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## Part 7—Rehabilitation

New Pt 7  
(Heading)  
inserted by  
No. 6/2009  
s. 20.

### 77U Definitions

S. 77U  
inserted by  
No. 6/2009  
s. 20.

In this Part—

**auditor** means an environmental auditor appointed under section 53S of the Environment Protection Act 1970;

**authority** means—

- (a) an exploration licence, a mining licence, a prospecting licence or a retention licence under Part 2; or

\* \* \* \* \*

- (c) an extractive industry work authority;

**authority holder** means the holder of an authority.

S. 77U def. of  
*authority*  
amended by  
Nos 55/2010  
s. 56(1),  
10/2014 s. 37.

### 78 Licensee must rehabilitate land

S. 78(1)  
amended by  
Nos 76/1998  
s. 31(h),  
59/2010  
s. 27(1).

- (1) The holder of a mining licence or prospecting licence must rehabilitate land in accordance with the rehabilitation plan approved by the Department Head.

S. 78(2)  
amended by  
Nos 86/1993  
s. 30(1),  
59/2010  
s. 27(2).

- (2) The holder of an exploration licence or retention licence must rehabilitate land in accordance with the conditions in the licence.

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S. 78(3)  
repealed by  
No. 86/1993  
s. 30(2).

- (4) The owner of land may request the licensee to enter into a written agreement as to the rehabilitation plan.

**78A Holder of extractive industry work authority must rehabilitate land**

S. 78A  
inserted by  
No. 6/2009  
s. 21.

- (1) The holder of an extractive industry work authority must rehabilitate land in accordance with the rehabilitation plan approved by the Department Head.
- (2) The holder of an extractive industry work authority must rehabilitate land in accordance with the conditions in the authority.

**79 Rehabilitation plan**

A rehabilitation plan must—

(a) take into account—

- (i) any special characteristics of the land; and
- (ii) the surrounding environment; and
- (iii) the need to stabilise the land; and
- (iv) the desirability or otherwise of returning agricultural land to a state that is as close as is reasonably possible to its state before the mining licence, prospecting licence or extractive industry work authority was granted; and
- (v) any potential long term degradation of the environment; and

S. 79(a)(iv)  
amended by  
Nos 6/2009  
s. 22(1),  
68/2014  
s. 49(a).

S. 79(a)(v)  
inserted by  
No. 82/2000  
s. 53.

(b) be prepared by—

- (i) the applicant for the extractive industry work authority after consultation with the owner of the land, if the land is private land; or

S. 79(b)  
amended by  
76/1998  
s. 31(i),  
substituted by  
No. 6/2009  
s. 22(2).

S. 79(b)(ii)  
amended by  
No. 68/2014  
s. 49(b).

- (ii) the licensee after consultation with the owner of the land, if the land is private land and the licence is a mining licence or prospecting licence.

S. 79A  
inserted by  
No. 63/2006  
s. 41.

#### 79A Rehabilitation liability assessment

S. 79A(1)  
amended by  
Nos 6/2009  
s. 23(1),  
59/2010 s. 51.

- (1) The Minister may require an authority holder to undertake an assessment of the authority holder's rehabilitation liability under section 78 or 78A (a *rehabilitation liability assessment*) for the purpose of determining the amount of a rehabilitation bond or reviewing the amount of a rehabilitation bond entered into or to be entered into by the authority holder.

S. 79A(2)(b)  
amended by  
No. 6/2009  
s. 23(2).

- (2) A rehabilitation liability assessment must—
- (a) be undertaken in a manner and form determined by the Minister; and
  - (b) take into account works required to be undertaken to rehabilitate the land in accordance with the requirements of section 78 or 78A (as the case may be).

S. 79A(3)  
amended by  
No. 6/2009  
s. 23(3).

- (3) The Minister may require an authority holder to engage an auditor to certify that a rehabilitation liability assessment has been prepared in accordance with subsection (2) and that it is accurate.
- (4) An auditor who has given a certification under subsection (3) must forward a copy of the certificate to the Minister within 21 days after giving that certification.

