

NORTHERN TERRITORY OF AUSTRALIA

MINING AMENDMENT ACT 2000

No. 30 of 2000

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NORTHERN TERRITORY OF AUSTRALIA

No. 30 of 2000

AN ACT

to amend the *Mining Act* and other related legislation

[Assented to 27 June 2000]
[Second reading 18 May 2000]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Mining Amendment Act 2000*.

2. Commencement

Part 5 is to be taken to have come into operation on 4 December 1999 immediately after section 6 of the *Statute Law Revision Act 2000* commenced.

PART 2 – MINING ACT

3. Application of Part

Section 95A of the *Mining Act* is amended by omitting subsection (1) and substituting the following:

"(1) Subject to subsection (2), this Part applies in relation to the extraction and removal of extractive minerals."

4. Notice of application

Section 163 of the *Mining Act* is amended –

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(a) by omitting subsection (1)(f) and substituting the following:

"(f) a statement to the effect that the owner or occupier of land in respect of which the application is made may, not later than 2 months after the date specified in the notice (being at least 21 days after the application was lodged) lodge in writing with the Department an objection to the grant;

(fa) if Part XIA applies – a statement to the effect that any registered native title claimants and registered native title bodies corporate in relation to land in respect of which the application is made may, not later than 2 months after the date specified in the notice (being the same date as the date specified in the notice under paragraph (f)) or, in the case of a person to whom subsection (5) applies, within the further time allowed under that subsection, lodge in writing with the Department an objection to the grant; and";

(b) by omitting from subsection (1)(g) "(being 21 days after the application was lodged)" and substituting "(being the same date as the date specified in the notice under paragraph (f))";

(c) by omitting from subsection (2) "subsection (1)(f) or (g)" and substituting "subsection (1)(f), (fa) or (g)";

(d) by omitting subsection (2D) and substituting the following:

"(2D) If Part XIA applies, subject to subsections (2E) and (2F), any native title objection lodged in accordance with this section by a registered native title claimant or registered native title body corporate is to be dealt with under Part XIA.

Note: If Part XIA does not apply, native title rights and interests may be dealt with under the Native Title Act.";

(e) by omitting from subsection (5) "Subject" and substituting "Where Part XIA applies, subject";

(f) by omitting from subsection (5) "(being 21 days after the application for the prescribed mining act was lodged)" and substituting "(being the same date as the date specified in the notice under subsection (1)(f))"; and

(g) by omitting subsection (5A) and substituting the following:

"(5A) Subsection (5) does not apply in relation to the following:

(a) affected land that is Aboriginal land within the meaning of the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth;

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- (b) a prescribed mining act that is an act of the kind described in section 140B(1)(b)(i) unless there is a determination in force under section 43A(1)(b) of the Native Title Act in respect of the relevant provisions of this Act."

5. Notification of conditions relating to native title

Section 165A of the *Mining Act* is amended by omitting "a prescribed mining act" and substituting "a prescribed mining act to which Part XIA applies".

6. New section

The Mining Act is amended by inserting after section 184 the following:

"184A. Conditions about compensation for effect on native title

"(1) The Minister may do a prescribed mining act that is a future act to which Part XIA does not apply subject to conditions relating to the payment by the holder of the mining interest to which the prescribed mining act relates of compensation for the effect of the prescribed mining act on native title.

"(2) The kinds of conditions that may be imposed under subsection (1) include but are not limited to the following:

- (a) conditions about the payment of compensation to the native title holder;
- (b) conditions about the payment of an amount in respect of compensation into the Trust Fund;
- (c) conditions about compensation for the effect on native title of activities done under the mining interest as a result of the prescribed mining act."

PART 3 – MINING AMENDMENT ACT (NO. 2) 1998

7. Repeal

Section 23 of the *Mining Amendment Act (No. 2) 1998* as amended and in force immediately before the commencement of this section is repealed.

PART 4 – MINING AMENDMENT REGULATIONS (1999, NO. 11)

8. Transitional provision: pending Part XIA applications – notifying registered native title claimants etc.

Regulation 16 of the Mining Amendment Regulations (Regulations 1999, No. 11) as amended and in force immediately before the commencement of this section is amended –

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- (a) by omitting subregulation (1) and substituting the following:

"(1) This regulation applies in relation to applications for prescribed mining acts to which Part XIA of the Mining Act applies –

- (a) that were pending immediately before 1 October 1998; or
- (b) lodged on or after 1 October 1998 but before a determination under section 43A(1)(b) of the Native Title Act in respect of the relevant provisions of the Mining Act comes into force.";
- (b) by omitting from subregulation (1A)(a) "Principal Act" and substituting "Mining Act";
- (c) by omitting from subregulations (2) and (4) "Principal Act as amended by these Regulations" and substituting "Mining Act";
- (d) by omitting from subregulation (5) "*Mining Act*" and substituting "Mining Act"; and
- (e) by adding at the end the following:

"(6) In this regulation, 'Mining Act' means the *Mining Act* as amended and in force from time to time."

