

Mineral Resources Development Bill

EXPLANATORY MEMORANDUM

PART 1—INTRODUCTION

Clause 1 sets out the purpose of this Act.

Clause 2 sets out the objectives of this Act.

Clause 3 provides for the commencement of the Act.

Clause 4 sets out definitions of some terms used in the Act.

Clause 5 binds the Crown to the provisions of the Act.

Clause 6 ensures that reference areas, national parks, wilderness parks or State parks are not available for mining or exploration.

Clause 7 enables the Minister to exempt certain categories of land from being available for exploration or mining or both.

Clause 8 makes it an offence for a person to search, explore or mine for minerals otherwise than in accordance with the provisions of this Act.

Clause 9 restates that all minerals in Victoria are owned by the Crown except for those minerals where exemption has been granted following the *Mines (Amendment) Act 1983*.

Clause 10 ensures that tailings are to be treated as part of the land and that the minerals in the tailings are owned by the Crown.

Clause 11 identifies the point at which the property in minerals passes from the Crown to the holder of a licence or miner's right under this Act.

Clause 12 ensures that the holder of a mining licence pays royalties at rates specified in the licence or, if the rates are not specified in the licence, according to the royalty rates prescribed.

PART 2—EXPLORATION LICENCES AND MINING LICENCES

Clause 13 makes provision for exploration licences.

Clause 14 makes provision for mining licences.

Clause 15 outlines the application process for mining and exploration licences.

Clause 16 outlines the special provisions which relate to mining licences covering an area of 5 ha or less which have been applied for on an exploration licence which has been in force for 2 years or more.

Clause 17 ensures that applications for licences are not transferable.

Clause 18 ensures that the Aboriginal community is notified of applications for licences.

Clause 19 specifies the circumstances in which an applicant may enter land for the purpose of marking out and surveying the boundaries of land.

Clause 20 enables the Chief Administrator to grant an authority to enter land where an applicant for a mining licence has not been able to obtain the consent of the owner or occupier for marking out the land.

Clause 21 makes it an offence for the holder of an authority to enter land, to fail to show a copy of the authority when requested.

Clause 22 enables the Chief Administrator to require a prescribed security to ensure against the risk of injury or damage to the property of the owner or occupier by entry on to the land.

Clause 23 ensures that the Minister determines applications in the order of receipt or, where applications are lodged on the same day, according to their relative merits.

Clause 24 enables any person to object to an application for a licence.

Clause 25 specifies the categories of land over which the Minister must not grant an application for a licence, including provisions for a restriction on the number of licences covering an area 5 ha or less granted over an exploration licence which has been in existence for more than 2 years.

Clause 26 gives the Minister discretion in the granting of a licence as far as area is concerned and the ability to impose conditions on a licence.

Clause 27 enables the Minister to call for tenders to undertake exploration or mining on land.

Clause 28 provides that an application for an exploration licence over land cannot be made within 3 months after the expiry of any previous exploration licence over that land.

Clause 29 outlines the process by which a licensee may apply for a renewal of a licence.

Clause 30 outlines the provisions for reducing the area of an exploration licence on the first and third renewals.

Clause 31 gives the Minister discretion to refuse to renew a licence.

Clause 32 outlines the term of renewal for mining and exploration licences.

Clause 33 specifies that the transfer of exploration licences after they have been in effect for one year, and of mining licences, requires the approval of the Minister. Exploration licences cannot be transferred during the first year.

Clause 34 enables the Minister to vary a licence or vary or suspend conditions of a licence.

Clause 35 enables the Minister to treat two or more adjoining licence areas as areas covered by a single licence for the purpose of determining whether the conditions of the licences relating to the employment or expenditure have been met.

Clause 36 enables the Minister at the request of the licensee to amalgamate two or more adjoining licence areas.

Clause 37 enables the licensee with the consent of the Minister to surrender a licence in whole or part.

