

NORTHERN TERRITORY OF AUSTRALIA

LEGACY MINES REMEDIATION ACT 2023

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Act No. 35 of 2023

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# NORTHERN TERRITORY OF AUSTRALIA

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Act No. 35 of 2023

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An Act to provide for the Mining Remediation Fund, payment of the mining remediation levy, the remediation of legacy mine sites and legacy mine features and for related purposes

[Assented to 6 December 2023]  
[Introduced 25 October 2023]

The Legislative Assembly of the Northern Territory enacts as follows:

## Part 1 Preliminary matters

### 1 Short title

This Act may be cited as the *Legacy Mines Remediation Act 2023*.

### 2 Commencement

- (1) Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice.
- (2) If a provision of this Act does not commence before 16 October 2025, it commences on that day.

### 3 Definitions

In this Act:

***authorised person*** means a person authorised under section 16.

**engineered feature** means a feature of land that is engineered for a purpose related to a mining activity.

Examples for definition **engineered feature** include the following:

- 1 Waste rock dumps.
- 2 Dam walls.
- 3 Pits.
- 4 Portals.
- 5 Shafts.
- 6 Tailings storage facilities.

**environment**, see section 6 of the *Environment Protection Act 2019*.

**environmental harm**, see section 7 of the *Environment Protection Act 2019*.

**environmental (mining) licence**, see section 4 of the *Environment Protection Act 2019*.

**Fund** means the Mining Remediation Fund continued under section 7.

**infrastructure** includes buildings, conveyors, fences, processing facilities, pipelines, roads, storage tanks, wharfs, workers camps and workshops.

**land** means land within the jurisdictional limits of the Territory and includes waters within those limits.

**legacy mine feature**, see section 5.

**legacy mine site**, see section 4.

**legacy mines officer** means a person who is appointed as a legacy mines officer under section 23.

**levy** means the mining remediation levy mentioned in section 12.

**mining activity**, see section 13A of the *Environment Protection Act 2019*.

**mining operator**, see section 4 of the *Environment Protection Act 2019*.

**mining security**, see section 4 of the *Environment Protection Act 2019*.

**mining site**, see section 4 of the *Environment Protection Act 2019*.

**plant** includes appliances, equipment, implements, machinery, pressure vessels, scaffolding and tools, any component of the plant and anything fitted or connected to the plant.

**premises** includes plant and infrastructure and the land on which the premises are situated.

**Ranger Project Area**, see section 5(1) of the *Atomic Energy Act 1953* (Cth)

**remediation activity**, see section 9(2).

**reserved legacy mine site** means a legacy mine site declared to be a reserved legacy mine site under section 14.

**waste**, see section 4(1) of the *Waste Management and Pollution Control Act 1998*.

*Note for section 3*

*The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.*

#### 4 Legacy mine site

- (1) For this Act, a **legacy mine site** is an area of land:
  - (a) on which mining activities have been carried out but no mining security is held under Part 7, Division 1A of the *Environment Protection Act 2019* in relation to those activities; and
  - (b) in respect of which there is no current:
    - (i) extractive mineral lease; or
    - (ii) extractive mineral permit; or
    - (iii) mineral authority; or
    - (iv) mineral lease; or
    - (v) non-compliant existing interest.
- (2) Despite subsection (1), the Ranger Project Area is not a legacy mine site.
- (3) In this section:

**extractive mineral lease**, see section 54(1) of the *Mineral Titles Act 2010*.

**extractive mineral permit**, see section 50(1) of the *Mineral Titles Act 2010*.

**mineral authority**, see section 118(2) of the *Mineral Titles Act 2010*.

**mineral lease**, see section 48(1) of the *Mineral Titles Act 2010*.

**non-compliant existing interest**, see section 204(1) of the *Mineral Titles Act 2010*.

## 5 Legacy mine feature

A **legacy mine feature** is any plant, infrastructure, engineered feature or other feature that:

- (a) was built or used to carry out a mining activity; and
- (b) is no longer used to carry out a mining activity; and
- (c) in relation to which no mining security is held under Part 7, Division 1A of the *Environment Protection Act 2019*; and
- (d) is not in the Ranger Project Area.

## 6 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

*Note for section 6*

*Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.*

# Part 2 Mining Remediation Fund

## 7 Mining Remediation Fund

- (1) The Mining Remediation Fund established under the *Mining Management Act 2001* is continued.
- (2) Any interest on money held in the Fund is to be paid into the Fund.
- (3) The regulations may prescribe matters in relation to the Fund.

