

MINERAL RESOURCES ACT AMENDMENT ACT

No. 30 of 1990

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Queensland



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No. 30 of 1990

**An Act to amend the Mineral Resources Act 1989 in certain
particulars**

[ASSENTED TO 15TH JUNE, 1990]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title and citation. (1) This Act may be cited as the *Mineral Resources Act Amendment Act 1990*.

(2) In this Act the *Mineral Resources Act 1989* is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be referred to as the *Mineral Resources Act 1989-1990*.

2. Amendment of s. 1.3. Objectives of Act. Section 1.3 of the Principal Act is amended by omitting the expression “.” occurring at the end of subparagraph (f) and substituting the following expression and words:—

(g) encourage responsible land care management in prospecting, exploring and mining.”.

3. Amendment of s. 1.8. Interpretation. Section 1.8 of the Principal Act is amended by—

(a) in the definition “owner”—

(i) designating subparagraph (f) as subparagraph (g);

(ii) inserting after subparagraph (e) the following subparagraph:—

“(f) where a person has a lease from the Crown of the land pursuant to the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985* which land, for the purpose of the grant of such a lease, has been excised from land the subject of a deed of grant in trust granted for the benefit of Aboriginal or Islander inhabitants under the *Land Act 1962-1989*, for so long as the deed of grant in trust continues in force in respect of any land, the trustees under the deed;”;

(b) in the definition “reserve”—

(i) omitting the word “or” occurring after subparagraph (a);

(ii) inserting after subparagraph (b) the following word and subparagraph:—

“or

(c) land which is the subject of a lease granted pursuant to section 6 of the *Local Government (Aboriginal Lands) Act 1978-1981*.”.

4. Amendment of s. 3.12. Compensation. Section 3.12 of the Principal Act is amended by—

(a) omitting from the first paragraph the words “the cost of rectification of actual damage caused to land” and substituting the words “compensation in respect of damage or injury suffered or loss incurred”;

(b) inserting in the second paragraph after the word “damage” the words “or injury or loss”.

5. Repeal of and new s. 3.16. Holder of prospecting permit to give prior notice of entry. The Principal Act is amended by repealing section 3.16 and substituting the following section:—

“**3.16. Prior notice of entry to be served.** At least 7 days (or such shorter period as is acceptable to the owner of the land and endorsed on the prospecting permit) before initial entry is made on occupied land (other than a reserve for public road) under the authority of a prospecting permit, the holder of the prospecting permit shall notify the owner of intention to enter.”.

6. Amendment of s. 4.10. Manner of marking out land proposed to be subject of mining claim. Section 4.10 of the Principal Act is amended by omitting from subsection (1) the word “appliation” and substituting the word “application”.

7. Amendment of s. 4.17. Certificate of application etc. Section 4.17 of the Principal Act is amended by omitting from subsection (3) the words “a period of”.

8. Amendment of s. 4.26. Wardens Court’s determination on hearing. Section 4.26 of the Principal Act is amended by omitting subsection (4) and substituting the following subsections:—

“(4) A Wardens Court on the application of an objector or owner may award costs against an applicant for a mining claim who abandons the application or does not pursue the application at a hearing.

(5) The Wardens Court on the application of an applicant for a mining claim may award costs against an objector who withdraws the objection or does not pursue the objection at a hearing.”.

9. Amendment of s. 4.45. Lodgment of caveat. Section 4.45 of the Principal Act is amended in subsection (1) (a) by—

(a) omitting the word “recording” where it twice occurs and substituting the word “approval” in each case;

(b) omitting the word “record” and substituting the word “approve”.

10. Amendment of s. 4.47. Effect of caveat. Section 4.47 of the Principal Act is amended in subsection (1) by—

(a) omitting the word “record” and substituting the word “approve”;

(b) omitting from subparagraph (b) the word “recording” and substituting the word “approval”.

11. New s. 4.66. The Principal Act is amended by inserting after section 4.65 the following section:—

“4.66. Variation of access to mining claim land. (1) The holder of a mining claim may apply to the mining registrar in or to the effect of the prescribed form for a variation of the land used or proposed to be used as access in relation to the land the subject of the mining claim.

