

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 18 March 1987

(Minister for Aboriginal Affairs)

A BILL

FOR

An Act to amend the *Aboriginal Land Rights (Northern Territory) Act 1976*

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title etc.

5 **1. (1)** This Act may be cited as the *Aboriginal Land Rights (Northern Territory) Amendment Act (No. 2) 1987*.

(2) The *Aboriginal Land Rights (Northern Territory) Act 1976*¹ is in this Act referred to as the Principal Act.

Commencement

10 **2.** This Act shall come into operation on the commencement of the *National Parks and Wildlife Conservation Amendment Act (No. 2) 1987*.

Interpretation

3. Section 3 of the Principal Act is amended:

(a) by inserting after the definition of "community purpose" in subsection (1) the following definition:

"'conservation zone' means a conservation zone declared under section 8A of the National Parks Act;"; 5

(b) by inserting after the definition of "exploration licence" in subsection (1) the following definitions:

"'Gimbat', or 'Goodparla', means, in each case, the area described by that name (being an area of land that is or was subject to a pastoral lease) on the map referred to in the definition of 'Alligator Rivers Region' in section 3 of the *Environment Protection (Alligator Rivers Region) Act 1978*;" 10

(c) by inserting after the definition of "mission" in subsection (1) the following definitions: 15

"'National Parks Act' means the *National Parks and Wildlife Conservation Act 1975*;

'park' means a park for the time being declared under section 7 of the National Parks Act;"; and

(d) by adding at the end of subsection (3) "and as including a reference to: 20

(a) section 51 of the *Lands Acquisition Act 1955*; and

(b) section 53 of that Act to the extent that the section authorises the grant of a right (however described) to explore or prospect for minerals." 25

Recommendations for grants of Crown land, other than that described in Schedule 1

4. Section 11 of the Principal Act is amended by omitting from subsection (1A) "the Alligator Rivers Area (No. 3)" and substituting "a park, being land". 30

Grant of land to Land Trusts

5. Section 12 of the Principal Act is amended:

(a) by omitting from the end of paragraph (2) (a) "and";

(b) by adding at the end of subsection (2) the following word and paragraph: 35

"; and (c) rights to explore for minerals, and leases or licences to mine for minerals, on or below the surface of the land may be granted under subsections 51 (1A) and 53 (2A) of the *Lands Acquisition Act 1955*."

- (c) by omitting subsection (2A) and substituting the following subsection:
- “(2A) Where a deed of grant under this section relating to land in a park takes effect at a particular time, any estate or interest that, immediately before that time, was held by the Director in that land ceases to exist.”;
- (d) by omitting from subsection (2C) “any land in the area of land described in Schedule 1 under the heading ‘Uluru’ ” and substituting “land referred to in subsection (2D)”;
- (e) by inserting after subsection (2C) the following subsections:
- “(2D) Subsection (2C) applies in relation to:
- (a) any land in the area of land described in Schedule 1 under the heading ‘Uluru’; and
- (b) any land within the area delineated by the outer boundaries of the aggregate area comprising Gimbat and Goodparla.
- “(2E) Subsection (2C) applies in relation to a deed of grant in respect of land referred to in paragraph (2D) (b) whether or not the deed took effect before the commencement of this subsection.”.

Grants of interests

6. Section 40 of the Principal Act is amended:

- (a) by inserting after subsection (1) the following subsection:
- “(1A) A lease, licence or other right shall not be granted under subsection 51 (1A) or 53 (2A) of the *Lands Acquisition Act 1955* in relation to Aboriginal land in a conservation zone (other than land referred to in paragraph 41 (3) (a)) unless:
- (a) both the Minister and the Land Council for the area in which the land is situated have consented, in writing, to the grant; or
- (b) the Governor-General has, by Proclamation, declared that the national interest requires that the grant be made.”;
- (b) by omitting from subsection (2) “licence” (wherever occurring) and substituting “right”;
- (c) by inserting in subsection (2) “or (1A)” after “(1)”;
- (d) by omitting from subsection (2) “mining”; and
- (e) by inserting after subsection (2) the following subsection:
- “(2A) In subsection (2):
- ‘exploration right’ means:
- (a) an exploration licence; or
- (b) a right under subsection 53 (2A) of the *Lands Acquisition Act 1955*;
- ‘interest’ means:
- (a) where the exploration right was an exploration licence—a mining interest; or

