decision or subsequent action relating to:
  - (i) the application; or
  - (ii) an application or lodgment mentioned in paragraph (g).

**94 Mineral titles – entry of information**

The Minister must enter in the register the following information in relation to a mineral title:

- (a) the type of mineral title granted;
- (b) the date on which the title was granted;
- (c) the number allocated to the title;
- (d) the name and contact details of the title holder;
- (e) the term of the title;
- (f) a description of the title area;
- (g) details of any application made under Part 5, Division 5 of the Act;
- (h) details (including the date and time of lodgment with the Agency) of any of the following:
  - (i) an application for approval and registration of the transfer of a mineral rights interest in the title;
  - (ii) an application for registration of the devolution of a mineral rights interest in the title;
  - (iii) an application for registration of a general dealing relating to a mineral rights interest in the title;
  - (iv) the lodgment of a caveat claiming a legal or equitable interest in the title;
- (i) a decision or subsequent action relating to an application or lodgment mentioned in paragraph (g) or (h).

**95 Transfer of mineral rights interest – entry of details**

- (1) For regulation 93(g)(i) or 94(h)(i), the following details must be included in the register:
  - (a) the names and contact details of each person transferring a mineral rights interest and each person to whom a mineral rights interest is to be transferred;
  - (b) the mineral rights interest being transferred.
- (2) The Minister need not enter in the register the details of an agreement relating to the transfer of a mineral rights interest.

**96 Entry of additional information**

The Minister may enter in the register any information not mentioned in this Part that the Minister considers should be entered.

**97 Fees payable in relation to register**

The fee payable for a matter mentioned in section 121(6)(b) of the Act is specified in Schedule 1, Part 4.

**Part 9 Fossicking**

**Division 1 Preliminary matters**

**98 Meaning of *relevant land***

- (1) ***Relevant land***, for a fossicking notice, is:
- (a) pastoral land, unless consent to fossick is required by regulation 101; or
  - (b) the title area of an EL, unless consent to fossick for gold is required by regulation 102.
- (2) ***Relevant land***, for a fossicking request, is:
- (a) relevant land mentioned in section 138(1) of the Act; or
  - (b) private land mentioned in section 139(1) of the Act; or
  - (c) pastoral land for which consent to fossick is required by regulation 101; or
  - (d) the title area of an EL for which consent to fossick for gold is required by regulation 102; or
  - (e) the title area or proposed title area of an ML, EMP or EML, as mentioned in section 141 of the Act.

**99 Meaning of *specified person***

- (1) The ***specified person***, for a fossicking notice for relevant land, is:
- (a) for pastoral land:
    - (i) the occupier; or
    - (ii) if the occupier cannot be located or there is no occupier – the landowner; or

- (b) for the title area of an EL – the title holder.
- (2) The **specified person**, for a fossicking request for relevant land, is:
- (a) for land mentioned in section 138(1) of the Act:
    - (i) for reserved land not in a fossicking area – the Minister;  
or
    - (ii) otherwise – the landowner; or
  - (b) for private land mentioned in section 139(1) of the Act or pastoral land for which consent to fossick is required under regulation 101:
    - (i) the occupier; or
    - (ii) if the occupier cannot be located or there is no occupier – the landowner; or
  - (c) for land in the title area of an EL for which consent to fossick is required under regulation 102 or in the title area of an ML, EMP or EML, as mentioned in section 141 of the Act – the title holder; or
  - (d) for land in the proposed title area of an ML, EMP or EML – the applicant for the grant of the mineral title.

## **Division 2 Requirements for notices, consent and entry onto relevant land**

### **100 Requirement to give notice of intention to fossick**

- (1) This regulation applies to a person who intends to fossick on relevant land and is required by the Act or these Regulations to give notice of the intention to the specified person for the land.

*Note for subregulation (1)*

*Regulation 103 applies if consent to the fossicking is required.*

- (2) The person must give the specified person a notice (a **fossicking notice**) at least 7 days before entering the land to start fossicking.
- (3) The fossicking notice must include the following:
- (a) a statement that the fossicker intends to fossick on the relevant land;
  - (b) the name and full contact details of the fossicker;

- (c) a description or map of the area where the fossicker intends to fossick on the relevant land, clearly indicating the location;
  - (d) details of any proposed camping site on the relevant land;
  - (e) a brief description of the nature of the fossicking;
  - (f) the equipment to be used for the fossicking;
  - (g) the date of intended entry onto the relevant land to start fossicking (which must be at least 7 days after the date on which the notice is given);
  - (h) an estimate of the duration of the fossicking.
- (4) Regardless of the date of entry specified in the fossicking notice, the specified person may agree to an earlier entry date.

