



Queensland

# **Mineral Resources and Other Legislation Amendment Act 2006**

**Act No. 31 of 2006**





Queensland

# Mineral Resources and Other Legislation Amendment Act 2006

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Queensland

# Mineral Resources and Other Legislation Amendment Act 2006

## Act No. 31 of 2006

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an Act to amend the *Mineral Resources Act 1989*, and for other purposes

[Assented to 1 June 2006]

**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Mineral Resources and Other Legislation Amendment Act 2006*.

### **2 Commencement**

Part 5, other than sections 11 and 12, commences on a day to be fixed by proclamation.

## **Part 2 Amendment of Mineral Resources Act 1989**

### **3 Act amended in pt 2**

This part amends the *Mineral Resources Act 1989*.

### **4 Insertion of new pt 6A**

After section 231—

*insert—*

### **‘Part 6A Mineral development licence for Aurukun project**

#### **‘231A Application of pts 6 and 6A**

‘(1) This part applies only for the granting of, and in relation to, a mineral development licence for the Aurukun project.



- ‘(2) Part 6, except to the extent mentioned in subsection (3), also applies for the granting of, and in relation to, a mineral development licence for the Aurukun project.
- ‘(3) Sections 179, 180, 181(2), 182, 183, 185, 186, 188, 189, 192, 194, 194A, 197A, 197B, 208, 210, 214(1)(a), 217, 218, 219, 220, 221, 222, 223, 225 and 226AA do not apply for the granting of, and in relation to, a mineral development licence for the Aurukun project.
- ‘(4) Also, a reference in a provision of part 6 to a provision that has been disapplied under subsection (3) is to be disregarded.

**‘231B Only eligible person can apply for and hold mineral development licence (180)**

- ‘(1) A mineral development licence under this part can only be applied for and held by the eligible person.
- ‘(2) The application and grant of a licence may be made even if the land for the Aurukun project is part of a restricted area.

*Note—*

The numbers bracketed in the headings to this and other sections of this part are references to corresponding sections in part 6.

**‘231C Application for mineral development licence (183)**

- ‘(1) The application for the grant of a mineral development licence must—
  - (a) be in the approved form; and
  - (b) identify, in the way prescribed under a regulation, the boundaries of the land applied for; and
  - (c) describe and identify, in the way prescribed under a regulation, any land proposed to be used as access from a point outside the boundary of the licence acceptable to the mining registrar to any part on the surface of the land sought to be included in the licence; and
  - (d) be lodged with the mining registrar; and
  - (e) be accompanied by—

- (i) a statement, acceptable to the Minister, stating the activities, if any, proposed to be conducted under the licence, including, for example, work programs, amounts to be spent and studies to be performed; and
  - (ii) a statement, acceptable to the Minister, separate from the statement mentioned in subparagraph (i), detailing the applicant's financial and technical resources; and
  - (iii) the application fee prescribed under a regulation.
- '(2) The mining registrar must give a copy of the application to the EPA administering authority within 5 business days after the application is lodged.

**'231D Alternative way of describing mineral development licence (184)**

'In addition to section 184, the chief executive may approve an alternative way of describing the land applied for.

**'231E Minister may grant or reject application for mineral development licence (186)**

- '(1) If the Minister is satisfied the applicant has complied with this Act in relation to the application, the Minister may grant and issue to the applicant a mineral development licence over all or part of the land for which the application is made.
- '(2) Alternatively, the Minister may reject the application.
- '(3) If the Minister rejects the application, in whole or in part, the Minister must, as soon as practicable after making the decision, give the applicant written notice of the reasons for the decision.
- '(4) If the Minister grants the licence for part only of the land applied for, the application in so far as it relates to the balance of that land is taken to be rejected.
- '(5) The licence must be in the approved form and must state—
  - (a) the identification number of the licence; and

- (b) the name of the holder; and
  - (c) the address for service of notices on the holder; and
  - (d) the description of land for which the licence is granted; and
  - (e) the term of and the date the licence starts; and
  - (f) the conditions, other than conditions prescribed by this Act, to which the licence is subject; and
  - (g) state the minerals the subject of the licence.
- ‘(6) The chief executive must, within 5 business days after granting or rejecting the application, give the EPA administering authority written notice of the grant or rejection.