Clause 38 enables the Minister to cancel a licence if the licensee does not comply with the Act, and for other reasons.

PART 3—MINING WORK

Clause 39 ensures that no mining work can be carried out other than by the Crown without an appropriate licence or authority.

Clause 40 requires a licensee who proposes to do mining work to lodge a work plan with the Chief Administrator.

Clause 41 provides for a licensee to amend the work plan.

Clause 42 provides for the Chief Administrator to issue an authority to commence work, providing certain criteria have been met.

Clause 43 outlines those categories of land for which the consent of the Minister for Conservation, Forests and Lands and other authorities are required.

Clause 44 provides for a protection zone of 100 metres laterally and to a depth of 120 metres around various categories of sites and improvements on land.

Clause 45 provides for the Minister, on the advice of the Mining and Environment Advisory Committee, to allow exploration to take place within certain limits of protected sites and improvements and where the owner or occupier consents to allow mining to take place within those same limits.

Clause 46 requires the licensee who is undertaking mining work to provide the chief mining inspector with detailed plans of the mine.

Clause 47 ensures that the licensee complies with the conditions, work plan, planning schemes or permits and codes of practice for the working of a mine.

PART 4—MINING AND ENVIRONMENT ADVISORY COMMITTEE

Clause 48 provides for the establishment of a Mining and Environment Advisory Committee.

Clause 49 sets out the functions of the Mining and Environment Advisory Committee and the method by which it can exercise its functions.

Clause 50 states that the membership of the Mining and Advisory Committee shall be six and lists the qualifications required for membership.

Clause 51 provides the terms and conditions of office of membership of the Mining and Environment Advisory Committee.

Clause 52 enables the Minister to appoint a member to be a chairperson or deputy chairperson of the Mining and Environment Advisory Committee and sets out the method of resignation for those office holders.

Clause 53 provides for the procedure of Mining and Environment Advisory Committee meetings.

Clause 54 validates the acts or decisions of the Mining and Environment Advisory Committee.

PART 5—OTHER AUTHORITIES

Division 1—Miners Rights

Clause 55 provides for a miner's right to be granted to a person to search for minerals on Crown land.

Clause 56 enables an application for a miner's right to be made to the Chief Administrator.

Clause 57 enables the Chief Administrator to grant or refuse an application for a miner's right.

Clause 58 sets out the obligations of the holder of a miner's right, limits the use of equipment and explosives by the holder in searching for minerals and provides for the repair of damage to land.

Division 2—Tourist Fossicking Authorities

Clause 59 provides for a tourist fossicking authority to enable the holder of an authority to search for minerals on Crown land.

Clause 60 enables an application to be made to the Chief Administrator for a tourist fossicking authority.

Clause 61 enables the Chief Administrator to grant or refuse a tourist fossicking authority.

Clause 62 sets out the obligations and duties of a tourist fossicking authority holder, limits the use of equipment and explosives in searching for minerals and provides for the repair of the damage to land.

Division 3—Tourist Mine Authority

Clause 63 provides that a tourist mine cannot be operated without a tourist mine authority.

Clause 64 provides for an application to be made to the Minister for a tourist mine authority subject to certain consents.

Clause 65 enables the Minister to grant or refuse an application for a tourist mine authority.

Clause 66 sets out the obligations of a tourist mine authority holder and enables the Minister to cancel the authority in certain circumstances.

Clause 67 provides that work in a tourist mine can only commence after the work has been approved and all consents have been obtained.

PART 6—MINING REGISTER

Clause 68 provides for the appointment of a mining registrar.

Clause 69 requires the mining registrar to establish a mining register, lists the documents that must be registered in the register, provides for other information to be recorded in the register and sets out other functions of the mining registrar.

Clause 70 sets out the effect of registration, provides that a document referred to in section 69 has no effect until it is registered and on registration a licence confers a proprietary interest in the land covered by the licence.