#### **101 When consent required to fossick on pastoral land**

For section 139(3) of the Act, a person who intends to fossick on pastoral land requires the written consent of the occupier of the land if the area on which the fossicking is to be conducted:

- (a) is, at that time, clearly and actively being used for a particular pastoral activity; or
- (b) is within 2 km of a homestead; or
- (c) is within 1 km of a stockyard or an artificial watering point.

#### **102 When consent required to fossick for gold in title area of EL**

For section 140(3) of the Act, a person who intends to fossick for gold on land in the title area of an EL requires the written consent of the title holder if the title holder is actively conducting authorised activities on that land.

#### **103 Requirement to obtain consent to fossick**

- (1) This regulation applies to a person who intends to fossick on relevant land and is required by the Act or these Regulations to obtain the written consent of the specified person for the land.
- (2) The person must give the specified person a notice (a **fossicking request**) at least 14 days before the date of intended entry onto the land.

- (3) The fossicking request must include the following:
- (a) a request that the specified person give written consent to the entry onto the relevant land to fossick;
  - (b) the information mentioned in regulation 100(3)(b) to (h);
  - (c) if the specified person is the landowner of relevant land that is a park or reserve – a statement about the effect of section 168 of the Act if the landowner does not respond to the request.

*Note for subregulation (3)(c)*

*Because of section 4(1) of the Act, the right under section 168 of the Act in relation to Aboriginal land or an Aboriginal Community living area is restricted under other Acts in force in the Territory.*

- (4) Regardless of the date of intended entry onto the land specified in the fossicking request, the specified person may consent to an earlier or later entry date.

#### **104 Refusal of consent**

- (1) The specified person for relevant land may refuse a person's fossicking request by written notice to the person, giving reasons for the refusal.
- (2) However:
- (a) the specified person must not unreasonably refuse the fossicking request; and
  - (b) a dispute about a refusal may be decided by the Tribunal on application by the person who made the request.
- (3) The specified person may be taken to have unreasonably refused the fossicking request if the fossicking described in the request would not interfere substantially with the specified person's use of the relevant land.
- (4) Subregulations (2) and (3) do not apply if the Minister is the specified person.
- (5) If a person has entered relevant land to fossick as authorised by section 168 of the Act, and the landowner subsequently gives the fossicker a notice refusing the person's fossicking request, the person must leave the land without delay.

**105 Withdrawal of consent**

- (1) The specified person for relevant land who has consented to a person's fossicking request may, by written notice to the person, withdraw the consent if the specified person reasonably believes:
  - (a) the person has contravened requirements or conditions under the Act relating to fossicking; or
  - (b) the person's fossicking is interfering substantially with the specified person's use of the land.
- (2) The specified person must give reasons for the refusal in the notice.
- (3) On receipt of the notice, the person must leave the relevant land without delay.

**106 Offences relating to entry onto relevant land requiring notice**

- (1) A person commits an offence if the person:
  - (a) has entered relevant land mentioned in regulation 98(1) to fossick on the land; and
  - (b) has not given a fossicking notice to the specified person for the land.

Maximum penalty: 40 penalty units.

- (2) A person commits an offence if the person:
  - (a) has given a fossicking notice to the specified person for relevant land; and
  - (b) enters the relevant land earlier than the date specified in the fossicking notice or as agreed with the specified person.

Maximum penalty: 40 penalty units.

- (3) Strict liability applies to subregulation (2)(a).

**107 Offences relating to entry onto or remaining on relevant land requiring consent**

- (1) A person commits an offence if:
  - (a) the person has entered relevant land mentioned in regulation 98(2) to fossick on the land; and

- (b) the specified person for the land:
  - (i) has given the person a notice of refusal under regulation 104(1); or
  - (ii) has not responded to the person's fossicking request.

Maximum penalty: 80 penalty units.