(2) An application for a variation of the land used or proposed to be used as access under this section shall be accompanied by—

(a) such particulars as are, by sections 4.14 and 4.15, required to accompany an application for the grant of a mining claim in so far as those particulars relate to the land used or proposed to be used as access in relation to the land the subject of the mining claim;

and

(b) the prescribed application fee.

(3) (a) Where, in respect of an application for a variation of the land used or proposed to be used as access under this section, the mining registrar is not satisfied that the owner of the land proposed to be used as access consents thereto, the mining registrar shall fix a date for the consideration of the matter by the Wardens Court.

The mining registrar shall notify the owner of the land and the applicant of the date so fixed.

(b) The Wardens Court shall hear and determine the matter by determining—

(i) that consent to the proposed variation should or should not be given;

and

(ii) if consent should be given, the amount, if any, of compensation payable by the holder in respect of the proposed use of that land as access.

(c) Subject to paragraph (d), the provisions of section 4.33 (5) to (9), both inclusive, apply in respect of a matter referred to the Wardens Court under this section as if the matter were an application referred to the Wardens Court under section 4.33 (3).

(d) In determining compensation payable under this subsection, allowance shall be made for compensation agreed or determined to be payable in respect of the current land used as access in respect of the mining claim.

(e) The determination of the Wardens Court of a matter under this section shall be final and conclusive.

(4) In respect of an application made under this section, upon—

(a) where the proposed access is over land of which there is an owner—

(i) lodgment with the mining registrar of the consent in writing of the owner or owners of that land;

or

(ii) where the Wardens Court determines that consent should be granted, whether with or without compensation, compliance with any terms and conditions imposed by the Wardens Court to be complied with before consent is given;

and

(b) where the proposed access is over land of which there is no owner, the mining registrar determining that the variation is, in the circumstances, appropriate;

the mining registrar shall record the variation of that access in the register and advise the holder and the owner accordingly.

(5) An agreement made between a holder and an owner of land regarding compensation payable in respect of the proposed use of the land as access in respect of a mining claim as a result of a variation under this section shall not be effective unless and until—

(a) it is in writing signed by or on behalf of the parties; and

(b) it is filed in the office of the mining registrar.

If an agreement referred to in this subsection is required by any law of Queensland to be stamped, it shall not be filed until it is stamped according to law.

(6) The mining registrar shall notify the Director-General of full particulars of applications, actions and determinations made under this section.”.

12. Amendment of s. 5.4. Entitlements under exploration permit.

Section 5.4 of the Principal Act is amended in subsection (1) by adding at the end thereof the following paragraph:—

“Notwithstanding paragraph (a) the holder of an exploration permit is not required to obtain consent in respect of the entry or being upon land that is a reserve for public road where the entry of or being upon that land is solely as access in respect of land the subject of the exploration permit.”.

13. Amendment of s. 5.15. Conditions of exploration permit. Section 5.15 of the Principal Act is amended by inserting after subsection (4) the following subsection:—

“(5) Conditions may be imposed in respect of an exploration permit that require compliance with specified codes of conduct.”.

14. Amendment of s. 5.17. Compensation. Section 5.17 of the Principal Act is amended by—

(a) omitting from the first paragraph the words “the cost of rectification of actual damage caused to land” and substituting the words “compensation in respect of damage or injury suffered or loss incurred”;

(b) inserting in the second paragraph after the word “damage” the words “or injury or loss”.

15. Amendment of s. 5.24. Lodgment of caveat. Section 5.24 of the Principal Act is amended in subsection (1) (a) by—

(a) omitting the word “recording” where it twice occurs and substituting the word “approval” in each case;

(b) omitting the word “record” and substituting the word “approve”.

16. Amendment of s. 5.26. Effect of caveat. Section 5.26 of the Principal Act is amended in subsection (1) by—

(a) omitting the words “Director-General shall not record” and substituting the words “Minister shall not approve”;

(b) omitting from subparagraph (b) the word “recording” and substituting the word “approval”.