9. Transitional provision: pending applications for future acts – notifying owners and occupiers and public notification

Regulation 17 of the Mining Amendment Regulations (Regulations 1999, No. 11) as amended and in force immediately before the commencement of this section is amended –

- (a) by inserting in subregulation (1) "that are future acts" after "acts";
- (b) by omitting from subregulation (1)(b) "Principal Act as amended by these Regulations" and substituting "Mining Act";
- (c) by omitting subregulation (2) and substituting the following:

"(2) Where Part XIA of the Mining Act applies and an applicant is required under the Mining Act to notify an owner or occupier of the making of an application, the applicant is to be taken to have complied with that requirement if the applicant serves written notice of the making of the application on the owner or occupier within 14 days after being advised in writing by the Secretary under regulation 16 of these Regulations as amended and in force from time to time that the persons referred to in section 140D(a), (b) and (c) are to be served or within the further time allowed in writing by the Secretary under that regulation to notify those persons.

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"(2A) Where Part XIA of the Mining Act does not apply and an applicant is required under the Mining Act to notify an owner or occupier of the making of an application, the applicant is to be taken to have complied with that requirement if the Secretary serves written notice of the making of the application on the owner or occupier.

"(2B) The Secretary must give a copy of a notice served under subregulation (2A) to the relevant applicant.";

- (d) by omitting from subregulation (3) "Principal Act as amended by these Regulations" and substituting "Mining Act"; and
- (e) by omitting subregulations (4), (5), (5A), (6), (7) and (8) and substituting the following:

"(4) The Secretary is to be taken to have complied with section 163(1) of the Mining Act if—

- (a) where Part XIA of the Mining Act applies — the Secretary publishes the notice referred to in section 163(1) as soon as practicable after the Secretary advises the applicant that the persons referred to in section 140D(a), (b) and (c) are to be served; or
- (b) where Part XIA of the Mining Act does not apply — the Secretary publishes the notice referred to in section 163(1) as soon as practicable after the Secretary serves the owners and occupiers with notice of the application under subregulation (2A).

"(5) For the purposes of section 163(1)(f), (fa) and (g) and (5) of the Mining Act, the date to be specified in the notice published in accordance with subregulation (4) is—

- (a) if Part XIA of the Mining Act applies — the date that is at least 21 days after the day on which the Secretary advises the applicant that the persons referred to in section 140D(a), (b) and (c) are to be served; or
- (b) if Part XIA of the Mining Act does not apply — the date that is at least 21 days after the day on which the Secretary serves the owners and occupiers with notice of the application under subregulation (2A).

"(6) Subject to subsections (7) and (8), a notice that was published in respect of an application in accordance with section 163(1) of the Mining Act before 16 April 1999 is, to the extent that the notice relates to a future act, to be disregarded.

"(7) An objection or comment in respect of an application lodged under section 163(2) or (2A) of the Mining Act in accordance with a notice that is, or that part of which is, to be disregarded under subregulation (6) is, to the extent that the objection or comment relates to a future act, to be taken to have been lodged under section 163(2) or (2A) of the Mining Act in response to the notice in respect of the application published in accordance with subregulation (4).

"(8) Nothing in this regulation is to be taken to prevent a person who lodged an objection or comment ('the previous objection or comment') in respect of an application under section 163(2) or (2A) of the Mining Act in accordance with a notice that is, or that part of which is, to be disregarded under subregulation (6) from lodging a further objection or comment about the future act to which the application relates under section 163(2) or (2A) of the Mining Act if the further objection or comment is different in substance from the previous objection or comment.

"(9) The Minister may, by notice in the *Gazette*, declare that this regulation ceases to operate in respect of an application for a prescribed mining act lodged on and after a specified date (being a date not earlier than the date on which the notice is published in the *Gazette*) and the declaration has effect according to its terms.

"(10) In this regulation, 'Mining Act' means the *Mining Act* as amended and in force from time to time."

PART 5 – MINING AMENDMENT ACT 1999

10. Transitional provision: applications for prescribed mining acts that are not future acts or are pre-existing right-based acts

Section 15 of the *Mining Amendment Act 1999* as amended and in force immediately before the commencement of this section is amended by omitting subsection (1) and substituting the following:

"(1) This section applies in relation to applications for prescribed mining acts –

- (a) that are not future acts and were pending immediately before 4 December 1999; or
- (b) that are pre-existing right-based acts within the meaning of section 24IB of the Native Title Act."