- (2) However, a person does not commit an offence against subregulation (1) if:

- (a) the relevant land is:
  - (i) a park or reserve; or
  - (ii) private land or pastoral land and the fossicking request was given to the landowner as mentioned in regulation 99(2)(b)(ii); and
- (b) the landowner has not responded to the request; and
- (c) the person has entered the land as authorised by section 168 of the Act.

- (3) A person commits an offence if:

- (a) the person has entered relevant land mentioned in regulation 98(2) to fossick on the land; and
- (b) the specified person for the land has given the person:
  - (i) a notice of refusal under regulation 104(1) after the person's entry is authorised by section 168 of the Act; or
  - (ii) a notice under regulation 105(1) withdrawing consent to the person's fossicking request; and
- (c) the person does not leave the relevant land without delay.

Maximum penalty: 80 penalty units.

- (4) A person commits an offence if the person:

- (a) has been given a notice by the specified person for relevant land consenting to the person's fossicking request; and
- (b) enters the relevant land earlier than the date specified in the request or as agreed with the specified person.

Maximum penalty: 40 penalty units.

- (5) Strict liability applies to subregulations (1)(b)(i) and (4)(a).

**108 Documents required to be in person's possession**

- (1) At all times when a person is on relevant land to fossick, the person must have in his or her possession the following documents:
- (a) photographic identification of the person;
  - (b) in relation to relevant land mentioned in regulation 98(1) – proof that the person gave a fossicking notice to the specified person for the land;
  - (c) in relation to relevant land mentioned in regulation 98(2):
    - (i) if the specified person for the land consented to the fossicking request – the document giving consent; or
    - (ii) if the fossicker has entered the land as authorised by section 168 of the Act – proof that the person gave a fossicking request to the landowner.
- (2) The person must show the documents to any of the following persons who ask to see them:
- (a) the occupier or landowner of the relevant land;
  - (b) if the relevant land is in the title area of a mineral title – the title holder;
  - (c) an authorised officer or police officer.

Maximum penalty: 20 penalty units.

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

**Division 3 General offences**

**109 No extraction of more than prescribed amount**

- (1) For the definition **fossick** in section 135(2)(b) of the Act, the prescribed amount of a mineral is:
- (a) 100 gm of gold, including nuggets; or
  - (b) 1 kg of gemstones; or
  - (c) 20 kg of a mineral other than gold or gemstones; or
  - (d) 100 kg of mineral bearing material; or

(e) 100 kg of ornamental stones.

- (2) A fossicker commits an offence if the fossicker extracts more than the prescribed amount of a mineral from relevant land.

Maximum penalty: 200 penalty units.

- (3) A fossicker who discovers more than the prescribed amount of gold must, within 28 days after the discovery, give the Minister a notice about the discovery that describes the location of the gold.

#### **110 Obligations to occupier or landowner**

- (1) A fossicker must comply with the reasonable conditions or requests of the occupier or landowner of the land on which he or she is fossicking.

- (2) The fossicker may use water conserved artificially by or for the occupier or landowner only with that person's consent.

- (3) A fossicker commits an offence if:

- (a) the fossicker engages in conduct; and  
(b) the conduct results in a contravention of subregulation (1) or (2).

Maximum penalty: 80 penalty units.

- (4) This regulation does not affect the fossicker's obligation to comply with other laws in force in relation to the land on which the fossicker is fossicking.

#### **111 Activities must relate to fossicking**

A fossicker must not engage in any activity on relevant land that is unrelated to fossicking.

Maximum penalty: 40 penalty units.

#### **112 No interference with infrastructure**

A fossicker must not interfere with:

- (a) infrastructure on relevant land; or  
(b) animals owned or under the control of the relevant landowner or occupier of the land or adjoining land.

Maximum penalty: 80 penalty units.

**113 No interference with lawful fossicking**

A person commits an offence if:

- (a) another person is authorised by or under the Act to enter land and fossick on the land (the **authorised fossicker**); and
- (b) the person engages in conduct to prevent the authorised fossicker from:
  - (i) entering relevant land to fossick; or
  - (ii) fossicking on relevant land.

Maximum penalty: 40 penalty units.

