

Extractive Industries Development Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 sets out the purposes of the Act.

Clause 2 is the commencement provision. The preliminary formal provisions of the Act come into operation on Royal Assent, and the remaining provisions on a day or days to be proclaimed.

Clause 3 defines various terms used in the Bill.

Clause 4 binds the Crown in right of Victoria and in all its other capacities.

Clause 5 provides that the Act does not apply to certain farm works not to any extractive industry exempted by the Minister, and removes the need for a person who complies with the Act to obtain authorities under certain other Acts with respect to searching for stone or carrying out an extractive industry.

Clause 6 contains provisions about the application of the Act to land leased by Alcoa of Australia Pty Ltd under the agreement set out in the **Mines (Aluminium Agreement) Act 1961**.

Clause 7 deals with the ownership of stone on private land and in Crown land below private land, and provides for the payment of royalties in respect of stone extracted from Crown land.

PART 2—AUTHORISATIONS AND PERMITS

Division 1—Offences

Clause 8 makes it an offence for a person to search for stone on Crown land or private land without the necessary authorities and consents.

Clause 9 makes it an offence for a person to carry out any extractive industry without a current work authority, and requires the holder of a work authority and the worksite manager to comply with the work authority.

Division 2—Search for Stone

Clause 10 specifies the land in respect of which the Minister must not grant a search permit.

Clause 11 enables the Minister, after obtaining advice from the Ministers administering the **Conservation, Forests and Lands Act 1987** and giving notice to the Minister responsible for aboriginal affairs, to grant a permit to search for stone on Crown land.

Clause 12 sets out the consents which must be obtained to carry out a search for stone on particular land, and specifies requirements about the giving or refusal of consents.

Clause 13 enables the Minister to authorise a person to search for stone on any private land on behalf of the Department of Agriculture, Energy and Minerals.

Clause 14 specifies the matters to be contained in a search permit and the period for which it remains in force.

Clause 15 sets out the entitlements and responsibilities of the holder of a search permit.

Clause 16 enables the Minister to cancel, suspend, vary or transfer a permit.

Division 3—Work Plans and Authorities

Clause 17 deals with the lodgement and content of a work plan, and with requirements in relation to consultation and the approval or refusal of a plan.

Clause 18 enables a variation to be made to a work plan.

Clause 19 provides that the Minister must only grant a work authority if satisfied that the applicant has met specified requirements and that the proposed extractive industry work complies with any relevant planning scheme.

Clause 20 enables the Minister to impose conditions on a work authority.

Clause 21 specifies the period for which a work authority remains in force, and the land to which it relates.

Clause 22 enables a variation to be made to a work authority.

Clause 23 provides for the transfer of a work authority.

Clause 24 enables the Minister to cancel a work authority on specified grounds, after having given notice of intention to cancel and requested the holder to provide reasons why the authority should not be cancelled.

Division 4—Planning Requirements

Clause 25 gives the Minister administering the **Planning and Environment Act 1987** the power to prepare, adopt and approve amendments to any planning scheme, to set out policies relating to extractive industries, to enable the carrying out of an extractive industry on land with a planning permit and to specify the Minister administering this Act or any other person or body as a referral authority for planning purposes.

Division 5—Mineral Resources

Clause 26 provides for the notification of holders of licences under the **Mineral Resources Development Act 1990** whose licences are affected by extractive industry proposals, and for the giving of consents by the licence holders.

Clause 27 deals with the application of compensation provisions under the **Mineral Resources Development Act 1990** where a licence holder under that Act enters land covered by a work authority, and provides that the only entitlement to compensation is for deprivation of possession of the surface of the land and loss of opportunity to extract stone.

Division 6—Royalties

Clause 28 requires the holder of a work authority relating to an extractive industry on Crown land to pay royalties unless they are waived by the Minister.

Division 7—Compensation

Clause 29 provides that the Crown must compensate the owner or occupier of land in respect of which a search was authorised by the Minister on behalf of the Department and where particular damage is sustained by the owner or occupier by reason of any operation carried out under that authority.

Clause 30 sets out the matters in respect of which compensation is payable.