#### **‘231F Initial term of mineral development licence (192)**

- ‘(1) The initial term of a mineral development licence is for a period of not more than 5 years starting on the first day of the month next following the day the licence is granted.
- ‘(2) From the grant of the licence to the start of the initial term, the holder has all the entitlements, powers, duties and functions the holder has during the term of the licence.
- ‘(3) Despite section 193, no rent is payable for the period before the initial term starts.

#### **‘231G Conditions of mineral development licence (194)**

- ‘(1) A mineral development licence is subject to—
  - (a) a condition that the holder must carry out the activities, if any, for which the licence was granted and in accordance with this Act and the conditions of the licence and for no other purpose; and
  - (b) a condition that the holder must carry out improvement restoration for the licence; and
  - (c) a condition that the holder, before the licence ends for whatever cause, must remove all equipment and plant on

- or in the land comprised in the licence unless otherwise authorised in writing by the Minister; and
- (d) a condition that without the prior approval in writing of the Minister the holder must not obstruct or interfere with any right of access had at any time during the term of the licence by any person in relation to land the subject of the licence for so long as that right of access is exercised; and
  - (e) a condition that the holder is not to assign or mortgage the licence, or any part of it, unless the Minister is satisfied that any approval or consent required under the Aurukun agreement has been given; and
  - (f) a condition that the holder must, when, and in the way, the Minister requires, give to the Minister—
    - (i) progress and final reports, accompanied by maps, sections, charts and other data giving full particulars and results of activities carried out on the area stated by the Minister, including details of costs incurred for stated periods within the term of the licence; and
    - (ii) materials obtained because of the holder's activities under the licence; and
  - (g) a condition that the holder—
    - (i) pays the rental prescribed under a regulation; and
    - (ii) deposit, as required by the Minister, any security from time to time under this Act; and
  - (h) a condition that the holder must comply with this Act and other mining legislation; and
  - (i) any other conditions stated in the Aurukun agreement to be conditions of the licence; and
  - (j) any other conditions decided by the Minister.
- (2) The Minister may, from time to time and with the agreement of the holder, vary any condition imposed by the Minister.

- ‘(3) The chief executive must, within 5 business days after the Minister makes a variation under subsection (2), give the EPA administering authority written notice of the variation.
- ‘(4) The holder of the licence and all persons acting under the authority of the licence must comply with the conditions for the time being of the licence.
- ‘(5) Conditions requiring compliance with stated codes or industry agreements may be imposed on the licence.
- ‘(6) Despite subsections (1), (2) and (5), a condition must not be imposed or varied if the condition, or the condition as varied, is the same, or substantially the same, or inconsistent with, a relevant environmental condition for the licence.

#### **‘231H Renewal of licence (197A)**

- ‘(1) The Minister may renew a mineral development licence if the Minister is satisfied of each of the following—
  - (a) the Aurukun agreement has not been terminated;
  - (b) the holder of the licence has complied with—
    - (i) the licence; and
    - (ii) this Act in relation to the licence;
  - (c) the activities proposed to be undertaken during the renewed term are appropriate;
  - (d) the financial and technical resources available to the holder to carry out the proposed activities during the renewed term are appropriate;
  - (e) the public interest will not be adversely affected by the renewal.
- ‘(2) The renewal may be granted for a further term of not more than 5 years decided by the Minister.
- ‘(3) The renewed licence is subject to any conditions applying at the end of the earlier term of the licence.
- ‘(4) The Minister may refuse to renew the licence if the Minister—

- (a) has served on the holder a notice, in the approved form, asking the holder to show cause, within the period stated in the notice, why the renewal should not be refused; and
  - (b) after considering the holder's response, is satisfied the renewal should be refused.
- ‘(5) As soon as practicable after deciding the application for the renewal, the Minister must give the holder a written notice stating—
- (a) the decision; and
  - (b) if the decision is to refuse the renewal, the reasons for the decision.
- ‘(6) If the Minister renews the licence, the chief executive must give the EPA administering authority a copy of the application within 5 business days after the Minister is satisfied of the matters mentioned in subsection (1).

**‘231I Requirements for assigning or mortgaging mineral development licences (198)**

- ‘(1) Subsection (2) applies despite section 198.
- ‘(2) A mineral development licence, or an interest in a mineral development licence, can not be assigned or mortgaged unless the Minister is satisfied that any approval or consent required under the Aurukun agreement for the assignment or mortgage has been given.

**‘231J Contravention by holder of mineral development licence (209)**

‘In addition to section 209, if the Aurukun agreement has been terminated, the Minister may cancel the licence.