17. Amendment of s. 5.35. Prior notice of entry to be served. Section 5.35 of the Principal Act is amended by inserting in subsection (1) after the word “before” the word “initial”.

18. Repeal of and new s. 5.39. Report to mining registrar by owner of land. The Principal Act is amended by repealing section 5.39 and substituting the following section:—

“5.39. Reference by owner or holder to mining registrar. (1)

Any owner of land who has concerns—

(a) that any person who has entered or is upon that land apparently under the authority of an exploration permit—

(i) is not authorized to enter or be upon that land;

or

(ii) is not complying with any condition of the exploration permit or of any provision of this Act;

or

(b) regarding activities being or proposed to be carried out in respect of that land under the authority of an exploration permit or the times when such activities are being or proposed to be carried out;

or

(c) regarding the conduct of persons apparently acting under the authority of an exploration permit in respect of that land;

may notify those concerns to the mining registrar of the mining district in which is situated the land.

(2) The holder of an exploration permit who has concerns regarding any matter relevant to the exploration permit between the holder and an owner of land may notify those concerns to the mining registrar of the mining district in which is situated the land.

(3) (a) The mining registrar shall cause the substance of any concern notified to him pursuant to subsection (1) or (2) to be investigated.

(b) The mining registrar may convene and chair a conference with the owner and the holder at a date, time and place fixed by the mining registrar.

(c) The owner of the land and the holder of the exploration permit shall attend the conference convened pursuant to paragraph (b) of which they have received notice.

(d) The conference may be adjourned by the mining registrar from time to time.

(4) Any submission made or evidence adduced by a party at a conference convened under this section shall be confidential between the mining registrar and each of the parties and shall not be published or admitted as evidence in any hearing or proceeding without that party's consent.

(5) With the approval of the mining registrar a party may be assisted at a conference by another person.

(6) For the purposes of this section, the mining registrar who convenes a conference is not a party to the conference.

(7) Upon application by a party to a conference under section 10.28, the Wardens Court may award such costs as it considers appropriate to that party against a party who fails to appear at the conference.

(8) If the mining registrar considers action should be taken by the holder of the exploration permit to alleviate concerns expressed under subsection (1) or (2) the mining registrar may recommend accordingly to the Minister.

(9) The Minister may give such directions as the Minister considers appropriate to the holder of an exploration permit in respect of activities carried or to be carried out upon the land of the owner under the authority of the exploration permit.

A failure by the holder of an exploration permit to comply with a direction by the Minister under this subsection is a breach of a condition of the exploration permit.

(10) The mining registrar shall notify the parties—

(a) where the mining registrar makes a recommendation under subsection (8) to the Minister, of the substance of the recommendation;

(b) where the mining registrar determines not to make such a recommendation, of that fact;

and

(c) of any other action taken in respect of the matter.”.

19. Amendment of s. 6.3. Obligations and entitlements under mineral development licence. Section 6.3 of the Principal Act is amended in subsection (3) by adding at the end thereof the following paragraph:—

“Notwithstanding paragraph (b) the holder of a mineral development licence is not required to obtain consent in respect of the entry or being upon land that is a reserve for public road where the entry of or being upon that land is solely as access in respect of land the subject of the exploration permit.”.

20. Amendment of s. 6.12. Compensation. Section 6.12 of the Principal Act is amended by—

(a) omitting from the first paragraph the words “the cost of rectification of actual damage caused to land” and substituting the words “compensation in respect of damage or injury suffered or loss incurred”;

(b) inserting in the second paragraph after the word “damage” the words “or injury or loss”.

21. Amendment of s. 6.15. Conditions of mineral development licence. Section 6.15 of the Principal Act is amended by inserting after subsection (4) the following subsection:—

“(5) Conditions may be imposed in respect of a mineral development licence that require compliance with specified codes of conduct or industry agreements.”.

22. Amendment of s. 6.18. Lodgment of caveat. Section 6.18 of the Principal Act is amended in subsection (1) (a) by—

(a) omitting the word “recording” where it twice occurs and substituting the word “approval” in each case;

(b) omitting the word “record” and substituting the word “approve”.

