

# **MINERAL RESOURCES AMENDMENT BILL 1998**

## **EXPLANATORY NOTES**

### **Title of the Bill**

*Mineral Resources Amendment Bill 1998*

### **Objectives of the Legislation**

The main objective of the Bill is to amend the *Mineral Resources Act 1989* to provide a legislative mechanism to allow disputes arising from the At Risk Agreement to be heard in the Land Court.

The At Risk Agreement was made between representatives of the mining and rural industries and endorsed by Cabinet on 5 April 1988. . The At Risk Agreement provides for land holders, who are deemed to be suffering hardship because of the existence of a mineral resource and the announcement of the intention to mine, but where development time frames are unknown, to be offered an option to purchase at fair market value by the holder of the overlying Mineral Development Licence or Mining Lease.

Hearing of claims of hardship under the At Risk Agreement is the responsibility of a tripartite committee comprising a Department of Mines and Energy chairman, two representatives of the mining industry and two representatives of the rural industries. The committee meets as required for the purpose of monitoring the scheme and where necessary acts as a mediator to bring about mutually satisfactory resolution of hardship claims.

The last paragraph of the At Risk Agreement states:

“Provision is made for either party to refer the matter to the Land Court for determination of:

- whether hardship exists; and
- fair market value”

However legal advice has been received that there is presently no statutory or legislative mechanism for referral of these matters to the Land

Court. This Bill seeks to enable referral to the Land Court for such determinations.

### **Administrative Cost**

There is negligible cost associated with this Bill. As only one case of hardship remains unresolved in the ten years since the At Risk Agreement came into effect, resourcing impacts on the Land Court will be minimal.

### **Fundamental Legislative Principles**

The Bill is consistent with fundamental legislative principles, one of which is whether legislation is consistent with principles of natural justice. This Bill seeks to redress the current flaw in the intended due process of the At Risk Agreement and provides natural justice to land holders who are suffering hardship as defined by the Agreement.

### **Consultation**

Consultation occurred with the following government agencies and non-government organisations:

#### **Government agencies**

Department of Justice  
Department of Premier and Cabinet  
Department of Economic Development and Trade  
Department of Primary Industries  
Department of Natural Resources  
Office of the Queensland Parliamentary Counsel  
Land Court

#### **Non-government associations**

Cattlemen's Union of Australia  
Queensland Mining Council

Australian Canegrowers Council  
Queensland Farmers Federation  
Queensland Graingrowers Association  
United Graziers' Association of Queensland

## **NOTES ON CLAUSES**

### **Part 1 – PRELIMINARY**

- Clause 1    The title of this Bill is the *Mineral Resources Amendment Act 1998*.
- Clause 2    This Act amends the *Mineral Resources Act 1989*.

### **Part 2 – AMENDMENT OF *MINERAL RESOURCES ACT 1989***

- Clause 3    This Clause amends Section 5 by inserting a definition of “At Risk Agreement”. The Agreement includes the Agreement as amended from time to time and endorsed by Cabinet.
- Clause 4    Clause 4 amends section 194 of the Act, so that it is a condition of Mineral Development Licences granted after the date of this amendment that the holder complies with the At Risk Agreement.
- Clause 5    Clause 5 inserts a new section into Part 6, as Section 194A(1), to provide a legislative mechanism for disputes between the holder of a Mineral Development Licence and a land holder, arising from the At Risk Agreement, to be heard and determined by the Land Court. The issues to be heard and determined are: whether hardship, as defined in the At Risk

Agreement, exists and the fair market value of the land in question, in relation to an option to purchase, as provided for in the Agreement.

New subsection (2) provides that a Land Court proceeding relating to whether hardship exists is to be way of review of a decision of the At Risk Committee.

New subsection (3) provides that the Land Court must take into account the evidence considered and the decision reached by the At Risk Committee which heard the hardship case.

In making its determination, the Land Court is to consider any evidence collected and any documented deliberations and determinations made by the At Risk Committee. This is ensure that the Land Court has all the evidence collected through the At Risk process and that any appeal regarding whether hardship exists takes into account the determination of hardship by the At Risk Committee. The At Risk Committee would normally firstly establish whether hardship exists in order to continue its deliberations. The Committee comprises two representatives of the rural industry, two representatives of the mining industry and the Deputy Director-General as the Chair of the Committee. A determination on hardship may be unanimous or by a majority. This information may be of some use to the Land Court in its deliberations, as may be any information on land valuations or other related matters.

New subsection (4) provides for admission of copies of the At Risk Agreement in evidence at the hearing.

New subsection (5)(a) provides, for past hardship claims under the At Risk Agreement and for those claims currently unresolved, one year from the date of this Act for referral of any disputes to the Land Court.

New subsection (5)(b) provides, for future hardship claims under the At Risk Agreement, one year from the date of the decision of the At Risk Committee for referral of any disputes to the Land Court.

New subsection (6) defines “committee” as the At Risk Committee mentioned in the At Risk Agreement.

Clause 6 Clause 6 amends section 276 of the Act, so that it is a condition of Mining Leases granted after the date of this amendment that the holder complies with the At Risk Agreement. The At Risk Agreement only applies to those Mining Leases which do not have full surface rights.

Clause 7 Clause 7 inserts a new section into Part 7, as Section 278A(1), to provide a legislative mechanism for disputes between the holder of a Mining Lease and a land holder, arising from the At Risk Agreement, to be heard and determined by the Land Court. The issues to be heard and determined are: whether hardship, as defined in the At Risk Agreement, exists and; the fair market value of the land in question, in relation to an option to purchase, as provided for in the Agreement.

New subsection (2) provides that a Land Court proceeding relating to whether hardship exists is to be way of review of a decision of the At Risk Committee.

New subsection (3) provides that the Land Court must take into account the evidence considered and the decision reached by the At Risk Committee which heard the hardship case.

In making its determination, the Land Court is to consider any evidence collected and any documented deliberations and determinations made by the At Risk Committee. This is ensure that the Land Court has all the evidence collected through the At Risk process and that any appeal regarding whether hardship exists takes into account the determination of hardship by the At Risk Committee. The At Risk Committee would normally firstly establish whether hardship exists in order to continue its deliberations. The Committee comprises two representatives of the rural industry, two representatives of the mining industry and the Deputy Director-General as the Chair of the Committee. A determination on hardship may be unanimous or by a majority. This information may be of some use to the Land Court in its deliberations, as may be any information on land valuations or other related matters.

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New subsection (6) defines “committee” as the At Risk Committee mentioned in the At Risk Agreement.

Clause 8      Clause 8 Inserts a new part (12: “Further Transitional Provisions”) referring to the At Risk Agreement. The clause declares as valid, every condition that requires the holder to comply with the At Risk Agreement, contained in mineral development licences and mining leases granted prior to the date of this amendment.