**Part 10 Proceedings in Tribunal**

**Division 1 Preliminary matters**

**114 Application of Part**

This Part does not apply in relation to the following matters:

- (a) a proceeding in the Tribunal relating to an application for the grant of a mineral title mentioned in section 78(2)(d) of the Act;
- (b) applications made under section 110 or 111 of the Act;
- (c) the matter mentioned in section 161(2) of the Act.

*Note for regulation 114*

*The Lands, Planning and Mining Tribunal Act already deals with these matters.*

**115 Functions of Tribunal**

- (1) The Tribunal may deal with, and conduct a hearing in relation to, an application:
  - (a) mentioned in section 161(1) of the Act or made under regulation 123; or
  - (b) for a review of a reviewable decision.
- (2) In the performance of a function under this Part, the Tribunal is subject to the *Lands, Planning and Mining Tribunal Act* with the changes that are necessary to give effect to this Part.

**116 Conducting hearing**

The Tribunal may conduct a hearing for this Part in the way it considers appropriate.

**Division 2 Reviews of reviewable decisions**

**117 Meaning of *reviewable decision***

A ***reviewable decision*** is a decision made by the Minister mentioned in Schedule 2.

**118 Meaning of *review notice***

A ***review notice*** for a reviewable decision is a written notice specifying the following:

- (a) the decision and the reasons for it;
- (b) that the person to whom the notice is given may apply to the Tribunal for a review of the merits of, and recommendation about, the decision;
- (c) the period allowed for applying for the review;
- (d) how to apply for the review.

**119 Application for review**

- (1) The person given (or required to be given) a review notice may apply to the Tribunal for a review of the merits of, and recommendation about, the decision specified in the notice.
- (2) The application must be made within 28 days after:
  - (a) the person receives a review notice; or
  - (b) otherwise – the day the person becomes aware of the decision.
- (3) However, on application by the person, the Tribunal may at any time extend the period for applying for a review of the reviewable decision.

**120 Operation and implementation of decision**

- (1) The application does not affect the operation or implementation of the reviewable decision.

- (2) The validity of a reviewable decision is not affected by a failure to give a review notice to the person affected by decision.

**121 Parties to proceedings**

The parties to a proceeding of the Tribunal relating to a reviewable decision are the applicant for the review and the Minister.

**122 Recommendation of Tribunal and subsequent decision**

- (1) Within 2 months after conducting a hearing relating to a review of a reviewable decision, the presiding member of the Tribunal must:
- (a) make a recommendation about the decision; and
  - (b) give the parties to the proceeding a written notice of the Tribunal's recommendation and the reasons for making it.
- (2) After considering the recommendation and reasons for making it, the Minister must decide to:
- (a) reverse or vary the reviewable decision; or
  - (b) confirm the reviewable decision.
- (3) In making the decision under subregulation (2), the Minister is not required to follow the recommendation.
- (4) Within 28 days after receiving the recommendation, the Minister must give the applicant for the review a notice of the decision under subregulation (2) and the reasons for the decision.

**Division 3 Deciding other applications**

**123 General applications**

- (1) A person may apply to the Tribunal for a decision about a dispute relating to preliminary exploration, a mineral title, a title area, a proposed title area or fossicking.
- (2) Without limiting subregulation (1), the dispute may relate to any of the following:
- (a) the area, dimensions and boundaries of land being surveyed for a proposed title area or title area;
  - (b) the entry onto land to conduct preliminary exploration or fossicking, to conduct authorised activities under a mineral title or to construct, maintain and use infrastructure under an access authority;

- (c) the use of a landowner's water by a person who is conducting preliminary exploration or fossicking or by the holder of a mineral title;
- (d) the entry onto a title area by a person other than the holder of the title;
- (e) contractual obligations relating to mineral titles;
- (f) mineral rights interests.

#### **124 Appeal to Supreme Court**

- (1) A person may appeal to the Supreme Court against a decision of the Tribunal about a dispute mentioned in regulation 123(1).
- (2) However, the appeal is limited to a question of law.

