

Summary of changes to the Mining Regulation

<i>Mining Regulation 2010</i>		<i>Mining Regulation 2016</i>		
Clause	Provision	Clause	Provision	Impact of proposed change
Part 1 Preliminary		Part 1 Preliminary		
1	Name of Regulation	1	Name of Regulation	Machinery – updated to refer to <i>Mining Regulation 2016</i> .
2	Commencement	2	Commencement	Machinery – updated for the <i>Mining Regulation 2016</i> to commence on 1 September 2016. 2016 clause also states that the Regulation needs to be published on the NSW legislation website.
3	Definitions	3	Definitions	Additional definitions: <ul style="list-style-type: none"> Appointed board member – moved from former clause 68. Minor change to words. Deleted: <ul style="list-style-type: none"> Definition of “Council”, being the Mine Safety Advisory Committee.
4	Meaning of “environmental performance record”	4	Meaning of “environmental performance record”	No change
5	Meaning of “mineral”	5	Meaning of “mineral”	No change
6	Meaning of “group of minerals”	6	Meaning of “group of minerals”	No change
7	Meaning of “mining purpose”	7	Meaning of “mining purpose”	No change
8	Meaning of “landholder”	8	Meaning of “landholder”	No change

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9	Standard map	9	Standard map	<ul style="list-style-type: none"> Imposes requirements relating to form and scale of maps. Removes outdated map references no longer available. Now more clearly links particular mapping types to specific titles admin under the Act. Provides alternatives if an applicant cannot meet primary requirements. <p>The changes formalise titleholders' current practice in complying with the intent of the provision. A small positive change for the industry through clarification of an outdated provision.</p>
10	Graticulation of the Earth's surface		Graticulation of the Earth's surface	No change
<i>Part 2 Prospecting and mining generally</i>		<i>Part 2 Prospecting and mining generally</i>		
11	Exemption from unauthorised carrying out of mining purpose in section 6	11	Exemption from unauthorised carrying out of mining purpose in section 6	No change
12	Fossicking	12	Fossicking	<ul style="list-style-type: none"> Change to clause 12(1) to provide consistency within the clause to link the offence regarding disturbance of soil, rock or other material to the actions of a "person", in line with the existing obligation on a person in clause 12(2) regarding fossicking activities. <p>No change to the requirements of the clause.</p>
13	Activities taken not to be prospecting or mining	13	Activities taken not to be prospecting or mining	Machinery – Updated with a new name (now Suez Recycling and Recovery P/L, formerly Sita Australia P/L).

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Clause	Provision	Clause	Provision	Impact of proposed change
Part 3 Authorities		Part 3 Authorities		
<i>Division 1 Exploration licences</i>		<i>Division 1 Exploration licences</i>		
14	Application for exploration licences	14	Applications for exploration licences	No change
15	Notice of application for exploration licences	15	Notices of application for exploration licences	No change
16	Size and shape of land subject to exploration licences	16	Size and shape of land subject to exploration licences	Machinery change to reference to Group 9A minerals (oil shale).
17	Applications for low-impact exploration licence	17	Applications for low-impact exploration licences	No change
18	Renewal of exploration licence	18	Renewal of exploration licences	Machinery update to reference new Group 9A minerals.
19	Partial cancellation of exploration licence – manner of describing land	19	Partial cancellation of exploration licences – manner of describing land	Machinery update to reference new Group 9A minerals.
19A	Licences for operational allocation purposes	20	Licences for operational allocation purposes	No change
<i>Division 2 Assessment leases</i>		<i>Division 2 Assessment leases</i>		
20	Application for assessment lease	21	Applications for assessment leases	No change
21	Notice of application for assessment lease	22	Notices of application for assessment leases	No change

