

NORTHERN TERRITORY OF AUSTRALIA

MINING AMENDMENT BILL 1997

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NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend the *Mining Act*

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Mining Amendment Act 1997*.

2. COMMENCEMENT

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. APPLICATION OF PART

Section 160 of the *Mining Act* is amended -

(a) by omitting "The provisions of this Part" and substituting "(1) Subject to subsection (2), the provisions of this Part"; and

(b) by adding at the end the following:

"(2) Division 3 applies notwithstanding anything to the contrary in this Act."

Mining Amendment

4. NEW DIVISION

The *Mining Act* is amended by inserting after section 174G the following:

"Division 3 - Priority in Case of Invalidity

"174H. APPLICATION WHERE GRANT INVALID

"(1) Where -

- (a) the purported grant of a licence or mining tenement is found to be wholly or partially invalid due to the existence of a native title right or interest over all or part of the land to which the licence or mining tenement purported to apply; and
- (b) at the time of the purported grant of the licence or mining tenement there was no determination of a court or a tribunal as to whether or not the native title right or interest exists in respect of the land to which the licence or mining tenement was to purportedly apply,

the person who or corporation which purportedly held the licence or mining tenement immediately before the finding of invalidity may make, within the time determined under section 174J, an application for the grant of a licence or mining tenement of the same kind and in respect of the same land as the first-mentioned licence or mining tenement.

"(2) A person who or corporation which makes an application in accordance with subsection (1) has priority in consideration of the application over any other applications made in respect of the same land.

"174J. TIME FOR MAKING APPLICATION

"The Minister is, as soon as practicable after there is a finding of invalidity referred to in section 174H(1)(a), to determine, by notice in writing to the person who or corporation which purportedly held the licence or mining tenement immediately before the finding of invalidity, the time within which the person or corporation is to make an application that will have priority in consideration in accordance with section 174H(2).

Mining Amendment

"174K. NEW LICENCE OR MINING TENEMENT REPLACES ORIGINAL

"Where an application referred to in section 174H is granted, the licence or mining tenement so granted is to replace the licence or mining tenement that was found to be invalid, whether or not it was found to be wholly or partially invalid.

"174L. INTERPRETATION

"(1) In this Division -

'licence' means an exploration licence or an exploration retention licence;

'native title right or interest' means a native title right or interest within the meaning of the *Native Title Act 1993* of the Commonwealth.

"(2) In section 174H, 'the same land', in relation to an exploration licence that is found to be invalid, means the area of land to which the exploration licence purportedly applied immediately before the finding of invalidity."

5. OPERATION OF ACT

The amendment effected by this Act applies to and in relation to the grants or purported grants of licences and mining tenements made before and after the commencement of this Act.

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