### **Part 11 Administration**

#### **125 Release or publication of information**

- (1) For section 171 of the Act, this regulation provides for matters relevant to the release or publication of information contained in a report given under section 94 of the Act.
- (2) The Minister must not release or publish any information contained in an expenditure report, production report or reserves report unless the information is:
  - (a) a general summary of information contained in the report for a particular period; or
  - (b) statistics in relation to the report for a particular period.
- (3) The Minister may release or publish information contained in an annual report or final report in a way the Minister considers appropriate, as follows:
  - (a) for an annual report:
    - (i) if the mineral title to which the report relates ceases to be in force – at any time after the cessation; or
    - (ii) otherwise – at any time after the end of 5 years following the date on which the report was given;
  - (b) for a final report – at any time after the report is given.

- (4) However, the Minister may release or publish information contained in an annual report earlier than is specified in subregulation (3)(a) if the holder of the mineral title gives written consent to the earlier release or publication.
- (5) Also, the Minister may release or publish information contained in an annual report earlier than is specified in subregulation (3)(a)(ii) if:
  - (a) the information is included in an amalgamated report for annual reports; and
  - (b) one of the mineral titles to which the amalgamated report relates has ceased to be in force for all or part of the title area of that title; and
  - (c) the title holder has not given a final report relating to the title area on or before the reporting day for the title.

## **126 Copyright – authorisation of publication**

- (1) This regulation applies to a person (the **relevant person**) who is required to give the Minister an airborne survey report, an annual report or a final report.
- (2) If the copyright in part of the report is owned by another person, the relevant person must take all reasonable steps to obtain the other person's written authority for the publication of the information contained in that part.
- (3) In the report, the relevant person must:
  - (a) if the relevant person owns the copyright in all or part of the report:
    - (i) include a statement about that person's ownership of copyright; and
    - (ii) if the statement relates to part of the report – clearly identify that part; and
    - (iii) authorise the Minister to publish information in which the copyright subsists; and
  - (b) if another person owns the copyright in part of the report:
    - (i) include in the report a statement about the other person's ownership of copyright; and
    - (ii) clearly identify the part of the report in which the copyright subsists; and

- (iii) state whether or not the other person has authorised the publication of the information contained in that part; and
- (iv) if the other person has not authorised the publication – briefly describe the steps taken to obtain the authorisation.

(4) In this regulation:

**publication** means publication, within the meaning of the *Copyright Act 1968* (Cth), under regulation 10 or 125.

### **127 Requirement for geological samples**

- (1) The Minister may require the holder of a mineral title to give the Minister a geological sample at any time during the term of the title.
- (2) Subregulation (1) applies in relation to the holder of an EL, ELR or EMEL in addition to the condition under section 93(3) of the Act, as mentioned in regulation 89(3).

*Example for subregulation (2)*

*The Minister may require the holder of an EL to give the Minister a drill core recovered from the title area before the work mentioned in regulation 89(3)(c) has ceased, but the title holder must give all other geological samples in compliance with the condition under section 93(3) of the Act.*

### **128 Examination and analysis of geological samples**

- (1) Subject to subregulation (3), a geological sample given to the Minister under section 93(3) of the Act or regulation 127 is available for examination by any person.
- (2) The Minister may release a geological sample for examination as follows:
  - (a) for a geological sample recovered from the title area of an EL or ELR – only if regulation 125 authorises the Minister to release or publish information contained in the relevant annual report;
  - (b) for any other geological sample – at any time.
- (3) For subregulation (2)(a), the relevant annual report is the annual report for the operational year in which the holder of the EL or ELR:
  - (a) recovered the geological sample; and
  - (b) was required to notify the recovery under section 93(1) of the Act.

- (4) Despite subregulation (2)(a), the Minister may release a geological sample for examination earlier than specified if the holder of the EL or ELR gives written consent to the earlier release.
- (5) A person may apply, in the approved form, to the Minister for consent to remove part of a geological sample for analysis.
- (6) The Minister must not refuse the application unless there are circumstances to justify the refusal.

**129 No refund of fees on cancellation**

A title holder is not entitled to a refund of any part of a fee paid for a mineral title during an operational year if the mineral title is cancelled for all or part of the mineral title.

**130 Circumstances when rent to be refunded**

Unless a regulation states otherwise, the Minister must refund to a title holder any excess rent paid for a mineral title if:

- (a) before a reduction or decision under section 29 of the Act took effect – the title holder had paid rent for a larger title area than exists after the reduction or decision; or
- (b) for another reason, including an error in calculation – the title holder has paid more than the amount required.