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Clause	Provision	Clause	Provision	Impact of proposed change
22	Renewal of assessment lease	23	Renewal of assessment leases	Amendment to include “known resources” to require an applicant to specify known resources in addition to potential resources to enable greater clarity in the Department’s decision making for renewal applications. This change formalises current practice.
23	Partial cancellation of assessment lease – manner of describing land	24	Partial cancellation of assessment leases – manner of describing land	No change
<i>Division 3 Mining leases</i>		<i>Division 3 Mining leases</i>		
24	Application for mining lease	25	Applications for mining leases	No change
25	Notice of application for mining lease	26	Notices of application for mining lease	No change
26	Surface activities in relation to subsurface leases	27	Surface activities in relation to subsurface leases	No change
27	Renewal of mining lease	28	Renewal of mining leases	Correction of drafting error in clause 27(1)(d)(i)(C) removes the requirement introduced in recent legislative reforms for applicants to demonstrate any expenditure incurred as part of the renewal justification statement in relation to a mining lease.
28	Partial cancellation of mining lease – manner of describing land	29	Partial cancellation of mining leases – manner of describing land	No change
29	Aggregation of labour and expenditure conditions	30	Aggregation of labour and expenditure conditions	No change
30	Preparation of proposed consolidated mining lease – manner of describing land	31	Preparation of proposed consolidated mining leases – manner of describing land	No change

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<i>Mining Regulation 2010</i>		<i>Mining Regulation 2016</i>		
Clause	Provision	Clause	Provision	Impact of proposed change
<i>Division 4 Variation and transfer of authorities</i>		<i>Division 4 Variation and transfer of authorities</i>		
31	Review of determination of application for variation of prospecting operations under low-impact exploration licence	32	Review of determination of applications for variation of prospecting operations under low-impact exploration licences	No change
32	Transfer of authorities	33	Transfer of authorities	Machinery update to reference new Group 9A minerals.
<i>Division 5 Authorities generally</i>		<i>Division 5 Authorities generally</i>		
33	Exemption from or variation of requirements to describe land	34	Exemptions from or variations of requirements to describe land	Machinery – consequential renumbering of references to other clauses. No change to requirements.
33A	Work programs accompanying applications for exploration licences or assessment leases	35	Work programs accompanying applications for exploration licences or assessment leases	No change
34	Records concerning authorities	36	Records concerning authorities	Machinery – consequential renumbering of reference to another clause in the Regulation, updated reference to “prescribed office” in Maitland NSW, to reflect current Department operations. No change to requirements.
35	Register of colliery holdings	37	Register of colliery holdings	Minor change to modernise term: “means of computer equipment” to “electronically”. No change to requirements.
36	Registration of mining subleases	38	Registration of mining subleases	No change
37	Rights of way	39	Rights of way	No change

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Part 4 Small-scale titles		Part 4 Small-scale titles		
<i>Division 1 – Mineral claims</i>		<i>Division 1 – Mineral claims</i>		
38	Marking out of proposed claim area	40	Marking out of proposed claim areas	No change
39	Notice of intention to apply for mineral claim	41	Notices of intention to apply for mineral claims	No change
40	Application for granting of mineral claim	42	Applications for granting of mineral claims	Machinery – consequential renumbering of reference to another clause in the Regulation. No change to requirements.
41	Determination of order of dealing with simultaneous applications for mineral claims	43	Determinations of order of dealing with simultaneous applications for mineral claims	No change
42	Applications for renewal of mineral claim	44	Applications for renewal of mineral claims	Machinery – consequential renumbering of reference to another clause in the Regulation. No change to requirements.
43	Application for transfer of mineral claim	45	Applications for transfer of mineral claims	Machinery – consequential renumbering of reference to another clause in the Regulation. No change to requirements.
44	Partial cancellation of mineral claim – manner of describing land	46	Partial cancellation of mineral claims – manner of describing land	No change
45	Rights of way	47	Rights of way	No change
46	Register of interest in mineral claims	48	Register of interest in mineral claims	No change
<i>Division 2 Opal prospecting licences</i>		<i>Division 2 Opal prospecting licences</i>		
47	Objections	49	Objections	No change

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Clause	Provision	Clause	Provision	Impact of proposed change
48	Applications for opal prospecting licences	50	Applications for opal prospecting licences	No change
49	Lodgement of applications for opal prospecting licences	51	Lodgement of applications for opal prospecting licences	Machinery – consequential renumbering of reference to another clause in the Regulation. No change to requirements.
50	Determination of order of dealing with simultaneous applications for opal prospecting licences	52	Determination of order of dealing with simultaneous applications for opal prospecting licences	No change
51	Register of opal prospecting licences	53	Register of opal prospecting licences	No change
52	Rights of way	54	Rights of way	No change
53	Register of interests in opal prospecting licences	55	Register of interests in opal prospecting licences	No change
<i>Division 3 Access Management Plans</i>		<i>Division 3 Access Management Plans</i>		
54	Miners' representative	56	Miners' representative	No change
55	Lodgement of access management plans	57	Lodgement of access management plans	No change
56	Applications for determination of access management plans	58	Applications for determination of access management plans	No change