## 8 Purpose of Fund

- (1) The purpose of the Fund is to hold money in trust to be used by the Agency in connection with:
  - (a) minimising or remediating environmental harm caused by mining activities carried out on legacy mine sites or by legacy mine features; and
  - (b) conducting investigations and research related to environmental harm caused by mining activities carried out on legacy mine sites or by legacy mine features.
- (2) To avoid doubt, money held in the Fund must not be used to carry out a remediation activity in relation to:
  - (a) environmental harm caused by a mining activity for which mining security is held; or
  - (b) environmental harm caused by a legacy mine feature on a mining site if the mining operator for the site caused or contributed to the harm.

## 9 Payments from Fund

- (1) This section does not limit the purposes for which money in the Fund may be used under section 8(1).
- (2) Payments may be made from the Fund for costs and expenses incurred in relation to any of the following activities (each a **remediation activity**):
  - (a) investigating the condition of a legacy mine site or legacy mine feature or anything on, in or near a legacy mine site or legacy mine feature;
  - (b) assessing any risk of environmental harm related to a legacy mine site or a legacy mine feature;
  - (c) decommissioning, removing, destroying, modifying or making safe any legacy mine feature;
  - (d) monitoring, mitigating, managing, removing, treating or cleaning up any waste or other materials, including water, on a legacy mine site or land affected by mining activities carried out on a legacy mine site or by a legacy mine feature;

- (e) maintaining, managing, repairing, improving or monitoring the condition of land affected by mining activities carried out on a legacy mine site or by a legacy mine feature, including the following:
    - (i) physically stabilising terrain;
    - (ii) revegetating the land;
    - (iii) restoring ecosystem functions on the land;
  - (f) mitigating, managing, removing or monitoring any risks to public health or safety or to the environment caused by mining activities carried out on a legacy mine site or by a legacy mine feature.
- (3) Payments may be made from the Fund for costs and expenses incurred in relation to any of the following:
- (a) conducting research or scientific studies in relation to environmental harm, or the remediation of environmental harm, caused by mining activities carried out on a legacy mine site and by legacy mine features;
  - (b) providing incentives to parties to facilitate the carrying out of remediation activities in relation to legacy mine sites and legacy mine features;
  - (c) consulting with persons who are or may be affected by legacy mine sites, legacy mine features or remediation activities related to legacy mine sites or legacy mine features;
  - (d) legal and audit services required to manage legacy mine sites and legacy mine features.

## **10 Annual statement**

- (1) For each financial year, the Chief Executive Officer must prepare an annual statement on the operation of the Fund during that year.
- (2) The statement must contain details about:
  - (a) the specific purposes for which money has been paid out; and
  - (b) the activities carried out for those purposes; and
  - (c) any other information prescribed by regulation.



- (3) The Chief Executive Officer must publish the statement on the Agency's website by no later than 31 October following the end of the financial year.

## **Part 3                    Mining remediation levy**

### **11                    Application of Part**

This Part does not apply in relation to a mining operator who carries out mining activities under an environmental (mining) licence relating to the Ranger Project Area.

### **12                    Mining remediation levy**

- (1) The ***mining remediation levy*** is a tax in relation to mining activities that is levied for the purpose of providing revenue:
  - (a) for the Fund; and
  - (b) for the effective administration of this Act.
- (2) The regulations may provide for matters in relation to the levy.

### **13                    Amount and payment of levy**

- (1) A mining operator who carries out mining activities under an environmental (mining) licence must pay an annual levy in accordance with this section and the regulations.
- (2) Subject to subsection (4), the annual levy is equal to 1% of the mining security provided by the operator.
- (3) The Minister may, by *Gazette* notice, determine the minimum levy amount that is payable under this Act.
- (4) If the amount of the levy for an operator under subsection (2) is less than the minimum levy amount under subsection (3), the operator is not required to pay the levy.
- (5) The levy is non-refundable.
- (6) A mining operator commits an offence if the mining operator:
  - (a) is required to pay the levy under this section; and
  - (b) fails to pay the levy as required.

Maximum penalty:        200 penalty units.

- (7) An offence against subsection (6) is an offence of strict liability.
- (8) Any part of the levy that is not paid as required by this section is a debt due and payable to the Territory and may be recovered in a court of competent jurisdiction.