23. Amendment of s. 6.20. Effect of caveat. Section 6.20 of the Principal Act is amended in subsection (1) by—

(a) omitting the word “recorded” and substituting the word “approved”;

(b) omitting from subparagraph (b) the word “recording” and substituting the word “approval”.

24. Amendment of s. 6.29. Prior notice of entry to be served. Section 6.29 of the Principal Act is amended by inserting in subsection (1) after the word “before” the word “initial”.

25. Repeal of and new s. 6.33. Report to mining registrar by owner of land. The Principal Act is amended by repealing section 6.33 and substituting the following section:—

“6.33. Reference by owner or holder to mining registrar. (1)
An owner of land who has concerns—

(a) that any person who has entered or is upon that land apparently under the authority of a mineral development licence—

(i) is not authorized to enter or be upon that land;
or

(ii) is not complying with any condition of the mineral development licence or of any provision of this Act;

or

(b) regarding activities being or proposed to be carried out in respect of that land under the authority of a mineral development licence or the times when such activities are being or proposed to be carried out;

or

(c) regarding the conduct of persons apparently acting under the authority of a mineral development licence in respect of that land;

may notify those concerns to the mining registrar of the mining district in which is situated the land.

(2) The holder of a mineral development licence who has concerns regarding any matter relevant to the mineral development licence between the holder and an owner of land may notify those concerns to the mining registrar of the mining district in which is situated the land.

(3) (a) The mining registrar shall cause the substance of any concern notified to him pursuant to subsection (1) or (2) to be investigated.

(b) The mining registrar may convene and chair a conference with the owner and the holder at a date, time and place fixed by the mining registrar.

(c) The owner of the land and the holder of the mineral development licence shall attend the conference convened pursuant to paragraph (b) of which they have received notice.

(d) The conference may be adjourned by the mining registrar from time to time.

(4) Any submission made or evidence adduced by a party at a conference convened under this section shall be confidential between the mining registrar and each of the parties and shall not be published or admitted as evidence in any hearing or proceeding without that party's consent.

(5) With the approval of the mining registrar a party may be assisted at a conference by another person.

(6) For the purposes of this section, the mining registrar who convenes a conference is not a party to the conference.

(7) Upon application by a party to a conference under section 10.28, the Wardens Court may award such costs as it considers appropriate to that party against a party who fails to appear at the conference.

(8) If the mining registrar considers action should be taken by the holder of the mineral development licence to alleviate concerns expressed under subsection (1) or (2) the mining registrar may recommend accordingly to the Minister.

(9) The Minister may give such directions as the Minister considers appropriate to the holder of a mineral development licence in respect of activities carried or to be carried out upon the land of the owner under the authority of the mineral development licence.

A failure by the holder of a mineral development licence to comply with a direction of the Minister under this subsection is a breach of a condition of the mineral development licence.

(10) The mining registrar shall notify the parties—

- (a) where the mining registrar makes a recommendation under subsection (8) to the Minister, of the substance of the recommendation;
- (b) where the mining registrar determines not to make such a recommendation, of that fact;
and
- (c) of any other action taken in respect of the matter.”.

26. New s. 6.39. The Principal Act is amended by inserting after section 6.38 the following section:—

“6.39. Variation of access to mineral development licence land. (1) The holder of a mineral development licence may apply to the mining registrar in or to the effect of the prescribed form for a variation of the land used or proposed to be used as access in relation to the land the subject of the mineral development licence.

(2) An application for a variation of the land used or to be used as access under this section shall be accompanied by—

- (a) such particulars as are, by sections 6.4 and 6.5, required to accompany an application for the grant of a mineral development licence in so far as those particulars relate to the land used or proposed to be used as access in relation to the land the subject of the mineral development licence;
and
- (b) the prescribed application fee.

(3) (a) The Minister may grant or reject an application under this section.

(b) Upon the grant of an application under this section the variation shall thereupon become effective.