**131 Fee payable if report not given on or before reporting day**

- (1) This regulation applies if a person is required by a regulation to give the Minister one of the following reports:
  - (a) an airborne survey report;
  - (b) an annual report, expenditure report or final report;
  - (c) an amalgamated report.
- (2) If the person does not give the report on or before the reporting day for the report, the person must pay a late lodgment fee for each week or part of a week of the late lodgment period, as specified in Schedule 1, Part 5.
- (3) The Minister must give the person a late lodgment notice stating:
  - (a) the requirement mentioned in subregulation (2); and
  - (b) if the title holder does not pay the late lodgment fee, the unpaid amount is a debt owing to the Territory.

- (4) The late lodgment notice must:
- (a) include details of the late lodgment period for the report; and
  - (b) specify the amount of the late lodgment fee payable by the person for each week or part of a week of the late lodgment period; and
  - (c) be given:
    - (i) by registered post; or
    - (ii) if the contact details of the person given the notice include an email address – by email.
- (5) Despite subregulations (2) and (3), the Minister may waive the late lodgment fee, but only if satisfied the person has a reasonable excuse for not giving the report on or before the reporting day.

## **Part 12 Transitional matters**

### **Division 1 Existing applications**

#### **132 Refusal to accept existing application**

- (1) The Minister may refuse to accept an existing application for the grant of an existing interest made before the commencement day if the Minister:
- (a) had not started to consider the details or merits of the application before the commencement day; or
  - (b) reasonably considers the application to contain insufficient or incorrect information.
- (2) The Minister need not refund to the applicant the fee paid with the application.
- (3) However, the Minister must refund to the applicant:
- (a) rent that accompanied the application; and
  - (b) a payment made for advertising costs if those costs have not been incurred.

**133 Corresponding application – grant of ML**

- (1) If, immediately before the commencement day, there was in force a notice mentioned in section 61(2) of the repealed Act in relation to an existing application for the grant of a mineral lease:
  - (a) the notice continues in force only to the extent that it authorises the applicant to occupy and use the land to which the application relates; and
  - (b) the applicant is not required to survey the land.
- (2) As soon as practicable after the commencement day, the Minister must grant an ML to the applicant.

**134 Grant of existing interest – no corresponding application**

- (1) This regulation applies in relation to an existing application for the grant of an existing interest mentioned in section 200(1)(a) of the Act.
- (2) The Minister may:
  - (a) after consulting with the applicant:
    - (i) accept withdrawal of the application and refund to the applicant the fee and rent paid for the application; or
    - (ii) accept withdrawal and also accept for consideration an application under Part 3 or 4 of the Act or section 118 of the Act (a **new application**), as relevant, for a mineral title appropriate for the activities the applicant intends to conduct; or
  - (b) refuse to consider the application and refund to the applicant the fee and rent paid for the application.
- (3) Subregulation (2)(a)(ii) applies to the acceptance of a new application even if Part 4, Division 3 would otherwise prevent the acceptance.
- (4) For subregulation (2)(a)(ii):
  - (a) the new application is taken to have been made on the same day and at the same time as the withdrawn existing application; but
  - (b) the fee payable for the new application is as specified in Schedule 1, Part 1 and rent payable for the title area specified in the new application is as specified in Schedule 1, Part 2.

- (5) However, the fee and rent payable by the applicant in connection with the new application must be adjusted to take into account the fee and rent paid by the applicant in connection with the existing application.

**135 Renewal of existing interest – no corresponding application**

- (1) This regulation applies in relation to an existing application for the renewal of a non-compliant existing interest mentioned in section 200(1)(b) of the Act.
- (2) The non-compliant existing interest continues in force until the Minister takes an action mentioned in section 204(3) of the Act, even if the term for which the interest was granted expires before the action is taken.
- (3) During the period the non-compliant existing interest is in force under subregulation (2), it has effect as if the repealed Act were still in force.

**136 Refunds if existing application for grant of existing interest refused**

- (1) This regulation applies if the Minister refuses to grant a mineral title to a person who made an existing application for the grant of an existing interest mentioned in section 199 or 200 of the Act.
- (2) The Minister need not refund to the applicant the fee paid with the application.
- (3) However, the Minister must refund to the applicant:
- (a) rent that accompanied the application; and
  - (b) a payment made for advertising costs if those costs have not been incurred.