## **Part 4 Legacy mine sites and legacy mine features**

### **14 Reserved legacy mine sites**

- (1) The Minister may, by *Gazette* notice, declare a legacy mine site to be a reserved legacy mine site:
  - (a) if the Minister is satisfied any criteria prescribed by the regulations are met; and
  - (b) after following any procedures prescribed by regulation.

*Note for subsection (1)*

*Section 64A of the Mineral Titles Act 2010 provides that an application for a mineral title may not be made for land that is a reserved legacy mine site.*

- (2) The regulations may provide for matters relating to the declaration of a reserved legacy mine site, including any of the following:
  - (a) the form and content of declarations;
  - (b) submissions that may be made about intended declarations;
  - (c) the persons who must be given a copy of declarations.
- (3) A declaration under subsection (1) cannot be challenged in any legal proceedings commenced later than 6 months after the date the declaration is published in the *Gazette*.

### **15 Registers**

- (1) The Chief Executive Officer must maintain a public register of reserved legacy mine sites.
- (2) The Chief Executive Officer may maintain a public register of legacy mine features and legacy mine sites that are not reserved legacy mine sites.
- (3) The regulations may prescribe the information to be kept on a register, if any.

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## Part 5 Remediation activities

### 16 Authorisation to carry out remediation activity

- (1) The Minister may authorise a person to:
- (a) carry out a specified remediation activity on or in relation to a legacy mine site or a legacy mine feature; and
  - (b) to enter land or premises for the purpose of carrying out the remediation activity.

*Note for subsection (1)*

*An environmental (mining) licence is not required to carry out an activity that is authorised under this subsection. See section 124B(4) of the Environment Protection Act 2019.*

- (2) An authorised person is not permitted to enter residential premises under this Act.
- (3) An authorised person may only enter land or premises:
- (a) with the consent of the owner or occupier of land or premises; or
  - (b) if the person gives at least 10 business days prior written notice to the owner or occupier of the land or premises; or
  - (c) in an emergency, if there is a risk of environmental harm if a remediation activity is not carried out immediately.
- (4) An authorised person entering land or premises under subsection (3)(c) must:
- (a) if possible, give oral notice of the entry to the owner or occupier of the land or premises as soon as possible before, on or after that entry; and
  - (b) give written notice of the entry to the owner or occupier within 10 business days after that entry or the giving of the oral notice, whichever comes first.
- (5) The notice under subsection (3)(b) or (4) must inform the owner or occupier of the land or premises of the matters prescribed by regulation.
- (6) An authorised person may enter land or premises under this section with the assistants the person considers necessary to carry out the authorised remediation activity.

**17 Powers on entry**

- (1) An authorised person may, on entering land or premises under the authorisation, take the action that is reasonably required to carry out the authorised remediation activity.
- (2) Without limiting subsection (1), the authorised person may do any of the following to carry out the authorised remediation activity:
  - (a) inspect the land or premises and anything found there;
  - (b) dig up any land, carry out any works and operate any machinery or equipment on the land or premises;
  - (c) bring equipment, machinery and materials onto the land or premises and install and maintain any equipment, machinery or materials;
  - (d) take photographs and make sketches or other records of the land or premises;
  - (e) measure anything, or take samples of anything, on the land or premises.

**18 Duties on entry**

An authorised person:

- (a) must take reasonable steps to minimise disruption to the owner or occupier of land or premises caused by the entry to the land or premises and the carrying out of an authorised remediation activity; and
- (b) must not remain on the land or premises any longer than is reasonably necessary to carry out the authorised remediation activity.

**19 Offence to obstruct**

- (1) A person commits an offence if:
  - (a) the person intentionally engages in conduct; and
  - (b) the conduct obstructs an authorised person from carrying out a remediation activity that is authorised under this Part and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (3) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (2).
- (4) In this section:  
**obstruct** includes hinder and resist.

## **20 Remediation activity without prescribed statutory approval**

- (1) Subject to sections 21 and 22, an authorisation under section 16 may authorise a person to carry out a remediation activity without obtaining a statutory approval of a kind prescribed by regulation that would ordinarily be required to carry out the activity.
- (2) Despite any provision in any Act to the contrary, the person may carry out the activity without obtaining the statutory approval.
- (3) The person incurs no liability to a penalty under the Act governing the statutory approval for complying with subsection (2).
- (4) Subsections (2) and (3) have effect despite anything to the contrary in the Act governing the statutory approval.