(4) If an application under this section is rejected, the Minister shall cause the applicant to be advised of the reasons for the rejection.

(5) Within 21 days (or such longer period as the Minister shall in the particular case allow) of the Minister granting an application under this section, the holder of the mineral development licence shall give notice in the prescribed form to the owner of land directly affected by the variation.”.

27. Amendment of s. 7.8. Marking out land before application for grant of mining lease. Section 7.8 of the Principal Act is amended by omitting from subsection (1) the words “which shall include a datum post”.

28. Amendment of s. 7.20. Objection to application for grant of mining lease. Section 7.20 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:—

“(1) An eligible person, Local Authority or owner of land may on or before—

(a) the last date fixed for the receipt of objections pursuant to section 7.18;

or

(b) if the Minister, pursuant to section 7.21, directs a study to be undertaken, the last date fixed for the receipt of objections pursuant to that section;

whichever is the later, lodge with the mining registrar an objection in writing in the prescribed form.”.

29. Repeal of and new s. 7.21. Minister may direct study. The Principal Act is amended by repealing section 7.21 and substituting the following section:—

“**7.21. Study into environmental impact.** (1) At any time following the issue of a certificate of application and before the grant of a mining lease, the Minister may require the applicant to undertake or cause to be undertaken a study into the environmental impact of the grant of such a mining lease specifying the number of copies of the study to be delivered to him.

(2) Where the Minister makes a requirement pursuant to subsection (1), the following provisions of this section shall take effect.

(3) The Wardens Court shall not hear or continue to hear or make any recommendations in respect of the application until after the last date for the receipt of objections fixed in relation to the application pursuant to subsection (8).

(4) The mining registrar shall forthwith post at his office and shall therein keep posted until a notice is posted by him

pursuant to subsection (8) in respect of the application, a notice in the prescribed form that the Minister has required a study into the environmental impact of the grant of the proposed mining lease to be undertaken and that the time for the lodgment of objections to the application has been extended to a date to be fixed.

(5) The mining registrar shall forward to the applicant, the owner of the land, the Local Authority and each objector (if any) a copy of the notice posted pursuant to subsection (4).

(6) Within such time as the mining registrar allows, the applicant shall—

(a) cause a true copy of the notice posted by the mining registrar pursuant to subsection (4) to be posted on the datum post of the land the subject of the application and shall keep a copy thereon posted until a copy of the notice fixing the last date for the receipt of objections is posted pursuant to subsection (9);

(b) cause a true copy of the notice to be advertised in the prescribed manner in a newspaper approved by the mining registrar and circulating in the relevant mining district;

and

(c) lodge with the mining registrar a declaration made under the provisions of the *Oaths Act 1867-1988* as to compliance with subparagraphs (a) and (b).

(7) After the Minister receives the copies of the study the Director-General shall forward a copy of the study to the mining registrar.

(8) Upon receipt of a copy of the study the mining registrar shall—

(a) fix a date on or before which objections to the application may be lodged such date being not less than 2 months from the date of the posting of the notice pursuant to subparagraph (b);

(b) post at his office and shall thereon keep posted until the last date for the receipt of objections fixed pursuant to subparagraph (a), a notice in the prescribed form that—

(i) sets forth the last date fixed for the receipt of objections;

(ii) the study has been received and may be inspected at the office of the mining registrar during the ordinary hours of business of the mining registrar;

(iii) an eligible person, Local Authority or owner of land may, on or before the date fixed pursuant to subparagraph (a), lodge with the mining registrar,

an objection to the application for the grant of a mining lease in writing in the prescribed form;

and

- (c) forward to the applicant, the owner of the land, the Local Authority and each objector (if any) a copy of the notice posted pursuant to subparagraph (b).

(9) Forthwith upon receipt of a copy of the notice posted pursuant to subsection (8) (b), the applicant shall—

- (a) cause a true copy of the notice to be posted on the datum post of the land the subject of the application and shall keep a copy thereon posted until the last date fixed for the receipt of objections;

- (b) cause a true copy of the notice to be advertised in the prescribed manner in a newspaper circulating in the relevant mining district;

and

- (c) lodge with the mining registrar a declaration made under the provisions of the *Oaths Act 1867-1988* as to compliance with paragraphs (a) and (b).

