

# LEGISLATIVE ASSEMBLY

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Read 1° 12 March 1986

*(Brought in by Mr Fordham and Mr Crabb)*

## A BILL

to amend the *Mines Act 1958*, to repeal the *Gelliondale Land (Mineral Lease) Act 1950* and for other purposes.

### **Mines (Amendment) Act 1986**

The Parliament of Victoria enacts as follows:

#### **Purpose.**

- 5 1. The purpose of this Act is to ensure the effective and efficient administration of the *Mines Act 1958* and to facilitate the development of major mining projects.

#### **Commencement.**

2. This Act comes into operation on a day or days to be proclaimed.

#### **Principal Act.**

3. In this Act, the *Mines Act 1958* is called the Principal Act.

No. 6320.  
Reprinted to  
No. 9945.  
Since amended  
by Nos. 10081,  
10087, 10164,  
10189 and  
10257.

**Prospecting, searching &c. on tailings.**

4. (1) In section 15 (1) (c) of the Principal Act, after “sections” insert “81,”.

(2) In section 81 (1) (b) (ii) of the Principal Act, after “the claim” insert “and not subject to a prior tailings treatment licence or tailings removal licence”.

**Claims of more than 1 hectare.**

5. In section 17 of the Principal Act, for sub-section (4) substitute—

“(4) If the area of land marked out and applied for exceeds one hectare—

(a) the land must not be registered as a claim unless the consent of the Minister has been given; and

(b) the applicant may specify in the application a portion of the area, not exceeding 1 hectare, which, in the event of the Minister not giving consent under paragraph (a), shall be deemed to be the total area marked out and applied for as the claim.

(4A) The area of land marked out and applied for as a claim must not exceed five hectares.”.

**Multiple land management authorities.**

6. (1) In section 3 (1) of the Principal Act, after the definition of “Prescribed” insert—

“Principal land manager”, in relation to land, means—

(a) if the land is Crown land—the Department of Conservation, Forests and Lands;

(b) if the land is not Crown land—

(i) the person or body of persons (if any) in whom or in which the power of management or control of the land is vested; or

(ii) if there are 2 or more such persons or bodies the person or body in whom or in which is vested the greater or greatest power of management or control; and

(c) if—

(i) part of the land is subject to management or control by persons or bodies different to the persons or bodies with power of management or control over another part of the land; or

(ii) part of the land is Crown land and part of the land is not Crown land—

5 all the principal land managers for the different parts of the land (determined, for each part of the land, in accordance with paragraphs (a) and (b)).’

(2) In section 17 (9) (b) of the Principal Act, for the expression commencing “person or body of persons” and finishing at the end of the sub-section, substitute “principal land manager”.

**Consent to increase of claim size.**

10 7. In section 21A of the Principal Act, for sub-section (26) substitute—

“(26) If land is—

(a) held under a licence; and

(b) included in land registered as a claim—

15 an application under section 17 to extend the claim to cover further land held under the licence must not be registered unless the licence holder consents.”.

**New section 42 inserted.**

8. After section 41 of the Principal Act, insert—

20 **Commencement of work after application.**

“42. (1) If a person has applied for a lease under this Division, the Minister may, after a notice of intention to grant the application has been published in the manner described in section 512E, authorize the applicant to commence the work which would be permitted under the lease.

25 (2) A person must not work pursuant to an authorization under sub-section (1) unless—

30 (a) such work is not prohibited under the *Town and Country Planning Act 1961* and any necessary planning permits have been granted;

(b) any requirements imposed by the Soil Conservation Authority are met;

(c) any compensation, bonds and securities which would be payable if the lease were granted have been paid; and

35 (d) any restrictions which the Minister specifies (when the authorization is given or subsequently) are observed.

(3) An authorization under sub-section (1) ceases to have effect when—

40 (a) the applicant is advised that the Minister has decided not to grant the application; or

(b) the lease is issued to the applicant.”.