**Division 2 Conversion to appropriate mineral title**

**137 Conversion of non-compliant title to another mineral title**

- (1) This regulation applies if the Minister converts a non-compliant title to another mineral title after making a decision under section 203(3)(c) of the Act.
- (2) The Minister must issue the holder of the non-compliant title with a mineral title to replace that title.

- (3) The Minister may:
- (a) include in the replacement title the conditions the Minister considers appropriate; and
  - (b) specify in the replacement title that particular provisions of the Act or these Regulations do not apply in relation to the title.

**138 Conversion of non-compliant existing interest to appropriate mineral title**

- (1) If the Minister converts a non-compliant existing interest to a mineral title after making a decision under section 204(3)(a) of the Act, the Minister must issue the holder of the existing interest with a mineral title to replace the interest.
- (2) The Minister may:
- (a) include in the mineral title the conditions the Minister considers appropriate; and
  - (b) specify in the title that particular provisions of the Act or these Regulations do not apply in relation to the title.

**139 Conversion of mineral claim to EL**

- (1) This regulation applies if the Minister converts a mineral claim or mineral lease to an EL (the **converted EL**) after making a decision under section 204(3)(a) of the Act.
- (2) The converted EL is taken to have been in force for 6 years on the day the Minister issues the EL under regulation 138(1) and, subject to this Part, the Act and these Regulations apply accordingly.
- (3) If the title area of the converted EL is within the title area of an EL held by another person (the **original EL**):
- (a) the title area of the converted EL is removed from the title area of the original EL; and
  - (b) the Minister must vary the original EL accordingly and give the title holder a notice of the variation.
- (4) If a person holds 2 or more mineral claims or mineral leases with adjoining boundaries, the Minister may issue one EL for the entire area of land to which the mineral claims or mineral leases relate.

**140 Renewal of non-compliant existing interest continued in force**

- (1) This regulation applies if the holder of a non-compliant existing interest continued in force under section 204(2) of the Act intends to renew the interest before the Minister has taken an action mentioned in section 204(3) of the Act in relation to the interest.
- (2) The holder may apply to the Minister for renewal of the interest, and the Minister may renew the interest, as if the repealed Act were still in force.
- (3) Section 204(2) to (5) of the Act apply in relation to the renewed interest.

**Division 3 Payment of rent**

**141 Payment of rent for converted mineral title**

- (1) Rent is payable for a converted EL as follows:
  - (a) until the day on which the EL is renewed or ceases to be in force – as if the repealed Act were still in force;
  - (b) if the EL is renewed – in accordance with regulation 77.
- (2) Rent is payable for any other converted mineral title in accordance with regulation 77 for an operational year that starts on or after the commencement day.

**142 Payment of rent for non-compliant existing interest**

- (1) Rent is payable for a non-compliant existing interest in accordance with the repealed Act for the period the existing interest continues in force, as mentioned in section 204(2) of the Act, until the Minister takes action under section 204(3) of the Act.
- (2) If the Minister converts the non-compliant existing interest to a mineral title:
  - (a) rent is payable for the mineral title under regulation 77 from the day the title is issued; and
  - (b) the holder of the non-compliant existing interest must pay the rent and any other fee in connection with the mineral title before the Minister may issue the title; and
  - (c) the Minister must take into account rent already paid for the non-compliant existing interest and adjust the rent payable under regulation 77 accordingly.

- (3) If the Minister does not convert the non-compliant existing interest to a mineral title, but takes an action mentioned in section 204(3)(b) to (d) of the Act, the Minister may refund to the former holder of the existing interest the amount of rent paid for the remaining period of the current rental period for the interest.