## 80 Rehabilitation bond

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| (1) A licensee or an applicant for an extractive industry work authority must enter into a rehabilitation bond for an amount determined by the Minister.   | S. 80(1)<br>amended by<br>No. 6/2009<br>s. 24(1).  |
| (2) If land covered by a mining licence or prospecting licence is private land, the Minister must, before determining the amount of a rehabilitation bond, consult with—<br><br>(a) the council in whose municipal district the land is situated; and<br><br>(b) the owner of the land.  | S. 80(2)<br>amended by<br>No. 76/1998<br>s. 31(j)(i),<br>substituted by<br>No. 63/2006<br>s. 42,<br>amended by<br>No. 68/2014<br>s. 50(a). |
| (2A) If the land that is proposed to be covered by an extractive industry work authority is private land, the Minister must, before determining the amount of a rehabilitation bond, consult with the council in whose municipal district the land is situated.  | S. 80(2A)<br>inserted by<br>No. 6/2009<br>s. 24(2).  |
| (3) The condition of a rehabilitation bond is that the authority holder rehabilitates the land as required by section 78 or 78A to the satisfaction of the Minister.   | S. 80(3)<br>amended by<br>Nos 76/1998<br>s. 31(j)(ii),<br>6/2009<br>s. 24(3).  |
| (4) The Minister may, at any time after a rehabilitation bond is entered into and after consultation with the authority holder, by notice served on the authority holder require the authority holder to enter into a further rehabilitation bond within 28 days after service of that notice, or by a later date specified in the notice, for an amount determined by the Minister if he or she is of the opinion that the amount of the bond already entered into is insufficient. | S. 80(4)<br>amended by<br>Nos 6/2009<br>s. 24(4)(b),<br>29/2011<br>s. 3(Sch. 1<br>item 60.1),<br>10/2014<br>s. 38(1).                      |

S. 80(4A)  
inserted by  
No. 10/2014  
s. 38(2).

- (4A) An authority holder must comply with a requirement to enter into a further rehabilitation bond under subsection (4).

Penalty: In the case of a corporation,  
200 penalty units

In any other case, 40 penalty units.

S. 80(5)  
amended by  
Nos 6/2009  
s. 24(5),  
29/2011  
s. 3(Sch. 1  
item 60.2),  
10/2014  
s. 38(3).

- (5) The Minister may serve on an authority holder who has not complied with a requirement under subsection (4) within 28 days after service of notice of the requirement, a notice prohibiting the authority holder from doing any work until the authority holder has entered into the further rehabilitation bond.

S. 80(6)  
amended by  
Nos 82/2000  
s. 54(1),  
68/2014  
s. 50(b).

- (6) An authority holder must comply with a notice under subsection (5)<sup>8</sup>.

Penalty: In the case of a corporation,  
1000 penalty units.

In any other case, 200 penalty units.

Default penalty:

In the case of a corporation, 20 penalty units.

In any other case, 10 penalty units.

S. 81  
amended by  
Nos 82/2000  
s. 54(2),  
63/2006 s. 43  
(ILA s. 39B(1)).

## 81 Rehabilitation

S. 81(1)  
amended by  
No. 6/2009  
s. 25(1)(a).

- (1) The authority holder must rehabilitate land in the course of doing work under the authority and must, as far as practicable, complete the rehabilitation of the land before the authority or any renewed authority ceases to apply to that land.

- (2) If the rehabilitation has not been completed before the authority or renewed authority ceases to apply to the land the former authority holder must complete it as expeditiously as possible.
- (3) While the rehabilitation is being completed, a former authority holder must continue the appointment of—
- (a) in the case of a former licensee, a manager to control and manage the former licence worksite; and
- (b) in the case of a former extractive industry work authority holder, a quarry manager or person to manage the site where the extractive industry operation was carried out.