Clause 71 provides that the creation of interests or any purported dealing in licences has no effect until an instrument evidencing that creation or dealing is registered.

Clause 72 provides for the devolution of rights under a licence by law to take effect only after registration of an instrument evidencing that devolution.

Clause 73 enables the mining registrar to correct any error in the register and provides for an appeal to Administrative Appeals Tribunal against the decision to correct an error.

Clause 74 requires the mining registrar to allow access to and provide information from the register.

Clause 75 enables the mining registrar to specify survey standards.

Clause 76 provides for the admissibility of documents from the register in legal proceedings.

Clause 77 makes it an offence for a person knowingly to make a false or unauthorised entry in the register.

PART 7—REHABILITATION

Clause 78 requires the licensee to rehabilitate land in accordance with the rehabilitation plan which is approved by the Chief Administrator.

Clause 79 lists those items which must be included on a rehabilitation plan.

Clause 80 requires a licensee to enter into a rehabilitation bond to ensure that the conditions of the rehabilitation plan are complied with.

Clause 81 requires a licensee, as far as practicable, to complete rehabilitation work before a licence ceases to apply to the land.

Clause 82 requires the Minister to return the bond if the Minister and the chief administrator under the *Conservation, Forest and Lands Act 1987* are satisfied that the land has been satisfactorily rehabilitated.

Clause 83 enables the Minister to carry out rehabilitation works and to retain the bond for a period up to 6 years where there are doubts as to whether rehabilitation will be successful.

Clause 84 enables the payment of money from the Consolidated Fund to carry out the appropriate rehabilitation works.

PART 8—COMPENSATION

Clause 85 requires the miner to pay compensation to the owner and occupier of private land. The heads of compensation are listed in the clause.

Clause 86 provides for a period of up to 3 years for a claim for compensation.

Clause 87 enables the licensee and the owner or occupier to enter into a written agreement as to the amount of compensation payable.

Clause 88 outlines the provisions for settling disputes relating to the payment of compensation. These disputes are heard by the Land Valuation Board of Review under the *Valuation of Land Act 1986* or by the Supreme Court.

Clause 89 apportions the compensation between the owner and occupier of the land.

PART 9—INSPECTORS

Clause 90 enables the appointments of inspectors.

Clause 91 outlines the powers of inspectors to carry out inspections.

Clause 92 makes it an offence for any person to obstruct an inspector in the course of inspection duties.

Clause 93 gives the chief mining inspector power to serve a contravention notice where the chief mining inspector is of the opinion that the licensee has not complied with the conditions of the licence.

PART 10—MINE MANAGERS' CERTIFICATES

Clause 94 enables the Chief Administrator to issue a mine manager's certificate on the advice of the Mine Managers Board.

Clause 95 establishes a panel to review whether the mine manager's certificate should be cancelled or suspended, and for an application to be made to the Administrative Appeals Tribunal to review a decision of the panel.

PART 11—MINING WARDENS

Clause 96 provides that the Governor in Council may appoint people to be mining wardens.

Clause 97 provides that a party to a dispute may refer the dispute to a mining warden.

Clause 98 enables the Minister or the chief administrator to refer a matter to a mining warden for investigation, report and recommendations.

Clause 99 sets out the powers of a mining warden.

Clause 100 sets out the rules for the conduct of a hearing by a mining warden.

Clause 101 prohibits the use of evidence given to a mining warden in any proceedings before a court or tribunal except proceedings for an offence against this Act or for perjury.

Clause 102 validates acts or decisions of the mining warden.

Clause 103 provides that a mining warden must discontinue an investigation if the dispute or other matter is the subject of proceedings before a court or tribunal, or if the person or body that referred the dispute withdraws that reference.

Clause 104 empowers the mining warden to determine and apportion costs.

PART 12—ENFORCEMENT

Clause 105 sets out the action to be taken if an accident happens.