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<i>Mining Regulation 2010</i>		<i>Mining Regulation 2016</i>		
Clause	Provision	Clause	Provision	Impact of proposed change
Part 5 Reports		Part 5 Reports		
57	Annual reports	59	Annual reports	No change
58	Partial relinquishment reports	60	Partial relinquishment reports	No change
58A	Final reports	61	Final reports	No change
58B	Requirements of reports	62	Requirements of reports	Machinery – consequential renumbering of references to other clauses. No change to requirements.
58C	Maps, plans and data in reports	63	Maps, plans and data in reports	Machinery – consequential renumbering of references to other clauses. No change to requirements
58D	Confidentiality of reports	64	Confidentiality of reports	Machinery – consequential renumbering of references to other clauses. No change to requirements
58E	Collection of cores and samples	65	Collection of cores and samples	No change
59	Publication of reports	66	Publication of reports	Minor – reference to “subclause (1)” replaced with “this clause”.
60	Exemption from lodgement of reports	67	Extension of time to lodge reports	Existing clause 60 split in two. This clause provides for the timing of lodgement. Undertaken for greater clarity but no change to requirements.
		68	Exemption from obligation to prepare and lodge reports	Existing clause 60 split in two. This clause provides for exemptions. Undertaken for greater clarity but no change to requirements.

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<i>Mining Regulation 2010</i>		<i>Mining Regulation 2016</i>		
Clause	Provision	Clause	Provision	Impact of proposed change
Part 6 Use of information and protected documents		Part 6 Use of information and protected documents		
61	Use of information	69	Use of information	No change
61AA	Protected documents not admissible in certain proceedings or otherwise protected	70	Protected documents not admissible in certain proceedings or otherwise protected	No change
61AB	Disclosure of protected documents	71	Disclosure of protected documents	No change
Part 7 Royalty		Part 7 Royalty		
		In this Part, all references to the Minerals Rent Resources Tax (MRRT) have been deleted because the Commonwealth Act has been repealed		
61A	Interpretation			Deleted
		72	Definition	No change to remaining definition: "holder of a mining lease".
62	Rates of royalty for minerals other than coal	73	Rates of royalty for minerals other than coal	No change
63	Rates of royalty for coal	74	Rates of royalty for coal	Machinery – MRRT references deleted. No other change to requirements.
63A	Disputes	75	Disputes	No change
64	Returns	76	Returns	Machinery – MRRT references deleted. No other change to requirements.
65	Payment of royalty	77	Payments of royalty	Machinery – MRRT references deleted. No other change to requirements.

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Clause	Provision	Clause	Provision	Impact of proposed change
Part 7A Fees		Part 8 Fees		
<i>Division 1 General</i>		<i>Division 1 General</i>		
65A	Fees	78	Fees	
65B	Other fees	79	Other fees	No change
<i>Division 2 Annual rental fees</i>		<i>Division 2 Annual Rental fees</i>		
65C	Calculation of annual rental fee	80	Calculation of annual rental fees	Machinery – consequential renumbering of reference to Schedule in Regulation. No change to requirements.
65D	Annual rental fee area	81	Annual rental fee areas	No change
65E	Minimum annual rental fee	82	Minimum annual rental fees	No change
65F	References to initial term (Schedule 10)	83	References to initial term (Schedule 9)	Machinery – consequential renumbering of reference to Schedule in Regulation. No change to requirements.
65G	Phasing in of annual rental fees for authorisation granted before 1 July 2012	84	Phasing in of annual rental fees for authorisations granted before 1 July 2012	Machinery – consequential renumbering of reference to Schedule in Regulation. No change to requirements.
65H	Grant anniversary date occurring during period in which authorisation is automatically extended	85	Grant anniversary date occurring during period in which authorisations are automatically extended	No change
65I	Transitional arrangements for determination of annual rental fee area for authorities in force			Machinery – clause deleted as it is no longer required.