**‘231K Review of decisions**

- ‘(1) A decision under this Act, in relation to a mineral development licence—
  - (a) is final and conclusive; and

- (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal, an authority or a person); and
  - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal, an authority or a person on any ground.
- ‘(2) In this section—  
*decision* includes a decision affected by jurisdictional error.’.

## 5 Insertion of new pt 7AAA

After section 318—

*insert—*

### ‘Part 7AAA Mining lease for Aurukun project

#### ‘318AAA Application of pts 7 and 7AAA

- ‘(1) This part applies—
  - (a) only for the granting of, and in relation to, a mining lease for the Aurukun project; and
  - (b) only if the holder of the lease is a party to the Aurukun agreement; and
  - (c) the agreement has not been terminated.
- ‘(2) Part 7, except to the extent mentioned in subsection (3), also applies for the granting of, and in relation to, a mining lease for the Aurukun project.
- ‘(3) Sections 232, 233, 239, 245, 247, 248, 249, 250, 251, 252, 252A, 252B, 252C, 252D, 253, 254, 255, 256, 257, 258, 259, 260, 265, 266, 268, 269, 270, 271, 272, 273, 275, 276, 278A, 280, 283, 284, 285 and 286A do not apply for the granting of, and in relation to, a mining lease for the Aurukun project.

- ‘(4) Also, a reference in a provision of part 7 to a provision that has been disapplied under subsection (3) is to be disregarded.

**‘318AAB Only eligible person can apply for and hold mining lease (233)**

- ‘(1) A mining lease under this part can only be applied for and held by the eligible person.
- ‘(2) The application and grant of a lease may be made even if the land for the Aurukun project is part of a restricted area.

*Note—*

The numbers bracketed in the headings to this and other sections of this part are references to corresponding sections in part 7.

**‘318AAC Alternative way of marking out land proposed to be subject of mining lease (241)**

- ‘(1) In addition to section 241 the chief executive may approve an alternative method for marking out land proposed to be the subject of a mining lease.
- ‘(2) If an alternative method is approved, sections 242 and 244 do not apply.

**‘318AAD Application for grant of mining lease (245)**

‘An application for the grant of a mining lease must—

- (a) be in the approved form; and
- (b) identify, in the way prescribed under a regulation, the boundaries of the land applied for; and
- (c) describe and identify, in the way prescribed under a regulation, any land proposed to be used as access from a point outside the boundary of the lease acceptable to the mining registrar to land over which the lease is sought; and
- (d) be accompanied by a sketch, map or other graphic representation acceptable to the mining registrar setting out the boundaries of any land referred to in paragraphs (b) and (c); and



- (e) nominate the term of the lease sought and give reasons for the term; and
- (f) be lodged at the office of the mining registrar, for the mining district in which the land is situated, during the business hours for that office; and
- (g) be accompanied by—
  - (i) a statement, acceptable to the mining registrar outlining the mining program proposed, outlining its method of operation, and providing an indication of when operations are expected to start; and
  - (ii) a statement, acceptable to the mining registrar of proposals for infrastructure requirements necessary to enable the mining program to proceed, or additional activities to be carried on to work out the infrastructure requirements; and
  - (iii) the application fee prescribed under a regulation.

### **‘318AAE Additional matters for application (252)**

- ‘(1) The mining registrar must endorse on the application—
  - (a) the number of the proposed mining lease; and
  - (b) the date and time the application was lodged.
- ‘(2) The mining registrar must, within 5 business days after the application is lodged, give a copy of it to the EPA administering authority.
- ‘(3) In addition to section 246, the chief executive may approve an alternative method for describing a mining lease in the application.

### **‘318AAF Mining lease must include all surface of land (273)**

‘A mining lease over land must not be granted unless it includes the whole of the surface of the land.

**‘318AAG Holder of a mining lease to mark boundary posts  
(274)**

‘In addition to section 274, the chief executive may approve an alternative method for marking boundary posts.