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**Schedule 1 Fees and rent**
**Part 1 Fees payable for applications**

regulation 46(1)

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Section of Act	Application	Fee (revenue units)
27(1)	grant of EL	350
29(4)	no reduction, lesser reduction or deferral of reduction of title area of EL	100
33(1)	designation of ELR	200
41(1)	grant of ML	750
47(1)	grant of EMEL	200
51(1)	grant of EMP	200
55(1)	grant of EML	500
62(1)	a second or subsequent application for consent to enter into negotiations under Part IV of the ALRA with a Land Council, made because of the withdrawal or lapse of the previous consent	50
84(2)	grant of an access authority	200
100(3)(b)	variation of expenditure condition for project area	500
	any other variation of condition	100
118(1) or 119	an application relating to an MA	the same fee as is payable for the same type of application for the corresponding title

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**Part 2 Rent payable for title areas**

regulation 77(1)

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Mineral title	Annual rent payable for title area
EL	1st operational year – 31 revenue units per block 2nd operational year – 31 revenue units per block 3rd operational year – 62 revenue units per block 4th operational year – 62 revenue units per block 5th operational year – 125 revenue units per block 6th operational year – 125 revenue units per block Each subsequent operational year – 175 revenue units per block
ELR	18 revenue units per hectare
ML	18 revenue units per hectare
EMEL	31 revenue units per block
EMP	54 revenue units per hectare on which authorised activities (excluding activities for rehabilitation of the land) are being conducted  10 revenue units per hectare on which rehabilitation is being carried out under the <i>Mining Management Act</i>
EML	225 revenue units per hectare

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**Part 3 Administration fee for mineral titles**

regulation 77(3)

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Mineral title	Annual administration fee (revenue units) payable for each operational year
EL	250
ELR	200
ML	200
EMP	100
EML	200

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**Part 4 Fees payable in relation to register**

regulation 97

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Matter	Fee (revenue units)
Inspecting register under section 121(5) of Act	7 for each full or part period of 15 minutes
Copy of information in register under section 121(5) of Act	.20 for each page
Application under section 123(1) of Act for approval and registration of transfer of mineral rights interest	57
Application under section 124(1) of Act for registration of devolution of mineral rights interest	23
Application under section 125(1) of Act for registration of general dealing	20
Application under section 128(1) of Act for Minister's certificate	15
Lodgment of caveat under section 131(1) of Act	20
Lodgment of notice of continuation of caveat under section 134(3)(a) of Act	20

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## **Part 5 Late lodgment fee and late lodgment period**

regulation 131

### **Airborne survey report**

The late lodgment period for an airborne survey report is the period that starts on the day after the reporting day and ends on the earliest of the following:

- (a) the day on which the person gives the report to the Minister;
- (b) the day after the expiry of 60 days.

The late lodgment fee is 50 revenue units for each week or part of a week of the late lodgment period.

### **Annual report, expenditure report or final report**

The late lodgment period for an annual report, expenditure report or final report is the period that starts on the day on the day after the reporting day and ends on the earliest of the following:

- (a) the day on which the person gives the report to the Minister;
- (b) the day on which the Minister cancels the mineral title to which the report relates for a contravention of section 95(1) of the Act;
- (c) the day after the expiry of 60 days.

The late lodgment fee is 100 revenue units for each week or part of a week of the late lodgment period.

### **Amalgamated report**

The late lodgment period for an amalgamated report is the period that starts on the day on the day after the reporting day and ends on the earliest of the following:

- (a) the day on which the person gives the report to the Minister;
- (b) the day on which the Minister cancels one or all of the mineral titles to which the report relates for a contravention of section 95(1) of the Act;
- (c) the day after the expiry of 60 days.

The late lodgment fee is:

- (a) if the amalgamated report is for 2 to 4 mineral titles – 150 revenue units for each week or part of a week of the late lodgment period; or
- (b) if the amalgamated report is for 5 to 9 mineral titles – 200 revenue units for each week or part of a week of the late lodgment period; or
- (c) if the amalgamated report is for 10 or more mineral titles – 250 revenue units for each week or part of a week of the late lodgment period.

## **Schedule 2 Reviewable decisions**

regulation 117

Section 70(1) or (2) of the Act – a refusal of a mineral title application

Section 126(4) of the Act – a refusal of an application under Part 7, Division 1 of the Act

Section 203(3)(c)(v) of the Act – a decision to convert a corresponding mineral title to another type of title, but only in relation to the part of the decision about the type of title to which it is to be converted

Section 204(4)(d) of the Act – a decision under section 204(3)(a) of the Act to convert a non-compliant existing interest to a mineral title, but only in relation to the part of the decision about the type of title to which the existing interest is to be converted