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Clause	Provision	Clause	Provision	Impact of proposed change
<i>Division 3 Administrative levies</i>		<i>Division 3 Administrative levies</i>		
65J	Grant anniversary date occurring during period in which authorisation is automatically extended	86	Grant anniversary date occurring during period in which authorisations are automatically extended	No change
65K	Transitional assessment arrangements		Machinery – clause deleted as it is no longer required.	
<i>Part 8 Mine Safety Advisory Council</i>				
66	Membership of Council	Machinery change – Part 8 and Schedule 7 of 2010 Regulation have been deleted as provisions for the Mine Safety Advisory Council have been moved to the <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> and its Regulation. Does not change requirements on industry.		
67	Functions of Council			
<i>Part 9 Boards of management</i>		<i>Part 9 Boards of management</i>		
68	Boards to be constituted by Ministerial order	87	Boards to be constituted by Ministerial order	Definition of “appointed member” moved from this clause to clause 3. No change to requirements.
69	Nominations for membership of board	88	Nominations for membership of board	No change to requirements
70	Annual report to Minister	89	Annual reports to Minister	No change
<i>Part 10 Significant Improvement claims</i>				Machinery – part deleted. This provision was made under clause 23B(1) of Schedule 1 to the Act which has since been repealed.
71	(Repealed)			Repealed – clause deleted.
72	Referral of significant improvement claim			Deleted

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Clause	Provision	Clause	Provision	Impact of proposed change
Part 11 Miscellaneous		Part 10 Miscellaneous		
73	Permits to enter land	90	Permits to enter land	Machinery – consequential renumbering of reference to Schedule in Regulation. No change to requirements.
74	Compensation	91	Compensation	No change
74A	Compensation arising under small-scale title	92	Compensation arising under small-scale titles	No change
75	Minimum deposit – security deposit condition	93	Minimum deposit – security deposit conditions	No change
76	Applications	94	Applications	Machinery – repealed clause reference removed.
77	Notification of landholder of intention to invite tenders for mining lease – manner of describing land	95	Notification of landholder of intention to invite tenders for mining lease – manner of describing land	No change
78	Mining statistics and returns	96	Mining statistics and returns	Minor – reference to “subclause (1)” replaced with “this clause”.
78A	Notification of agents	97	Notification of agents	No change
79	Mine safety legislation	98	Mine safety legislation	No change
80	Penalty notice offences and penalties	99	Penalty notice offences and penalties	No change
81	Service of documents on the Crown	100	Service of documents on the Crown	No change
82	References to officers in authorisations	101	References to Departmental employees in authorisations	No change
83	Repeal of Regulation	102	Repeal of Mining Regulation 2010	Minor – repeals the <i>Mining Regulation 2010</i>

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<i>Mining Regulation 2010</i>		<i>Mining Regulation 2016</i>		
Clause	Provision	Clause	Provision	Impact of proposed change
	Schedule 1 Minerals		Schedule 1 Minerals	Minor – columbium removed from Schedule 1 as it is the same as niobium.
	Schedule 2 Groups of minerals		Schedule 2 Groups of minerals	Minor – columbium removed from Schedule 2 Group 1 as it is the same as niobium.
	Schedule 3 Description of land for activities carried out by Hunter Enviro-Mining (Operations) Pty Limited		Schedule 3 Description of land for activities carried out by Hunter Enviro-Mining (Operations) Pty Limited	No change
	Schedule 4 Land identification		Schedule 4 Land identification	Additional definition included linking the Schedule with the Block Identification Index Map 2016 published by the Division of Resources and Energy.
	Schedule 5 Other relevant legislation		Schedule 5 Other relevant legislation	Machinery – updated with new legislation commenced since the <i>Mining Regulation 2010</i> was made.
	Schedule 6 Rate of royalty		Schedule 6 Rate of royalty	No change
	Schedule 7 Membership and procedure of Mine Safety Advisory Council			Deleted
	Schedule 8 Membership and procedure of boards of management		Schedule 7 Membership and procedure of boards of management	No change
	Schedule 9 Form		Schedule 8 Form of permit to enter land	Machinery – consequential renumbering of reference to another clause in the Regulation.
	Schedule 10 Fees		Schedule 9 Fees	Machinery – consequential renumbering of reference to other clauses and inclusion of references to Group 9A minerals. No change to requirements.

