



New South Wales

Mining Legislation Amendment (Uranium Exploration) Bill 2012

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to remove the general prohibition on prospecting for uranium in New South Wales,
- (b) to enable exploration licences and associated permits (but no other licences or authorities) to be granted under the *Mining Act 1992* to prospect for uranium,
- (c) to apply to uranium prospecting the State environmental planning policy applicable to other mineral exploration,
- (d) to vest all uranium in New South Wales in the Crown and to exclude compensation for that vesting,
- (e) to make other consequential amendments.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Mining Act 1992 No 29

Schedule 1 [1] prohibits an authorisation from being granted under the *Mining Act 1992* in respect of uranium, other than an exploration licence or an environmental assessment permit relating to an exploration licence. Section 5 of that Act makes it an offence to prospect for minerals without an authorisation.

Schedule 1 [2] makes uranium in the State the property of the Crown and deems that to have always been the case. No compensation will be payable for uranium that was at any time vested in a person other than the Crown or for any rights or interests of a person other than the Crown that are affected by the vesting. All Crown grants and leases and every licence or any other kind of tenure relating to Crown lands will also be taken to contain a reservation to the Crown of uranium.

Schedule 1 [3] enables regulations containing savings or transitional provisions to be made as a consequence of the proposed Act.

Schedule 1 [4] amends the definition of *mineral* to remove the exclusion of uranium as a mineral that may be covered by the *Mining Act 1992*.

Schedule 1 [5] inserts a definition of *uranium*, to include uranium minerals and uranium ores.

Schedule 2 Amendment of Mining Regulation 2010

Schedule 2 [1] prescribes uranium as a mineral for the purposes of the *Mining Act 1992*. The effect of this is that the Act's requirements for prospectors to hold an authorisation will apply to persons mining or prospecting for uranium. The amendment made by **Schedule 1 [1]** prevents an authorisation other than an exploration licence (or an associated environmental assessment permit) from being issued, with the result that other authorisations including mining leases cannot be issued.

Schedule 2 [3] prescribes the group of minerals for uranium for the purposes of the issue of exploration licences. Thorium will also be included in the new group and **Schedule 2 [2]** removes it from its current group.

Schedule 2 [4] prescribes the fees for applications for exploration licences for uranium.

Schedule 2 [5] provides for thorium to be treated as remaining in its current group of minerals for the purposes of current applications for exploration licences and existing licences and renewals of existing licences.

Schedule 3 Amendment of Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986 No 194

Schedule 3 [1] removes a reference to prohibiting prospecting for uranium from the objects of the *Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986*.

Schedule 3 [2] omits the definition of *prospect*.

Schedule 3 [3] removes the prohibition on prospecting for uranium.

Schedule 3 [4] amends a provision that would otherwise render inoperative an authority under the *Mining Act 1992* authorising prospecting for uranium.

Schedule 4 Amendment of Radiation Control Act 1990 No 13

Schedule 4 makes it clear that all activities relating to radioactive ores (including prospecting for uranium) that are regulated by the *Mine Health and Safety Act 2004* are exempted from the licensing regime established by the *Radiation Control Act 1990*.

Schedule 5 Amendment of Aboriginal Land Rights Act 1983 No 42

Schedule 5 [1] defines uranium to include uranium minerals and uranium ores by adopting the definition of *uranium* to be inserted into the *Mining Act 1992* by the proposed Act.

Schedule 5 [2] and [3] exclude uranium from provisions of the *Aboriginal Land Rights Act 1983* which would otherwise vest the uranium on lands vested in an Aboriginal Land Council in the Council or make certain mining operations subject to the consent of the Council. The exclusions are the same as those that apply in respect of coal and petroleum (which are also vested in the Crown).

Schedule 6 Amendment of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

Schedule 6 amends the Policy so as to cause it to apply to uranium in the same way as it applies to other minerals. The effect of this is that development for the purposes of exploration for uranium will not require development consent under the *Environmental Planning and Assessment Act 1979* but will instead be subject to the environmental assessment processes set out in Part 5 of that Act.



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Mining Legislation Amendment (Uranium Exploration) Bill 2012

No. , 2012

A Bill for

An Act to amend the *Mining Act 1992*, the *Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986* and other Acts and instruments with respect to prospecting for uranium and the ownership of uranium; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Mining Legislation Amendment (Uranium Exploration) Act 2012</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6