S. 81(2)  
inserted by  
No. 63/2006  
s. 43,  
amended by  
No. 6/2009  
s. 25(1)(b).

S. 81(3)  
inserted by  
No. 63/2006  
s. 43,  
substituted by  
No. 6/2009  
s. 25(2).

Penalty: 20 penalty units.

#### **81A Certification that land has been rehabilitated**

S. 81A  
inserted by  
No. 63/2006  
s. 44.

- (1) The Minister may require that an authority holder or a former authority holder engage an auditor to certify that land has been rehabilitated as required by section 78 for the purpose of deciding whether to return any rehabilitation bond under section 82.
- (2) An auditor who has given a certification under subsection (1) must forward a copy of the certificate to the Minister within 21 days after giving that certification.

S. 81A(1)  
amended by  
No. 6/2009  
s. 26.

#### **82 Return of bond if rehabilitation satisfactory**

- (1) The Minister must return the bond or bonds to the authority holder or former authority holder as soon as possible if the Minister is satisfied—

S. 82(1)  
amended by  
Nos 76/1998  
s. 31(k),  
6/2009  
s. 27(a).

S. 82(1)(a)  
amended by  
No. 6/2009  
s. 27(b).

(a) that the land has been rehabilitated as required by section 78 or 78A (as the case may be); and

(b) that the rehabilitation is likely to be successful.

S. 82(2)  
amended by  
Nos 6/2009  
s. 27(c),  
68/2014 s. 51.

(2) If the land is private land the Minister must not return the bond or bonds to the holder or former holder of a mining licence or prospecting licence or the holder or former holder of an extractive industry work authority until after the owner of the land and the council in whose municipal district the land is situated have been consulted.

S. 82(3)  
inserted by  
No. 82/2000  
s. 55,  
amended by  
Nos 6/2009  
s. 27(d),  
29/2011  
s. 3(Sch. 1  
item 60.3).

(3) The Minister may, as a condition of returning a bond or bonds to an authority holder or a former authority holder, require that person to enter into a further rehabilitation bond if any land or part of the land to which the bond relates has not been rehabilitated, or requires further rehabilitation.

### 83 Minister may carry out rehabilitation

(1) The Minister may take any necessary action to rehabilitate land if he or she—

(a) is not satisfied that the land has been rehabilitated as required by section 78 or 78A (as the case may be); or

(b) is satisfied that further rehabilitation of the land is necessary; or

(c) is requested to do so by the owner of the land.

(2) The Minister must, if he or she refuses to act on a request under subsection (1)(c), inform the owner of the land of the reasons for that refusal.

S. 83(1)(a)  
amended by  
No. 6/2009  
s. 28(a).

(3) The Minister may only take action under subsection (1) if he or she has requested the authority holder or former authority holder to rehabilitate the land and the authority holder or former authority holder has failed to do so within a reasonable period after the request.

S. 83(3)  
amended by  
No. 6/2009  
s. 28(b).

(4) The Minister may recover as a debt due to the Crown in a court of competent jurisdiction any amount by which the cost incurred under subsection (1) exceeds the amount of the bond or bonds.

(5) The Minister must, if satisfied that no further rehabilitation of the land is likely to be necessary, return to the authority holder or former authority holder as soon as possible any balance of the bond or bonds after any cost incurred under subsection (1) is deducted.

S. 83(5)  
amended by  
No. 6/2009  
s. 28(c).

(6) In making a decision under subsection (5), the Minister must take into account the possibility that some of the damage caused to the land by the authorised activities may not become evident for some time.

S. 83(6)  
substituted by  
No. 82/2000  
s. 56,  
amended by  
No. 6/2009  
s. 28(d).

#### **84 Payment out of Consolidated Fund**

Any money required by the Minister under this Part is payable out of the Consolidated Fund, which is appropriated to the necessary extent.