

EXPLANATORY MEMORANDUM

Mining Legislation Amendment Bill 2013

Introduction and Overview

1. Introduction

The purpose of the *Mining Legislation Amendment Bill 2013* is to make miscellaneous amendments to the *Mining Act 1978* and the *Mining Rehabilitation Fund Act 2012* to facilitate transparency, streamline administrative processes, and strengthen compliance.

The amendments fall within four discrete areas:

- facilitating environmental data release;
- simplifying environmental approval authorisation processes
- streamlining issue of notices under the *Mining Rehabilitation Fund Act*; and
- enabling recovery of Mining Rehabilitation Fund (MRF) money in some circumstances.

The Bill forms part of the Reforming Environmental Regulation program being implemented by the Department of Mines and Petroleum (DMP).

A discussion paper explaining the policy proposed to be implemented by the Bill was released for public comment, and an exposure draft of the Bill was circulated to key stakeholders. The Bill was revised to incorporate comments received.

2. Overview of the Bill

Part 1 (Preliminary)

Part 1 of the Bill sets out the short title of the new Act and provides for the majority of its provisions to commence on a day or days to be set by proclamation.

Part 2 (*Mining Act 1978* amended)

Part 2 contains provisions to clarify certain references in the Mining Act, to facilitate future data release, and to streamline approval authorisation processes.

Part 3 (*Mining Rehabilitation Fund Act 2012* amended)

Part 3 contains provisions to enable recovery of Mining Rehabilitation Fund money and streamline the issue of notices under the Mining Rehabilitation Fund Act.

3. Clause Notes

Part 1 – Preliminary

Clause 1 sets out the short title of the Bill.

Clause 2 provides for the bulk of the Bill to commence on a day or days to be appointed by proclamation. The new Act will commence after regulations giving effect to some of its provisions have been drafted.

Part 2 – *Mining Act 1978* amended

Clause 3 gives effect to the amendments to the *Mining Act 1978* (Mining Act) contained in Part 2.

- Clauses 4 & 5** revise certain references in the Mining Act to “programmes of work” which are not references to the programmes of work required to be submitted by holders of certain types of mining tenement before ground-breaking work can be undertaken. The anomalous “programme of work” references which are being changed are to work plans more generally. The revision will remove any possible confusion.
- Clause 6** removes provisions of the Mining Act requiring the CEO of DMP to make available for public inspection mining proposals, mineralisation reports, and other related documents and to charge a fee for access. The substance of these provisions will be relocated in the regulations for consistency with proposed new regulations relating to document publication to be made in connection with the amendments contained in clause 7 of the Bill.
- Clause 7** revises a provision of the Mining Act that enables regulations to be made authorising and regulating the publication of information. The existing provision is not broad enough to support publication and other release of information required to be published as a result of DMP’s internal transparency program and other State Government commitments around information release.
- Clause 8** omits obsolete references to specific positions within DMP and replaces them with references to the “Director General of Mines”. This will enable the CEO of DMP to authorise appropriate departmental officials to perform those functions from time to time.

Part 3 – *Mining Rehabilitation Fund Act 2012* amended

- Clause 9** gives effect to the amendments to the *Mining Rehabilitation Fund Act 2012* (MRF Act) contained in Part 3.
- Clause 10** is consequential on the amendment proposed to be made by clause 11.
- Clause 11** inserts a new section 9A in the MRF Act. The new section will enable money spent from the MRF to carry out rehabilitation of an abandoned mine to be recovered from a person who was legally responsible for carrying out the work because of a requirement under a mining tenement.
- Although MRF funds will ordinarily only be used if there is no such responsible person, it is possible that environmental or safety factors in particular circumstances will dictate that it is better to carry out a particular rehabilitation project and recover the money afterwards. The capacity to recover funds will remove any incentive that may otherwise operate to deter tenement holders from meeting their legal obligations.
- Clause 12 & 13** authorise the publication of information about how levy amounts are calculated as well as levy assessment information.
- Clause 14** inserts a new section 37A into the MRF Act to enable levy notices and other notices under the Act to be sent to a single nominated contact point if there is more than one holder of a mining authorisation.