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- (b) where the exploration right was a right under subsection 53 (2A) of the *Lands Acquisition Act 1955*—a lease or licence under subsection 51 (1A) of that Act.”.

Proclamations to be laid before Parliament

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7. Section 42 of the Principal Act is amended by inserting in subsection (1) “, (1A) (b)” after “40 (1) (b)”.

Application of Acts authorising mining on Aboriginal land

8. Section 41 of the Principal Act is amended by adding at the end the following subsection:

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“(3) Subsection (1) does not affect the application of subsection 51 (1A) or 53 (2A) of the *Lands Acquisition Act 1955* in relation to:

- (a) land in the area known as the Coronation Hill Project area and defined by the regulations for the purposes of this subsection: or
(b) land in a conservation zone.”.

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Payments in respect of grants

9. Section 43 of the Principal Act is amended:

- (a) by inserting in subsection (2) “or (1A) (b)” after “40 (1) (b)”;
- (b) by adding at the end the following subsection:

“(6) In this section ‘mining interest’ includes a lease, licence or other right to which subsection 40 (1A) applies.”.

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Payments in respect of mining under Acts

10. Section 44 of the Principal Act is amended:

- (a) by inserting after subsection (2) the following subsection:

“(2A) Where, by virtue of paragraph 41 (3) (a), a right or interest (however described) granted to a person (in this subsection called the ‘grantee’) under subsection 51 (1A) or 53 (2A) of the *Lands Acquisition Act 1955* gives authority to any person to enter or remain, or do any act, on any Aboriginal land without the consent of the Land Council for the area in which the land is situated, that authority has no effect unless the grantee has entered into an agreement under seal with the Land Council for the payment to the Land Council by the grantee of an amount or amounts specified in, or calculated in accordance with, the agreement and the acceptance by the grantee of such other terms and conditions as are provided for in the agreement.”;

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- (b) by omitting from subsections (3) and (3A) “subsection (1) or (2)” and substituting “this section”; and
(c) by omitting from subsection (4) “this section” and substituting “subsection (1) or (2)”.

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Arbitration on agreement by Land Council

11. Section 45 of the Principal Act is amended by inserting after subsection (1) the following subsection:

5 “(1A) In subsection (1), ‘mining interest’ includes a lease, licence or other right to which subsection 40 (1A) applies.”.

Arbitration on required agreement

12. Section 46 of the Principal Act is amended:

(a) by inserting in paragraph (1) (a) “or (2A)” after “(2)”; and

(b) by adding at the end the following subsection:

10 “(4) Where subsection 44 (2A) applies, a reference in this section to an applicant for a mining interest is a reference to the grantee referred to in that subsection.”.

Functions of Commissioner

15 13 Section 50 of the Principal Act is amended by inserting after subsection (1A) the following subsection:

“(1B) If any land within the area delineated by the outer boundaries of the aggregate area comprising Gimbat and Goodparla is included in a park or conservation zone, it shall be deemed, for the purposes of subsection (1), to be unalienated Crown land.”.

20 **Roads over Aboriginal land**

14 Section 68 of the Principal Act is amended by omitting from paragraph (4) (b) “by that Act” and substituting “by or under that Act”.

NOTE

1. No. 191, 1976, as amended. For previous amendments, see Nos. 21, 70 and 83, 1978; No. 189, 1979; No. 12, 1980; No. 92, 1981; Nos. 16 and 80, 1982; Nos. 63 and 72, 1984; Nos. 63 and 93, 1985; and No. 0, 1987.