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Clause	Provision	Clause	Provision	Impact of proposed change
Schedule 11 Penalty notice offences		Schedule 10 Penalty notice offences		Penalty amount for an offence under section 258 of the <i>Mining Act 1992</i> changed to \$110 to match the existing penalty units in the Act. Machinery – consequential renumbering of reference to another clause in the Regulation.
Schedule 12 Savings and transitional provisions		Schedule 11 Savings and transitional provisions		
<i>Part 1 Provisions consequent on the repeal of Mining Regulation 2003</i>		<i>Part 1 Provisions consequent on the repeal of Mining Regulation 2003</i>		
1	Saving			Deleted
2	Survey mark placed by mining registrar	1	Survey mark placed by mining registrar	No change
<i>Part 2 Provisions consequent on the enactment of Mining Amendment Act 2008 No 19</i>		<i>Part 2 Provisions consequent on the enactment of Mining Amendment Act 2008 No 19</i>		
3	Definition			Deleted
4	Applications lodged to comply with sections 5 and 6			Deleted
5	Conditions in authorisations			Deleted
6	Saving of appointments of inspector or royalty officer	2	Saving of appointments of inspector or royalty officer	Minor – reference to “amending Act” replaced with “ <i>Mining Amendment Act 2008</i> ”.
7	Saving of higher penalties for breach of condition relating to environmental management			Deleted

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Clause	Provision	Clause	Provision	Impact of proposed change
8	Groups of minerals	3	Groups of minerals	Minor – references to “this Regulation” replaced with “ <i>Mining Regulation 2010</i> ”.
9	Extension of transitional arrangements for existing private mining			Deleted
<i>Part 3 Provisions consequent on enactment of Mining Legislation Amendment (Uranium Exploration) Act 2012</i>		<i>Part 3 Provisions consequent on enactment of Mining Legislation Amendment (Uranium Exploration) Act 2012</i>		
10	Definition	4	Definitions	Definition of “amending Act” deleted.
11	Changes to mineral groups	5	Changes to mineral groups	Minor – reference to “amending Act” replaced with “ <i>Mining Legislation Amendment (Uranium Exploration) Act 2012</i> ”.
12	Exploration licence applications relating to land subject to transitional existing exploration licence or transitional exploration application	6	Exploration licence applications relating to land subject to transitional existing exploration licence or transitional exploration application	No change
13	Assessment lease applications relating to land subject to transitional exploration application	7	Assessment lease applications relating to land subject to transitional exploration application	No change
<i>Part 4 Provisions consequent on making of Mining Amendment (Coal Royalty) Regulation 2012</i>				
14	Definition		Deleted	
15	Payment of supplementary royalty		Deleted	

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Clause	Provision	Clause	Provision	Impact of proposed change
<i>Part 5 Provision consequent on enactment of Mining and Petroleum Legislation Amendment Act 2014</i>		<i>Part 4 Provision consequent on enactment of Mining and Petroleum Legislation Amendment Act 2014</i>		
16	Operation of section 380AA (Restrictions on planning applications for coal mining) – transitional consents for authorities	8	Operation of section 380AA (Restrictions on planning applications for coal mining) – transitional consents for authorities	No change
<i>Part 6 Provisions consequent on making of Mining Amendment (Licences for Operational Allocation Purposes) Regulation 2015</i>		<i>Part 5 Provision consequent on making of Mining Amendment (Licences for Operational Allocation Purposes) Regulation 2015</i>		
17	References to Group 9 minerals – oil shale	9	References to Group 9 minerals – oil shale	No change
<i>Part 7 Provision consequent on making of Mining Legislation Amendment (Harmonisation) Regulation 2016</i>		<i>Part 6 Provision consequent on making of Mining Legislation Amendment (Harmonisation) Regulation 2016</i>		
18	Construction of reference	10	Construction of reference	Minor – words “under this Regulation” added.
		<i>Part 7 Provision consequent on repeal of Mining Regulation 2010</i>		
		11	Savings	Machinery