(10) If, pursuant to subsection (1), before the Minister requires a study to be undertaken, a hearing date in respect of the application had been fixed by the mining registrar or the Wardens Court had commenced a hearing of the application, the hearing date and the hearing shall, by reason of the requirement, be adjourned to the date to be determined in accordance with section 7.22 after the last date for the receipt of objections fixed pursuant to subsection (8).”

30. Amendment of s. 7.25. Hearing of application for grant of mining lease. Section 7.25 of the Principal Act is amended by inserting after subsection (7) the following subsections:—

“(8) A Wardens Court on the application of an objector or owner may award costs against an applicant for a mining lease who abandons the application or does not pursue the application at a hearing.

(9) A Wardens Court on the application of an applicant for a mining lease may award costs against an objector who withdraws the objection or does not pursue the objection at a hearing.”

31. Amendment of s. 7.26. Warden’s recommendation on hearing. Section 7.26 of the Principal Act is amended in subsection (3) by

omitting the expression “.” occurring at the end of subparagraph (k) and substituting the following expression and words:—

“,

- (l) taking into consideration the current and prospective uses of that land, the proposed mining operation is an appropriate land use.”.

32. Amendment of s. 7.33. Conditions of mining lease. Section 7.33 of the Principal Act is amended by inserting after subsection (4) the following subsection:—

“(5) Conditions may be imposed in respect of a mining lease that require compliance with specified codes of conduct or industry agreements.”.

33. Amendment of s. 7.56. Lodgment of caveat. Section 7.56 of the Principal Act is amended in subsection (1) (a) by—

(a) omitting the word “recording” where it twice occurs and substituting the word “approval” in each case;

(b) omitting the word “record” and substituting the word “approve”.

34. Amendment of s. 7.58. Effect of caveat. Section 7.58 of the Principal Act is amended in subsection (1) by—

(a) omitting the words “a mining registrar shall not record” and substituting the words “the Minister shall not approve”;

(b) omitting from subparagraph (d) the word “recording” and substituting the word “approval”.

35. Amendment of s. 7.64. Surrender of mining lease. Section 7.64 of the Principal Act is amended by omitting from subsection (7) the words “a holder” and substituting the words “the holder”.

36. Amendment of s. 7.69. Mining lease for carriage through land. Section 7.69 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:—

“(1) (a) Notwithstanding the provisions of section 7.1, a mining lease may be granted to a person who is the holder of a current mining lease authorizing the carrying of any thing or substance through, over or under land not comprised in the current mining lease by means of a pipeline, aerial ropeway, conveyor apparatus, transmission line or similar means for purposes associated with or arising from the activities authorized to be carried on under the current mining lease.

(b) Notwithstanding the provisions of sections 7.1 and 7.3, in a particular case, a mining lease may be granted to an eligible person authorizing the carrying of any thing or substance through, over or under land by means of a pipeline, aerial ropeway, conveyor apparatus, transmission line or similar means for purposes which, prior to the lodgment of the application for the

mining lease, the Governor in Council by Order in Council declares to be activities associated with or arising from mining.”.

37. **New s. 7.70.** The Principal Act is amended by inserting after section 7.69 the following section:—

“7.70. Variation of access to mining lease land. (1) The holder of a mining lease may apply to the mining registrar in or to the effect of the prescribed form for a variation of the land used or proposed to be used as access in relation to the land the subject of the mining lease.

(2) An application for a variation of the land used or to be used as access under this section shall be accompanied by—

(a) such particulars as are, by sections 7.13 and 7.14, required to accompany an application for the grant of a mining lease in so far as those particulars relate to the land used or proposed to be used as access in relation to surface area of the land the subject of the mining lease;

and

(b) the prescribed application fee.

(3) (a) Where, in respect of an application for a variation of the land used or proposed to be used as access under this section, the mining registrar is not satisfied that the owner of the land proposed to be used as access consents thereto, the mining registrar shall fix a date for the consideration of the matter by the Wardens Court.

