

# **MOUNT ISA MINES LIMITED AGREEMENT AMENDMENT BILL 1997**

## **EXPLANATORY NOTES**

### **GENERAL OUTLINE**

#### **Objectives**

The objectives of the Bill are to amend the *Mount Isa Mines Limited Agreement Act 1985* to ratify an agreement that varies the formal agreement under the Act. The formal agreement is the original agreement that was made between the State of Queensland and Mount Isa Mines Limited on 14 February 1985, as subsequently varied in accordance with the Act. This variation of the formal agreement is required because MIM Ltd will not control the sulphuric acid plant which WMC Fertilizers Pty Ltd proposes to build on the Mount Isa leases. MIM Ltd sought a guarantee that should the acid plant not accept smelter gas, then MIM would retain the right to vent this gas to the atmosphere through the stack at Mount Isa under the same operating conditions as those in its current licence under the *Environmental Protection Act 1994*.

The Bill will also remove the possibility of an agreement approved by regulation under this Act from prevailing over another Act (thus preventing any “Henry VIII clauses”).

#### **How the Policy Objectives will be achieved by the Bill**

This Bill will ratify an agreement that varies the existing formal agreement under the *Mount Isa Mines Limited Agreement Act 1985*. The Bill will declare that the new formal agreement resulting from this variation has the force of law.

The agreement that varies the existing formal agreement will contain the emission conditions which are in the current licence issued by the Department of Environment under the *Environmental Protection Act 1994*. Emissions from the smelters are expected to be reduced by 80 percent

when the sulphuric acid plant is in operation, therefore the ambient air quality in the vicinity of the mine will be vastly improved compared to the present air quality.

The agreement that varies the existing formal agreement will also require the participation of MIM Ltd in a Panel Assessment Study involving community representatives, scientific experts and government officers. The results of this study will be considered for incorporation into the Integrated Environmental Management System for the smelters and that will contribute to the continuous improvement of environmental management at the site.

The *Environmental Protection Act 1994* will continue to apply to the smelters with the exception of the determination of ambient air quality conditions.

### **Alternative Ways to Achieve this Objective**

Three alternatives that depended solely on the *Environmental Protection Act 1994* were considered. These would have used licence conditions, environmental management programs or a regional environmental protection policy. None of these can give the level of certainty that the proposed Act and agreement will achieve.

### **Administrative Costs to Government**

It is expected that the amendments will not create any additional administrative costs.

### **Consistency with the Fundamental Legislative Principles**

It is considered that the amendments do not infringe fundamental legislative principles.

### **Consultation**

Nine Government Departments with an interest in this matter were consulted.

**NOTES ON PROVISIONS**

*Clause 1* sets out the short title of the Bill.

*Clause 2*—identifies the Act that is to be amended. The Bill will amend the *Mount Isa Mines Limited Agreement Act 1985*.

*Clause 3* inserts new definitions of:

- agreement—referring to the original agreement made on 14 February 1985; and
- formal agreement—meaning the original agreement made in 1985 as varied by any agreements made in accordance with the Act.

*Clause 4* proposes to replace section 2 of the Act with two new sections that will clarify the ratification process, distinguishing between ratification of the agreement that was made in 1985 (in section 2 of the amended Act) and the ratification of the new agreement that will vary the existing formal agreement (in section 2A of the amended Act). Clause 2A also indicates that the agreement that varies the original agreement is attached to the Bill in schedule 2.

*Clause 5* proposes to insert a new section 3A into the Act. This section will declare that the new formal agreement, resulting from the amendment of the existing formal agreement by the agreement attached to the Bill, has the force of law that it would have if it had been enacted as an Act of Parliament, and that the new formal agreement prevails over any other Act of the Queensland Parliament if there is any inconsistency.

This clause also proposes to restrict the effect of any future agreement approved by regulation so that in the event of an inconsistency between such an agreement and an Act, the Act will prevail, but in the event of an inconsistency between such an agreement and an instrument made under another Act, the agreement will prevail.

*Clause 6* changes the title of the previously unnumbered schedule which contains the original agreement made under the Act to “schedule 1”.

*Clause 7* inserts a new schedule, numbered “schedule 2”, which contains the agreement that varies the existing formal agreement referred to in section 2A of the amended Act.