**Eductor dredges.**

9. In section 66<sup>A</sup> of the Principal Act, for sub-section (5) substitute—

‘(5) A licence under this section—

(a) authorizes the holder of the licence to prospect for minerals using prescribed machinery or equipment in a river or stream within the specified prescribed zone, whether or not that river or stream is on exempted or excepted land; and 5

(b) except as mentioned in paragraph (a), does not authorize the use of prescribed machinery or equipment on exempted or excepted land. 10

(5<sup>A</sup>) In sub-section (5), “exempted or excepted land” means land—

(a) exempted under section 4 or 4<sup>A</sup>; or

(b) excepted under section 7 of this Act or under section 7 of the *Crown Land (Reserves) Act 1978*.’. 15

**New section 293<sup>A</sup> inserted.**

10. After section 293 of the Principal Act, insert—

**Owners of land alienated after 1 March 1892.**

“293<sup>A</sup>. (1) A person who owned minerals before 14 December 1982 which were on or below the surface of land alienated from the Crown after 1 March 1892 may apply to the Minister for an exemption under this section. 20

(2) This section does not apply in relation to gold, silver, uranium, thorium or oil shale. 25

(3) An application for exemption under this section must be made on or before the day which is 6 months after the commencement of section 10 of the *Mines (Amendment) Act 1986*.

(4) If an application for exemption is made under this section, any mining activities conducted on the land which would be lawful if an exemption were granted may be continued as if an exemption had been granted. 30

(5) Sub-section (4) ceases to apply when an application for exemption is withdrawn or is granted or refused.

(6) The Minister may, in the Minister’s discretion, grant or refuse to grant an application for exemption under this section. 35

(7) The provisions of section 293 (3) to (8) apply to an application for exemption under this section.

(8) If an application for exemption under this section is refused, the applicant may apply to the Minister for compensation for the divesting of the applicant's property in all or any of the minerals.

5 (9) An application for compensation under this section must be made within 6 months after the refusal of the application for exemption.

(10) The provisions of section 294 (3) to (7) apply to an application for compensation under this section.”.

### **Mining below 120 metres.**

10 **11.** (1) In section 302 (2) of the Principal Act, for “any lease of such land is granted” substitute “there is granted a lease of private land, the lease being applied for at a depth greater than 30 metres but not greater than 120 metres,”.

(2) In section 306 of the Principal Act—

15 (a) in sub-section (1), after “shall be compensation for -” insert—

“(a) if the lease is limited to a depth greater than 120 metres—damage actually caused by the leaseholder, including any amount payable under section 355; and

20 (b) if the lease is not limited to a depth greater than 120 metres—”; and

(b) for sub-section (4) substitute:

“(4) If a lease is limited to a depth greater than 120 metres—

25 (a) no purchase money is payable under this Division to the owner or occupier of the land;

(b) except as mentioned in sub-section (1) (a), no compensation is payable under this Division to the owner or occupier of the land;

30 (c) no agreement with, or consent of, the owner or occupier of the land shall be necessary; and

(d) no reference to the Land Valuation Board in respect of the land shall be necessary.”.

### **Certification about compensation.**

35 **12.** Section 304 of the Principal Act is amended as follows:

(a) In sub-section (1), omit the expression commencing “and in the case of” and ending at the end of the sub-section;

(b) Sub-section (3) is repealed.

**Leases on private land.**

**13.** (1) In section 316 (1) of the Principal Act, for the expression commencing “the following rates” and ending at the end of the sub-section substitute “the rate from time to time determined for the purposes of section 41 (2) by the Minister.”.

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(2) In section 327 of the Principal Act, after sub-section (1) insert—

“(1AA) The Minister may refuse to renew a mining lease on private land if satisfied that all operations for the purposes of the lease have been completed by the lessee.

(1AB) An application for renewal of a mining lease on private land must—

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- (a) be made in writing in accordance with the regulations; and
- (b) be lodged with the Minister—

before the expiration of the lease which it is proposed to renew.

(1AC) A person intending to apply for renewal of a mining lease on private land must ensure that notice of the intended application is published in a newspaper circulating in the district in which the leased land is situated not less than 14 days before the expiration of the lease.”.

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(3) In section 345 of the Principal Act, for the expression commencing “thirty-six” and ending “one hundred and twenty-six” substitute “36, 37, 44, 46A, 46B, 47 to 50, 59, 66, 66A, 68, 70 to 70D, 73 to 80, 86 to 90, 92, 93, 95, 102 to 110 and 126”.