The mining registrar shall notify the owner of the land and the applicant of the date so fixed.

(b) The Wardens Court shall hear and determine the matter by determining—

(i) that consent to the proposed variation should or should not be given;

and

(ii) if consent should be given, the amount, if any, of compensation payable by the holder in respect of the proposed use of that land as access.

(c) Subject to paragraph (d), the provisions of section 7.38 (3) to (7), both inclusive, apply in respect of a matter referred to the Wardens Court under this section as if the matter were an application referred to the Wardens Court under section 7.38 (1).

(d) In determining compensation payable under this subsection, allowance shall be made for compensation agreed or determined to be payable in respect of the current land used as access in respect of the mining lease.

(e) The determination of the Wardens Court of a matter under this section shall be final and conclusive.

(4) In respect of an application made under this section, upon—

(a) where the proposed access is over land of which there is an owner—

(i) lodgment with the mining registrar of the consent in writing of the owner or owners of that land;

or

(ii) where the Wardens Court determines that consent should be granted, whether with or without compensation, compliance with any terms and conditions imposed by the Wardens Court to be complied with before consent is given;

and

(b) where the proposed access is over land of which there is no owner, the mining registrar determining that the variation is, in the circumstances, appropriate;

the mining registrar shall record the variation of that access in the register and advise the holder and the owner accordingly.

(5) An agreement made between a holder and an owner of land regarding compensation payable in respect of the proposed use of the land as access in respect of a mining lease as a result of a variation under this section shall not be effective unless and until—

(a) it is in writing signed by or on behalf of the parties; and

(b) it is filed in the office of the mining registrar.

If an agreement referred to in this subsection is required by any law of Queensland to be stamped, it shall not be filed until it is stamped according to law.

(6) The mining registrar shall notify the Director-General of full particulars of applications, actions and determinations made under this section.”.

38. Amendment of s. 10.20. Substantive jurisdiction. Section 10.20 of the Principal Act is amended by—

(a) omitting from subsection (1) the word “all”;

(b) omitting from subsection (2) (h) the words “to land or improvements to land” and substituting the words “, injury or loss”.

39. Amendment of s. 10.28. Wardens Court proceedings. Section 10.28 of the Principal Act is amended in subsection (1) by—

(a) omitting the word “and” occurring after subparagraph (b);

(b) omitting the expression “.” occurring at the end of subparagraph (c) and substituting the following expression and words:—

“;

and

- (d) applications for variation of land used or to be used as access in respect of mining claims or of mining leases.”.

40. Amendment of s. 10.40. Appeals from Wardens Court. Section 10.40 of the Principal Act is amended in subsection (6) by—

- (a) omitting the word “or” occurring after subparagraph (b);
- (b) omitting the expression “.” occurring at the end of subparagraph (c) and substituting the following expression and words:—

“;

or

- (d) the determination is made in respect of an application to vary the land used or to be used as access in respect of a mining claim or a mining lease.”.

41. Amendment of s. 11.5. Restriction, etc. on grants. Section 11.5 of the Principal Act is amended in subsection (1) by omitting the expression “.” occurring at the end of subparagraph (f) and substituting the following expression and words:—

“;

- (g) determine that any application for the grant of a prospecting permit, mining claim, exploration permit, mineral development licence or mining lease shall be referred to a Department of the Government of the State or of the Commonwealth, Local Authority or other statutory body, specified in the Order in Council, seeking its views upon the application.”.

42. Repeal of and new s. 11.12. Liability of owner restricted. The Principal Act is amended by repealing section 11.12 and substituting the following section:—

“**11.12. Liability of owner restricted.** Notwithstanding any Act or law, an owner of land is not civilly liable for injury suffered by any person to the extent that the injury was caused by prospecting, exploring or mining carried on by any person, other than by or on behalf of the owner, on that land where the owner has not contributed to that injury.”.