## **21 Notice to prescribed statutory decision-maker of proposed authorisation under section 16**

- (1) The Minister must take action under subsection (2) if:
  - (a) the Minister proposes to grant an authorisation to a person under section 16; and
  - (b) but for section 20, a statutory approval would be required for that activity; and
  - (c) section 22 does not apply in relation to the proposed authorisation.
- (2) The Minister must:
  - (a) give notice of the proposed authorisation to the statutory decision-maker responsible for granting the statutory approval; and
  - (b) consider any written comments received within the time specified in the notice from the statutory decision-maker.

- (3) The notice must be given before the Minister gives an authorisation under section 16.
- (4) The time specified in the notice must be at least 10 business days.

**22 Notice to prescribed statutory decision-maker of authorisation under section 16 – imminent risk of environmental harm**

- (1) The Minister must take an action under subsection (2) if:
  - (a) the Minister believes on reasonable grounds that:
    - (i) there is a serious and imminent risk of environmental harm caused by mining activities carried out on a legacy mine site or a legacy mine feature; and
    - (ii) a remediation activity must be carried out immediately to alleviate that risk; and
  - (b) the Minister authorises a person to carry out the activity under section 16; and
  - (c) but for section 20, a statutory approval would be required for that activity.
- (2) The Minister must:
  - (a) give notice of the authorisation to the statutory decision-maker responsible for granting the statutory approval as soon as practicable after granting the authorisation; and
  - (b) consider any written comments received from the statutory decision-maker within the time specified in the notice.

**Part 6 Legacy mines officers**

**23 Appointment of legacy mines officer**

- (1) The Chief Executive Officer may, in writing, appoint a person to be a legacy mines officer.
- (2) The appointment of a legacy mines officer may be subject to conditions specified in the instrument of appointment.
- (3) The Chief Executive Officer must be satisfied that a person appointed under this section has the appropriate competencies or adequate experience required for the performance of functions as a legacy mines officer.

- (4) A legacy mines officer may perform the functions and exercise the powers that are imposed or conferred on the officer under this Act.

## **24 Identity cards**

- (1) The Chief Executive Officer must give a legacy mines officer an identity card stating the person's name and that the person is a legacy mines officer.
- (2) The identity card must:
- (a) display a recent photograph of the legacy mines officer; and
  - (b) state the card's date of issue and expiry (if applicable); and
  - (c) be signed by the officer.
- (3) This section does not prevent the issue of a single identity card to a person for this and another Act.
- (4) A legacy mines officer to whom a card is issued who is exercising a power or performing a function under this Act must produce the card for inspection if requested to do so by any person affected by the exercise of the power or the exercise of the function.
- (5) A person who ceases to be a legacy mines officer must return the person's identity card to the Chief Executive Officer within 15 business days after ceasing to be a legacy mines officer.

Maximum penalty: 20 penalty units.

- (6) An offence against subsection (5) is an offence of strict liability.

## **25 Functions of legacy mines officer**

Subject to the conditions of a legacy mines officer's appointment, a legacy mines officer has the following functions:

- (a) to inspect, audit and investigate legacy mine sites and legacy mine features and land affected by a legacy mine site or a legacy mine feature to assess:
  - (i) risks of environmental harm; and
  - (ii) whether any remediation activities should be taken in relation to the legacy mine site or legacy mine feature;
- (b) to consult with owners or occupiers of the following:
  - (i) land that is a legacy mine site and any premises on the land;

- (ii) land or premises that is, or on which there is, a legacy mine feature;
- (iii) land or premises affected by a legacy mine site or legacy mine feature or a remediation activity that is being or may be carried out in relation to a legacy mine site or legacy mine feature;
- (c) to ensure that remediation activities are undertaken to prevent or reduce environmental harm or the risk of environmental harm caused by legacy mine sites and legacy mine features;
- (d) to receive and investigate complaints about legacy mine sites and legacy mine features;
- (e) to provide advice and information to the Minister, the Chief Executive Officer, persons involved in mining activities and the public about legacy mine sites and legacy mine features.

## **26 Powers of legacy mines officer**

- (1) Subject to this Act, a legacy mines officer may do the following:
  - (a) subject to subsection (2), enter and inspect any of the following at any reasonable time, with the assistants the officer considers necessary, but not so as to unnecessarily impede or obstruct activities being carried out on land or premises being entered or inspected:
    - (i) land that is a legacy mine site and any premises on the land;
    - (ii) land or premises that is, or on which there is, a legacy mine feature;
    - (iii) land or premises affected by a legacy mine site or legacy mine feature or a remediation activity that is being or may be carried out in relation to a legacy mine site or legacy mine feature;
  - (b) require the assistance of a person, including the owner or occupier of the land or premises, a mining operator carrying out mining activities on the land or any contractor or worker of the operator, to obtain access to parts of the land or premises or to information necessary to enable the legacy mines officer to perform the officer's functions;
  - (c) require a person to provide information that is reasonably necessary to assist the legacy mines officer to perform a function under this Act.