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**Land rehabilitation.**

**14.** (1) In section 361A (1) of the Principal Act for the expression commencing “consultation with the” and ending at the end of the sub-section substitute—

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“consultation with—

- (a) the applicant for the lease or licence or the owner of the claim;
- (b) any person or body of persons upon whom or which a power or authority relating to the use of the land is conferred under the *Town and Country Planning Act 1961* or pursuant to an instrument made under that Act; and
- (c) except in the case of an application for an exploration licence—the person or body of persons (if any) in whom or in which any power of management or control of the land is vested.”.

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(2) After section 520 of the Principal Act, insert—

**Agreement for commencement of operations.**

5 “520A. An exploration licence holder must not commence operations on land under the licence until agreement with the principal land manager of the land has been reached on appropriate conditions.”

**Advertising of refusal of application.**

15. Section 512E (6) of the Principal Act is repealed.

**Mining tenement applications and renewals.**

16. Section 512H of the Principal Act is amended as follows:

- 10 (a) After sub-section (5) (a) (i), for sub-paragraph (ii) and “and” (where occurring after sub-paragraph (i)) substitute—“ or
- 15 (ii) if the land is subject to a planning scheme or interim development order under the *Town and Country Planning Act 1961* and, under that scheme or order, a permit is required for the proposed use, that the application will not be considered until the applicant—
- (A) has obtained the permit under that Act; and
- 20 (B) has given notice of the application, either as set out in sub-paragraph (i) or, alternatively, by publicizing the application at the time and in the manner required for the application for the permit under the *Town and Country Planning Act 1961*.”;
- (b) At the end of sub-section (2) (b) insert—
- 25 “; or
- (iii) an approval under sub-section (7) has been given.”; and
- (c) After sub-section (6) insert—
- 30 “(7) The Minister administering the *Mines Act 1958* and the Minister administering the *Town and Country Planning Act 1961* may jointly approve a project to be a project of major economic importance.
- (8) If an approval has been given under sub-section (7)—
- 35 (a) the approval extends to any mining or development lease specified in the approval or (if none is specified) to any such application or lease which is required for the project;
- (b) the requirements under sub-section (5) (a) (ii) do not apply; and
- 40 (c) no operational work may be performed under a mining or development lease associated with the

project unless any permit required under a planning scheme or interim development order has been granted.”.

**Exploration licence for land previously leased, &c.**

17. Section 514 of the Principal Act is amended as follows: 5
- (a) Sub-section (1A) is repealed;
- (b) In sub-section (16)—
- (i) after paragraph (c) omit “or”; and
- (ii) for the expression commencing “unless the consent” and ending at the end of the sub-section, substitute— 10
- “or
- (e) subject at the date of application for the licence to a prior marking out under this Act or the regulations for the purposes of making an application for a lease, licence or other authority under this Act or for the registration of the land as a claim— 15
- unless there is first obtained the consent in writing of each lessee, licensee, owner of the claim, holder of the prospecting area and person on whose behalf prior marking out has occurred.”; 20
- (c) after sub-section (16) insert—
- “(16A) An exploration licence holder may make an agreement with a lessee, licensee, owner of a claim or holder of a prospecting area for access to the land held under this Act by that other person, but any rights under such an agreement cease upon the termination of that other person’s relevant lease, licence, claim or prospecting area. 25
- (16B) If—
- (a) the land in respect of which an exploration licence is granted surrounds other land that is the subject of a registered claim or of a lease; and 30
- (b) the claim or lease is cancelled or otherwise ceases—
- the exploration licence holder may, not less than 60 days after the cancellation or cessation, make written application to the Minister for a variation of the exploration licence to include that other land. 35
- (16C) If an application is made under sub-section (16B), the Minister may, unless another claim or lease has been marked out in respect of the land to which the claim or lease that was cancelled or ceased related, vary the exploration licence held by the applicant so that it includes that land.”. 40



**Extension of exploration licences.**

18. In section 519 of the Principal Act, for sub-section (1A) substitute—

- 5 “(1A) Subject to sub-section (1E), if application is made under sub-section (1) for a first extension of an original licence, the Minister must not grant the application if the extended term would begin on a day two years or more after the original granting of the licence and it relates to an area exceeding 75 per cent of the area for which the licence was originally granted.”.