43. Amendment of s. 11.30. Rights independent of this Act preserved. Section 11.30 of the Principal Act is amended by omitting the words “this Act” where they first occur and substituting the words “sections 4.33, 4.34, 4.66, 7.38, 7.39 and 7.70”.

44. Amendment of s. 11.31. Regulations. Section 11.31 of the Principal Act is amended by inserting in subsection (7) (a) after the word “codes” the words “, agreements”.

45. Amendment of First Schedule. The Principal Act is amended in the First Schedule by inserting at the end thereof in the appropriate columns the following words:—

“*Coal-mining Leases Declaratory Act*
 1972 No. 4 of 1972 The whole
Special Gem Claims (Evidence of
Payment of Rates) Act 1973 No. 70 of 1973 The whole
Mining Leases Validation Act 1981 . . No. 20 of 1981 The whole”.

46. Amendment of Second Schedule. Savings, Transitional and Validation. The Principal Act is amended in the Second Schedule by—

(a) omitting clause 1 (Prescribed period) and substituting the following clause:—

“**1. Interpretation.** In this Schedule unless the contrary intention appears—

“commencement of this Act” means the commencement of the relevant provisions of this Act;

“prescribed period” means the period of three months from the commencement of this Act or where, in a particular case, the Minister has before the expiration of those three months approved a longer period, that period.”;

(b) omitting from clause 2 (18) the word “a” where it first occurs in each of paragraph (a) and paragraph (b) and substituting the word “the” in each case;

(c) in clause 3 (Mining leases) inserting at the end thereof the following subclauses:—

“(12) (a) Notwithstanding the provisions of section 6.1, the holder of a mining lease current at the commencement of this Act may in the manner prescribed by this Act, within the prescribed period—

(i) surrender the mining lease or part of the land comprised therein;

and

(ii) make application for a mineral development licence in respect of the whole or part of that land.

(b) Notwithstanding the provisions of section 6.1 upon application made pursuant to paragraph (a) a mineral development licence may be granted to the applicant.

(c) A purported surrender of a mining lease made pursuant to paragraph (a) takes effect immediately prior to the grant of the appropriate mineral development licence.

(13) (a) Where, at the commencement of this Act, an application duly made prior to the commencement of this Act for the grant of a mining lease has not been rejected or the

mining lease has not been granted, the applicant may make application in writing to the Director-General for the firstmentioned application to be taken to be an application for the grant of a mineral development licence in respect of the land specified in the original application.

The application shall be accompanied by the prescribed application fee.

The applicant shall furnish forthwith any additional information required to comply with this Act or as required by the Director-General.

(b) Upon receipt by the Director-General of an application made under paragraph (a), the Minister, if he is satisfied that the application should be treated as an application for a mineral development licence, may approve accordingly whereupon—

- (i) the original application shall cease to be an application for the grant of a mining lease and shall be taken to be an application for the grant of a mineral development licence;
- (ii) the provisions of this Act in respect of applications for mineral development licences shall apply;
- (iii) the Wardens Court shall not hear or continue to hear or make any recommendations in respect of the application;
and
- (iv) the mining registrar shall forward the application for the mining lease and all relevant documents to the Director-General.

(c) For the purposes of a Wardens Court awarding costs in respect of matters occurring prior to the commencement of this Act upon an application for the grant of a mining lease that pursuant to this subclause is taken to be an application for the grant of a mineral development licence the application remains an application for the grant of a mining lease.”;

(d) inserting in clause 12 (Substances lawfully mined but not under authority of Repealed Acts) after subclause (2) the following subclause:—

“(3) An application duly made pursuant to subclause (2) by the person entitled to carry on the existing operations takes priority over any other application made under this Act.”;

(e) in clause 17 (Entitlements other than previously provided for)—

(i) omitting from subclause (1) all words from and including the words “anything under” to and including the words “that is to be granted under” and substituting the words “which, after the commencement of this Act, any activity carried on in respect of that entitlement must be carried on under the authority of”;

(ii) inserting after subclause (2) the following subclause:—

“(3) An application duly made pursuant to subclause (1) takes priority over any other relevant application made under this Act.”.