



REVISED AS AT 4 APRIL 2017

MINER'S RIGHTS

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How to Obtain a Miner's Right

A Miner's Right may be obtained for a fee of \$25.00 at the Department of Mines, Industry Regulation and Safety, Mineral House, 100 Plain Street, East Perth, or at any Mining Registrar's office, upon presentation of proof of identity. An application form is attached to this pamphlet.

An individual may hold a Miner's Right and it is important to ensure that the Right is issued in the full and correct name. A Miner's Right can be issued to a company (incorporated under the Corporation Law).

Rights of the holder of a Miner's Right

The holder of Miner's Right is authorised under sections 20 and 40D of the *Mining Act 1978* to carry out the following activities on Crown land not the subject of a mining tenement:

- prospect for minerals (including gold)
- conduct geological mapping
- conduct tests for minerals
- undertake limited sampling using hand held equipment and to remove samples up to 20 kilograms
- mark out mining tenements
- fossick for rocks, gemstones, etc
- take water and camp for the purposes of prospecting

Possession of a Miner's Right does not authorise these activities on private land or reserve land (except where the purpose is a common, mining or public utility).

Where can I prospect/fossick

Prospecting can be carried out for all minerals including gold and a metal detector can be used. Prospecting cannot be carried out on a mining tenement unless the tenement holder's consent is obtained and if a pastoral lease is affected, the pastoralist should be notified.

Prospecting may be carried out on an Exploration Licence situated on Crown land where a Section 40E Permit has first been obtained – refer to information pamphlet titled **Section 40E Permit System**.

Fossicking authorises the collection of mineral specimens (excluding gold and diamonds) for lapidary work or hobby interests. Use of a metal detector is not permitted. In addition, the written consent of any mining tenement holder and the pastoralist is required.

Restrictions on the activities that can be carried out on Crown land

When on a pastoral lease, the written consent of the occupier is required before conducting activities on:

- a. land for the time being under crop;
- b. a yard, stockyard, garden cultivated field, orchard, vineyard, plantation, airstrip or airfield;
- c. land in actual occupation and on which there is a house or other substantial building;
- d. the site of any cemetery or burial ground;
- e. land within 100 metres of land referred to in (a) to (d) above; and
- f. land which is the site of, or is situated within 400 metres of the outer edge of, any water works, race, dam, well or bore (unless the excavation was previously made and used for mining purposes by a person other than the pastoralist).

A Mining Warden may order access to these areas other than (c) above, where he/she is satisfied that the land is bona fide required for mining purposes. Compensation for loss or damage to the land is to be agreed between the parties or determined by the Warden.

Entry onto pastoral leases

(Refer to information pamphlet titled – **Prospecting, Exploring, Mining on Pastoral Leases**)

The holder of a Miner's Right may pass or re-pass over any of the restricted land referred to above in order to gain access to any other Crown land for the purpose of conducting activities allowed under a Miner's Right.

Before doing so, the holder of a Miner's Right must take all reasonable and practicable steps to **notify the pastoralist** (consent is not required) of their intentions and when passing or re-passing shall:

- i. take all necessary steps to prevent fire, damage to trees or other property and to prevent damage to any property or livestock by the presence of dogs, the discharge of firearms, the use of vehicles or otherwise;
- ii. cause as little inconvenience as possible to the pastoralist in relation to the passing and re-passing;
- iii. comply with any reasonable request made by the pastoralist in relation to the passing and re-passing;
- iv. restrict the number of passes or re-passes to the minimum necessary for the purpose of mining on or marking out that other land; and
- v. make good any damage caused by the passing and re-passing to any improvements or livestock on the land.

Compensation

Any person holding a Miner's Right is liable to pay compensation in accordance with section 123 of the Act for any loss or damage caused by that person whilst exercising any right authorised under sections 20 and 40D(1) & (3) in respect to any Crown land.

Obligations of the Holder of a Miner's Right

As well as the above requirements for pastoral leases, in respect to all Crown land the holder is required to:

- ensure that the least possible damage to the surface of the land is caused;
- fill in disturbances on the surface of the land made while conducting activities and which are likely to endanger the safety of any person or animal;
- take all necessary steps to prevent fire, damage to trees or other property and to prevent damage to any property or livestock by the presence of dogs, the discharge of firearms, the use of vehicles or by other means;
- not to obstruct any public thoroughfare or undermine any road, railway, dam or building so as to endanger public safety;
- not to remove any fencing, timber, etc. previously erected around or placed on an abandoned shaft, pit, etc. in such manner as to render the area unsafe.

Unauthorised Activities

It is an offence under the Mining Act to carry out mining operations on any land without authorisation, and a **penalty of \$150,000** (plus \$15,000 per day if the offence is a continuing one) applies.

The holder of a Miner's Right is authorised to search for and remove samples from Crown land, however they are not permitted to carry out activities such as 'strip mining' (ie. the use of front-end loaders and bulldozers or similar machinery to strip the surface of soil or vegetation).

These types of operations may only be carried out in respect of granted mining tenements and conditions will be applied to require compliance with methods of rehabilitation laid down by the Environment Division.

Important Note

The information contained in this pamphlet is to serve as a guide only, and every holder of a Miner's Right has an obligation to be fully aware of the relevant provisions of the Mining Act and associated regulations.

MINING ACT 1978
APPLICATION FOR A MINER'S RIGHT

(OFFICE USE ONLY)

Miner's Right No:

Receipt No:

TO: Executive Director, Resource Tenure
Department of Mines, Industry Regulation and Safety
Level 1, Mineral House
100 Plain Street
EAST PERTH WA 6004 (May also be sent to any Mining Registrar's Office)
Email: mineraltitles.enquiries@dmirs.wa.gov.au

(name in full-block letters)

of

(full postal address)

Postcode: _____ Telephone No: _____

hereby make application for the use of a Miner's Right pursuant to Section 40C of the *Mining Act 1978*.

The prescribed fee of \$25.00 is attached.

(Signature of Applicant)

N.B. Proof of identity must support the Application for a Miner's Right

PAYMENT DETAILS

Cheques and money orders should be made payable to:

Department of Mines, Industry Regulation and Safety

Are you paying by credit card? Yes No

Complete this section if paying by credit card

Card number (16 digit) / / /

Expiry date (MM/YY) /

Card type (Please tick) Master Card Visa

Cardholder's name

Amount

Signature of cardholder

Phone number of cardholder

Date (DD/MM/YYYY) / /

This pamphlet is issued by the
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N.B. The information contained in this pamphlet is designed to assist in gaining a general awareness of the requirements of the *Mining Act 1978* and is not intended to be a substitute for understanding the statutory requirements of the Act and Regulations there under.