Clause 106 sets out the steps which may be taken against a person who has committed a mining infringement.

Clause 107 makes provision for the payment of penalties for mining infringements.

Clause 108 provides a mechanism for establishing proof of prior convictions of a person served with a summons for a mining infringement.

Clause 109 provides that proof of the occurrence of an accident is proof that the accident was due to negligence on the part of the licensee.

Clause 110 allows the Minister to issue an order to cease work in certain circumstances.

Clause 111 provides that if a corporation is guilty of an offence against the Act any officer of the corporation knowingly concerned in or party to the commission of the offence is also guilty of the offence and liable for the penalty for that offence.

PART 13—MISCELLANEOUS

Clause 112 allows the Minister to authorise on behalf of the Government, personnel to enter land for the purpose of making surveys or for carrying out boring operations for minerals. It sets out the conditions under which entry to land under that authority is permitted.

Clause 113 requires the discovery of uranium or thorium to be reported to the Minister. It prohibits the possession, use, sale or other disposal of uranium or thorium except in accordance with an authority granted by the Minister. It empowers the Minister to require any person who is unlawfully in possession of uranium or thorium to deliver the uranium or thorium to the Minister.

Clause 114 provides that any mining plant that is not removed from land within six months after the licence ceases to apply to that land becomes the property of the Crown and may be disposed of by the Minister.

Clause 115 removes from the occupier of any premises covered by a mining licence the occupier's duty to take care of any person entering on those premises for the purpose of exploration or mining under this Act. It provides that the licensee is held to be the occupier of that part of the premises on which mining work is being done under a licence.

Clause 116 requires a licensee to furnish information relating to mining work done under a licence. It provides that the Minister may make a document furnished by a licensee available for inspection by the public only after consultation with the licensee.

Clause 117 makes it an offence to obtain, or attempt to obtain, a licence, authority or renewal dishonestly.

Clause 118 requires certain departmental officers and other officers of the public service to comply with the requirements of regulations with respect to disclosure of interests.

Clause 119 makes it unlawful for a person who has exercised a power under the Act or been employed for the purposes of administration of the Act to divulge any information obtained in the course of those official duties from a licensee unless with the written consent of the licensee or the Minister or in connection with the administration of the Act or for the purpose of any legal proceedings under the Act. The consent of the Minister may only be given if the Minister is of the opinion that the licensee is unreasonably withholding consent.

Clause 120 provides for the delegation by the Minister to the Chief Administrator or an officer of a department any of the Minister's powers under the Act or regulations other than the power or delegation. It also enables the Chief Administrator to delegate to any officer of the department any of his or her powers under the Act or regulations other than the power of delegation or any power delegated to the Chief Administrator by the Minister.

Clause 121 removes any personal liability from the Chief Administrator or an officer of the department or a mining warden who exercises any power or discharges any duties under the Act or regulations in good faith. It attaches that liability instead to the Crown.

Clause 122 makes provision for the service of documents under this Act.

Clause 123 sets out the method by which the period in which an applicant must provide any additional information about an application for a licence to the Minister is to be calculated.

Clause 124 empowers the Governor in Council to make regulations under this Act.

Clause 125 provides for the adoption of codes of practice.

PART 14—REPEALS, AMENDMENTS, SAVINGS AND TRANSITIONALS

Clause 126 sets out the program of repeal of, and amendments to, sections of the *Mines Act 1958*.

Clause 127 provides for the validation of titles issued under the *Mines Act 1958* and protects the rights of parties to proceedings commenced before a specified date.

Clause 128 amends the *Dangerous Goods Act 1985* and the *Lifts and Cranes Act 1967* to omit references to mining legislation.

Clause 129 provides for a schedule of consequential amendments to other Acts.

Clause 130 provides for a schedule of saving and transitional provisions.

SCHEDULES

Schedule 1 sets out the consequential amendments to other Acts.

Schedule 2 sets out the saving and transitional provisions.