**‘318AAH General conditions of mining lease (276)**

- ‘(1) Each mining lease is subject to—
- (a) a condition that the holder must use the land comprised in the lease for the purpose for which the lease was granted and in accordance with this Act and the conditions of the lease and for no other purpose; and
  - (b) a condition that the holder must carry out improvement restoration for the lease; and
  - (c) a condition that the holder, before the end of the lease for whatever cause, must remove any building or structure purported to be erected under the authority of the lease and all mining equipment and plant, on or in the land comprised in the lease unless otherwise approved by the Minister; and
  - (d) a condition that without the prior approval of the Minister the holder must not obstruct or interfere with any right of access had by any person in relation to land the subject of the lease; and
  - (e) a condition that the holder is not to assign, mortgage or sublease the lease, or any part of it, unless the Minister is satisfied that any approval or consent required under the Aurukun agreement has been given; and
  - (f) a condition that the holder give, in the way prescribed under a regulation, all reports, returns, documents and statements prescribed under a regulation; and
  - (g) a condition that the holder give materials obtained under the holder’s mining operations to the Minister at the times, in the way and in quantities the Minister reasonably requires by written notice to the holder; and
  - (h) if the lease is over land that is a reserve—a condition that the holder comply with the terms and conditions on

- which the consent of the owner or the Governor in Council to the grant of the lease was given; and
- (i) a condition that the holder maintain, during the term of the lease, the marking out of the land, the subject of the lease, including any survey pegs but that boundary posts or cairns need not be maintained after the land has been surveyed; and
  - (j) a condition that the holder make all payments of compensation and comply with all terms of any agreement or determination relating to compensation at the time or times agreed or determined under sections 279, 281 or 282; and
  - (k) a condition that the holder—
    - (i) pay the rental prescribed under a regulation; and
    - (ii) pay the royalty prescribed under a regulation; and
    - (iii) pay all local government rates and charges lawfully chargeable against the holder for the land comprised in the lease; and
    - (iv) deposit, as required by the Minister, any security from time to time under this Act; and
  - (l) a condition that the holder comply with this Act and other mining legislation; and
  - (m) any other conditions stated in the Aurukun agreement to be conditions of the lease; and
  - (n) any other conditions decided by the Governor in Council.
- ‘(2) Each mining lease may be subject to a condition that mining operations under the lease commence within a stated period after its grant.
- ‘(3) Conditions requiring compliance with stated codes or industry agreements may be imposed for each mining lease.
- ‘(4) Despite subsections (1) to (3), a condition must not be imposed if it is the same, or substantially the same, or inconsistent with, a relevant environmental condition for the lease.

### **‘318AAI Initial term of mining lease (284)**

- ‘(1) The initial term of a mining lease is for the period approved by the Governor in Council, starting on the first day of the month next following the day on which the lease is granted.
- ‘(2) From the grant of the lease to the start of the initial term the holder has all the entitlements, powers, duties and functions that the holder has during the term of the lease.
- ‘(3) Despite subsection (2), no rent is payable for the period before the initial term starts.

### **‘318AAJ Renewal of lease (286A)**

- ‘(1) This section applies—
  - (a) despite section 318AAA; and
  - (b) if the Aurukun agreement has not been terminated before the application for the renewal of a mining lease is made.
- ‘(2) Section 286A, other than subsections (1)(h) and (2), applies to the renewal.

### **‘318AAK Requirements for assigning, mortgaging or subleasing mining leases (300)**

- ‘(1) Subsection (2) applies despite section 300.
- ‘(2) A mining lease, or an interest in a mining lease, can not be assigned, mortgaged or subleased unless the Minister is satisfied that any approval or consent required under the Aurukun agreement for the assignment, mortgage or sublease has been given.

### **‘318AAL Contravention by holder of mining lease (308)**

‘In addition to section 308, if the Aurukun agreement has been terminated, the Minister may cancel the lease.

### **‘318AAM Limitation on surrender of mining lease (309)**

- ‘(1) This section applies if the holder of a mining lease wishes to surrender the lease.
- ‘(2) Despite section 318AAA, section 309 does not apply unless the Minister is satisfied the holder has fully discharged its obligations under the Aurukun agreement.’.

## **6 Amendment of schedule (Dictionary)**

- (1) Schedule, definitions *eligible person*, *mineral development licence* and *mining lease*—

*omit.*

- (2) Schedule—

*insert—*

‘***Aurukun agreement*** means the agreement between the State and the person selected by the State to develop the Aurukun project.

***Aurukun project***—

1 *Aurukun project* means the project for the extraction, transportation and processing of bauxite on land that is more or less the land described as ‘restricted area 315’ (RA315) under this Act.

2 *Aurukun project* includes the construction and operation of works, including, for example, mining equipment, electricity generation plants and related distribution infrastructure, pipelines, telecommunications infrastructure, water storage and distribution infrastructure, buildings, conveyors, roads or railways on land near Aurukun and Weipa.