- (2) A legacy mines officer may enter land or premises under subsection (1)(a) only after giving prior written notice of the entry to the owner or occupier of the land or premises.
- (3) The power of a legacy mines officer to enter land or premises under subsection (1)(a) may be exercised, despite:
- (a) the land being, or the premises being on, Aboriginal land; and
  - (b) the officer not holding a permit under the *Aboriginal Land Act 1978* to enter or remain on Aboriginal land.
- (4) A person given a requirement under subsection (1) commits an offence if the person fails to comply with the requirement.
- Maximum penalty: 100 penalty units.
- (5) An offence against subsection (4) is an offence of strict liability.
- (6) It is a defence to a prosecution for an offence against subsection (4) if the defendant establishes a reasonable excuse.
- (7) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (6).

## **27 Obstruction of legacy mines officer**

- (1) A person commits an offence if:
- (a) the person intentionally obstructs another person; and
  - (b) the other person is a legacy mines officer; and
  - (c) the legacy mines officer is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

- (2) Strict liability applies to subsection (1)(b).
- (3) In this section:

***acting in an official capacity***, in relation to a legacy mines officer, means the officer is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

**obstruct** includes hinder and resist.

## **Part 7                    Miscellaneous matters**

### **28                    Minister may request information**

- (1) The Minister may give the operator for a mining site a written notice requiring the operator to provide the Minister with specified information about a legacy mine feature located on the mining site within the time specified in the notice.
- (2) An operator given a notice under subsection (1) commits an offence if the operator fails to comply with the notice.

Maximum penalty:        50 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.

### **29                    Protection from liability**

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:
  - (a) the Chief Executive Officer;
  - (b) a legacy mines officer;
  - (c) a person assisting a legacy mines officer under section 26(1)(a).
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
- (3) In this section:

**exercise** of a power includes the purported exercise of the power.

**performance** of a function includes the purported performance of the function.

### **30                    Delegation**

- (1) The Minister may delegate any of the Minister's powers or functions under this Act to the Chief Executive Officer or a person.
- (2) The Chief Executive Officer may delegate any of the Chief Executive Officer's powers or functions under this Act to a person.

## **31 Regulations**

The Administrator may make regulations under this Act.

*Note for section 31*

*See section 65 of the Interpretation Act 1978.*

## **Part 8 Repeals**

### **32 Repeal of Acts**

The following Acts are repealed:

- (a) *Mining Management Act 2001* (Act No. 43 of 2001);
- (b) *Mining Management Amendment Act 2011* (Act No. 35 of 2011);
- (c) *Mining Management Amendment Act 2013* (Act No. 22 of 2013).

## **Part 9 Consequential amendments**

### **Division 1 Amendment to Mineral Titles Act 2010**

#### **33 Act amended**

This Division amends the *Mineral Titles Act 2010*.

#### **34 Section 64A inserted**

After section 64

*insert*

#### **64A Grant application – reserved legacy mine site**

A person is not entitled to apply for the grant of a mineral title for land that is a reserved legacy mine site under section 14 of the *Legacy Mines Remediation Act 2023*.

### **Division 2 Amendments to other laws**

#### **35 Others laws amended**

The Schedule amends the laws mentioned in it.

**Division 3 Repeal**

**36 Repeal of Part**

This Part is repealed on the day after it commences.

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**Schedule Other laws amended**

section 35

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Provision	Amendment	
	<i>omit</i>	<i>insert</i>
<b><i>Environmental Offences and Penalties Regulations 2011</i></b>		
Schedule	<i>Mining Management Act 2001</i>	
<b><i>Fines and Penalties (Recovery) Regulations 2001</i></b>		
Schedule 1		<i>(in alphabetical order)</i>
		<i>Legacy Mines Remediation Act 2023</i>
	<i>Mining Management Act 2001</i>	
<b><i>Mineral Royalty Act 1982</i></b>		
Section 4B(1)(wb)	<i>44A(2) of the Mining Management Act 2001</i>	<i>12(1) of the Legacy Mines Remediation Act 2023</i>

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