**10 Exploration licence for part of a sub-graticule.**

19. Section 519B (2) of the Principal Act is repealed.

**Unreasonable withholding of consent.**

20. In section 525 of the Principal Act, after sub-section (1) insert—

- 15 “(1A) If it appears to the mining warden that—  
(a) the licensee has unreasonably withheld consent to the operations; or  
(b) the licensee has not replied within 28 days to a request for consent to the operations—  
20 the mining warden may recommend that the operations be authorized notwithstanding that the licensee has not consented.”.

**Consent by licence holder to lease or claim.**

21. Section 526 of the Principal Act is amended as follows:

- 25 (a) In sub-section (1), for the expression commencing “unless” and ending at the end of the sub-section substitute “if the licence which has been applied for or which is in force has priority over the lease and the consent in writing of the applicant for the licence or licensee (as the case may be) has not been given.”;
- 30 (b) In sub-section (2), for the expression commencing “unless” and ending at the end of the sub-section substitute “if the licence which has been applied for or which is in force has priority over the claim and the consent of the applicant for the licence or licensee (as the case may be) has not been given.”.

**35 Miscellaneous amendments.**

22. The Principal Act is amended as follows:

- (a) In section 1, omit all the words and expressions appearing after “*Mines Act 1958*”;
- (b) In section 3 (1), omit the definition of “Magistrates’ Court”;

- (c) In sections 18 (1) (c), 46B (2) (a) and 520 (a) (ii) for “Minister of Lands” substitute “Minister for the time being administering Division 3 of Part I of the *Land Act 1958*”;
- (d) In section 33, for “\$1,000” substitute “10 penalty units”;
- (e) In section 39— 5
- (i) omit “gold mining lease or a mineral”; and
- (ii) for “Governor in Council” substitute “Minister”;
- (f) In section 46A (1) for “Minister for Lands and the Minister for Tourism” substitute “Minister for the time being administering Division 3 of Part I of the *Land Act 1958* and the Minister for the time being administering the *Victorian Tourism Commission Act 1982*”; 10
- (g) In section 46B (1) for “Minister for Tourism” substitute “Minister for the time being administering the *Victorian Tourism Commission Act 1982*”; 15
- (h) In section 57, in the second paragraph for “by-laws” substitute “regulations”;
- (i) In section 66A (2) (b) for “Minister for Water Resources” substitute “Minister for the time being administering the *Water Act 1958*”; 20
- (j) In section 78, omit “by-law”;
- (k) In section 87 for “Minister of Lands or to the Minister of Public Works or to the Railway Construction Board” substitute “Minister for the time being administering Division 3 of Part I of the *Land Act 1958* or to the Minister for the time being administering section 11 of the *Public Lands and Works Act 1964* or to the State Transport Authority”; 25
- (l) In section 93 (1), at the end of paragraph (ba) insert “the amount of deposit or royalty to be so paid”; 30
- (m) In section 186 for “or reservoir” (where three times occurring) substitute “reservoir, pipeline or facility for the conveyance of water, slurry or tailings”;
- (n) In section 312 after “lessee” (where secondly occurring) insert “or grantee of the prospecting area”; 35
- (o) In section 318 (4), for “Minister directs” substitute “Minister determines”;
- (p) In sections 338, 387 (1), 400A (2), 413 (9) and 480 (2), for “\$100” substitute “1 penalty unit”;
- (q) In section 396A (1) for “*Magistrates’ Court Act*” substitute “*Magistrates’ Courts Act*”; 40
- (r) In section 410 (2) for “treatment” substitute “treatment”;
- (s) In section 448 (1) for “forfeited” substitute “cancelled”;
- (t) In section 448 (2) for “forfeit” substitute “cancel”;

- (u) In the heading to Subdivision 2 of Division 5 of Part III for “*Sludge Abatement Board*” substitute “Minister”;
- (v) Section 450 (2) is repealed;
- 5 (w) In section 460 (1), for “Board” substitute “Minister”;
- (x) In section 497 (4)—
- (i) for “\$20” (wherever occurring) substitute “1 penalty unit”; and
- (ii) for “\$100” substitute “2 penalty units”;
- 10 (y) The expression “*Licences to Search for Uranium and Thorium*” (where appearing after section 509) is repealed;
- (z) In sections 515 (2) (a) and 519 (4), for “square kilometre or part of a square kilometre” substitute “graticular section or part of a graticular section”.

**Repeal of Act No. 5504.**

- 15 23. The *Gelliondale Land (Mineral Lease) Act 1950* is repealed.