Schedule 1	Amendment of Mining Act 1992 No 29	1
[1]	Section 10A	2
	Insert after section 10:	3
	10A Restriction on grant of authorisations with respect to uranium	4
	An authorisation (other than an exploration licence or an environmental assessment permit relating to an exploration licence) may not be granted in respect of uranium.	5 6 7
[2]	Section 379AA	8
	Insert after section 379:	9
	379AA Uranium the property of the Crown	10
	(1) All uranium existing in a natural state on or below the surface of any land in the State is the property of the Crown, and is taken to have been so always.	11 12 13
	(2) All Crown grants and leases and every licence and other instrument of title or tenure under any Act relating to lands of the Crown, whether granted before or after the commencement of this section, are taken to contain a reservation to the Crown of all uranium existing in a natural state on or below the surface of the land comprised in the instrument concerned.	14 15 16 17 18 19
	(3) No compensation is payable by the Crown for:	20
	(a) any uranium that was at any time vested in any person other than the Crown, or	21 22
	(b) any rights or interests in any uranium of any person other than the Crown that are affected by the operation of this section.	23 24 25
	(4) The provisions of this section have effect despite anything contained in section 42 of the <i>Real Property Act 1900</i> .	26 27
	(5) In this section:	28
	<i>compensation</i> includes damages or any other form of monetary compensation.	29 30
[3]	Schedule 6 Savings, transitional and other provisions	31
	Insert at the end of clause 1 (1):	32
	<i>Mining Legislation Amendment (Uranium Exploration) Act 2012</i>	33

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Schedule 1 Amendment of Mining Act 1992 No 29

[4] Dictionary	1
Omit “uranium or” from the definition of <i>mineral</i> .	2
[5] Dictionary	3
Insert in alphabetical order:	4
<i>uranium</i> includes uranium minerals and uranium ores.	5

Schedule 2	Amendment of Mining Regulation 2010	1
[1]	Schedule 1 Minerals	2
	Insert in alphabetical order:	3
	uranium	4
[2]	Schedule 2 Groups of minerals	5
	Omit “thorium” from Group 1.	6
[3]	Schedule 2, Group 11	7
	Insert after Group 10:	8
	Group 11 (Uranium)	9
	thorium	10
	uranium	11
[4]	Schedule 10 Fees	12
	Omit “Groups 1–8 and 10 minerals” wherever occurring.	13
	Insert instead “Groups 1–8, 10 and 11 minerals”.	14
[5]	Schedule 12 Savings and transitional provisions	15
	Insert after Part 2:	16
Part 3	Provisions consequent on enactment of Mining Legislation Amendment (Uranium Exploration) Act 2012	17 18 19
10	Definition	20
	In this Part:	21
	<i>amending Act</i> means the <i>Mining Legislation Amendment (Uranium Exploration) Act 2012</i> .	22 23
11	Changes to mineral groups	24
	Despite the amendment made by Schedule 2 [2] to the amending Act, thorium is taken to continue to be a Group 1 mineral for the following purposes:	25 26 27
	(a) the determination of an application for, and the granting of, an exploration licence or a renewal of an exploration licence, if the application was made (but not determined) before the commencement of that amendment,	28 29 30 31

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Schedule 2 Amendment of Mining Regulation 2010

- (b) the operation of an exploration licence in respect of Group 1 minerals, and an application for the renewal of, and the renewal of, any such licence, if the original licence was granted before that commencement or granted as referred to in paragraph (a). 1
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**Schedule 3 Amendment of Uranium Mining and
 Nuclear Facilities (Prohibitions) Act 1986
 No 194**

[1] Section 3 Objects of Act

Omit “prospecting or” from section 3 (a).

[2] Section 4 Definitions

Omit the definition of *prospect*.

[3] Section 7 Mining for uranium prohibited

Omit “prospect or” from section 7 (1).

[4] Section 7 (2)

Omit the subsection. Insert instead:

- (2) An authority, mineral claim or opal prospecting licence under the *Mining Act 1992* (whether granted before or after the commencement of this subsection) does not authorise the holder of the authority, claim or licence to mine for uranium in contravention of this section.

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Schedule 4	Amendment of Radiation Control Act	1
	1990 No 13	2
Section 5		3
Omit the section. Insert instead:		4
5	Application of Act to radioactive ore being prospected for or mined or treated	5
		6
	This Act does not apply to a radioactive ore while it is the subject of an activity carried out at a place of work to which the <i>Mine Health and Safety Act 2004</i> applies.	7
		8
		9

Schedule 5	Amendment of Aboriginal Land Rights Act 1983 No 42	1
		2
[1]	Section 45 Mineral rights and mining on Aboriginal land	3
	Insert after section 45 (1) (a):	4
	(b) <i>uranium</i> has the same meaning as it has in the <i>Mining Act 1992</i> .	5
		6
[2]	Section 45 (11)	7
	Omit “the Crown’s ownership of coal and petroleum”.	8
	Insert instead “the Crown’s ownership of coal, petroleum and uranium”.	9
[3]	Section 45 (12) (a)	10
	Omit “coal or petroleum”. Insert instead “coal, petroleum or uranium”.	11

Schedule 6	Amendment of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	1 2 3 4
	Clause 3 Interpretation	5
	Omit “uranium or” from the definition of <i>mineral</i> in clause 3 (2).	6