***eligible person*** means—

- (a) other than for parts 6A and 7AAA—
  - (i) an adult; or
  - (ii) a company; or

- (iii) a local government that acquires a mining claim or mining lease under the *Local Government Act 1993*, chapter 14, part 7; or
- (iv) an educational institution the Minister treats as an eligible person under section 7; and
- (b) for part 6A—the person who is the party to the Aurukun agreement with the State; and
- (c) for part 7AAA—the person who is the holder of a mineral development licence under part 6A.

*mineral development licence*, means—

- (a) for part 6A—a mineral development licence under part 6A; and
- (b) other than for part 6A—a mineral development licence under part 6 or part 6A.

*mining lease* means—

- (a) for part 7AAA—a mining lease under part 7AAA; or
- (b) other than for part 7AAA—a mining lease under part 7 or part 7AAA.’.

## **Part 3    Amendment of Local Government (Aboriginal Lands) Act 1978**

### **7            Act amended in pt 3**

This part amends the *Local Government (Aboriginal Lands) Act 1978*.

### **8            Amendment of s 27 (Mineral rights in shires)**

Section 27(2)—  
*omit.*

## **Part 4                      Amendment of Petroleum and Gas (Production and Safety) Act 2004**

### **9            Act amended in pt 4**

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

### **10          Amendment of s 5 (Application of Act to coastal waters of the State)**

After section 5(2)—

*insert—*

*‘Note—*

The definition of *the adjacent area* in the *Petroleum (Submerged Lands) Act 1982*, section 4(1) is extended for pipelines under that Act, part 3, division 4. The provisions effectively cover pipelines in the coastal waters of the State.’

## **Part 5                      Amendment of Petroleum (Submerged Lands) Act 1982**

### **11          Act amended in pt 5**

This part amends the *Petroleum (Submerged Lands) Act 1982*.

### **12          Amendment of s 4 (Definitions)**

(1) Section 4(1), definition *the adjacent area*, paragraph (c)—  
*omit.*

(2) Section 4(1), definition *the adjacent area*, ‘subject to subsection (3)’—

*omit, insert—*

‘for part 3, division 4 and a pipeline to which that division applies’.

- (3) Section 4(3)—  
*omit.*

### **13 Amendment of s 4 (Definitions)**

- (1) Section 4(1), definitions *Commonwealth adjacent area*, for a State, other than Queensland, or for the Northern Territory and *Commonwealth adjacent area*, for Queensland—

*omit.*

- (2) Section 4(1)—

*insert—*

‘*Commonwealth offshore area*, for a State other than Queensland, or for the Northern Territory, means the offshore area of the State or Territory for the purposes of the *Offshore Petroleum Act 2006* (Cwlth).

*Commonwealth offshore area*, for Queensland means the offshore area of Queensland under the *Offshore Petroleum Act 2006* (Cwlth), section 7, including the Coral Sea area within the meaning of that section.’.

- (3) Section 4(1), definition *Commonwealth Act*, ‘*Petroleum (Submerged Lands) Act 1967*’—

*omit, insert—*

‘*Offshore Petroleum Act 2006*’.

### **14 Amendment of s 5 (Effect of territorial sea baseline changes on pipeline licence)**

Section 5(1)(c)(ii), ‘adjacent’—

*omit, insert—*

‘offshore’.



**15 Amendment of s 9 (Definitions for div 2)**

Section 9, definition *Commonwealth Act*, paragraphs (a) to (c)—

*omit, insert—*

- ‘(a) the *Offshore Petroleum Act 2006* (Cwlth); or
- (b) the *Offshore Petroleum (Registration Fees) Act 2006* (Cwlth); or
- (c) *Offshore Petroleum (Safety Levies) Act 2006* (Cwlth); or
- (d) *Offshore Petroleum (Royalty) Act 2006* (Cwlth).’.

**16 Amendment of s 11 (Minister as Designated Authority)**

Section 11, ‘adjacent’—

*omit, insert—*

‘offshore’.

**17 Amendment of s 12 (Delegations under Commonwealth Act)**

Section 12, ‘adjacent’—

*omit, insert—*

‘offshore’.

**18 Amendment of s 13 (Public servants performing functions under Commonwealth Act)**

Section 13, ‘adjacent’—

*omit, insert—*

‘offshore’.

**19 Amendment of s 59 (*Unit development*)**

Section 59(11)(b), ‘Commonwealth adjacent area’—