PART 3—REHABILITATION

Clause 31 requires the holder of a work authority to rehabilitate land in accordance with the approved rehabilitation plan, the conditions in the relevant work authority and the relevant planning requirements.

Clause 32 sets out the matters a rehabilitation plan must take account of, and the consultation which must be undertaken.

Clause 33 requires an applicant for a work authority to enter into a rehabilitation bond for an amount determined by the Minister, and provides for a further bond, where required, and single bonds covering several work authorities.

Clause 34 requires the holder of a work authority to rehabilitate the land in the course of doing work and, as far as practicable, to complete the rehabilitation before the work authority ceases.

Clause 35 requires the return of a bond to the holder of the work authority if the land has been satisfactorily rehabilitated.

Clause 36 enables the Minister to carry out additional rehabilitation in specified circumstances and to recover any costs which exceed the amount of the rehabilitation bond or bonds.

Clause 37 provides for the payment out of the Consolidated Fund of any money required by the Minister for rehabilitation purposes.

PART 4—QUARRY MANAGERS

Clause 38 provides for the appointment of quarry managers in respect of extractive industries and quarries.

Clause 39 sets out the requirements relating to applications for and the grant of quarry managers' certificates.

Clause 40 enables the appointment of a panel to inquire into the capability and suitability of the holder of a quarry manager's certificate, and to cancel, suspend or impose conditions on the certificate held by that person.

PART 5—ENFORCEMENT

Division 1—Inspectors

Clause 41 provides for the appointment of a Chief Inspector of Quarries and inspectors of quarries.

Clause 42 enables the Chief Inspector of Quarries to delegate powers to inspectors of quarries or to persons holding office in the public service.

Clause 43 sets out the powers of inspectors.

Clause 44 makes it an offence to obstruct an inspector, to contravene or fail to comply with a requirement of an inspector or to make a false or misleading statement to an inspector.

Division 2—Quarrying Infringements

Clause 45 provides for the issue of quarrying infringement notices in respect of prescribed offences against the Act or the regulations.

Clause 46 deals with the payment of penalties in respect of quarrying infringements, and with the effects of non-payment of a penalty and the withdrawal of an infringement notice.

Clause 47 sets out the procedures to be followed in providing evidence of prior convictions of quarrying infringements.

Division 3—Enforcement

Clause 48 provides that in specified circumstances the Minister may require particular remedial action to be taken by the holder of a work authority or by a quarry manager, or may prohibit work in the quarry for a specified time.

Clause 49 makes it an offence for a person to obtain or attempt to obtain a permit or authority by dishonest means.

Clause 50 contains provisions relating to offences committed by corporations, and the liability of officers of corporations.

PART 6—MISCELLANEOUS

Clause 51 deals with the liabilities of occupiers of premises where work is being done under a work authority.

Clause 52 requires the holder of a work authority and the holder of a search permit to furnish to the Minister prescribed information relating to work done under the authority and operations authorised by the permit.

Clause 53 provides that a person who has exercised a power or carried out a function under the Act or who has been employed in the administration of the Act must not divulge any information obtained from the holder of a work authority or the holder of a search permit except in specified circumstances.

Clause 54 enables the Minister and the Secretary to delegate their respective powers to specified officers.

Clause 55 sets out the ways in which documents provided for under the Act may be properly served.

Clause 56 sets out the regulation-making powers.

PART 7—REPEALS, AMENDMENTS, SAVINGS AND TRANSITIONALS

Clause 57 repeals the **Extractive Industries Act 1966** and a section of the **Planning and Environment Act 1987** which deals with planning permit applications for extractive industries under the **Extractive Industries Act 1966**.

Clause 58 provides that the Acts specified in Schedule 1 are amended as set out in the Schedule.

Clause 59 provides that Schedule 2 contains savings and transitional provisions.

Clause 60 provides for the repeal of section 17B of the **Extractive Industries Act 1966** which dealt with incidental mining authorities and makes consequential amendments to the **Mineral Resources Development Act 1990** to require a licence under that Act for incidental mining.

Schedule 1 sets out consequential amendments to provisions in a number of Acts.

Schedule 2 contains savings and transitional provisions.

