



New South Wales

# Mining and Petroleum Legislation Amendment Bill 2000

## Explanatory note

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

## Overview of Bill

The objects of this Bill are:

- (a) to amend the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991*:
  - (i) to vary the penalties for certain offences, and
  - (ii) to allow the Minister for Mineral Resources (and in some cases a mining registrar) to direct a suspension of operations under a mining or petroleum title and to prescribe the circumstances in which this may be done, and
  - (iii) to clarify certain procedural provisions concerning native title landholders, and
  - (iv) to make other minor amendments for the better administration of mining and petroleum titles, and

- (b) to amend the *Mining Act 1992*:
  - (i) to make further provision with respect to opal prospecting licences, and
  - (ii) to repeal provisions relating to the Geological and Mining Museum, and
  - (iii) to clarify the operation of provisions concerning the rights of landholders where the surface of land is affected by mining authorities and claims, and
- (c) to amend the *Petroleum (Onshore) Act 1991* to abolish the distinction currently drawn by that Act between the rights of landholders of private and Crown land, and
- (d) to amend the *Criminal Procedure Act 1986* as a consequence of the amendments to the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991* contained in Schedule 1.

## 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.

**Clause 3** is a formal provision giving effect to the amendments to the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991* set out in Schedules 1–4.

**Clause 4** is a formal provision giving effect to the amendments to the *Criminal Procedure Act 1986* set out in Schedule 5.

## Schedule 1 Amendments relating to penalties

**Schedule 1** amends provisions of the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991* that create offences, so as:

- (a) to increase most maximum monetary penalties, and
- (b) to abolish imprisonment as a penalty for unlawful fossicking or prospecting, and
- (c) (in the case of the *Mining Act 1992*) to prescribe different penalties, in certain cases, for offences committed by individuals and offences committed by corporations.

As a consequence of increasing the penalties for offences concerning unlawful mining, or concerning contravention of title conditions imposed for the protection of the environment, provision is made for proceedings for these offences to be taken on indictment, unless dealt with summarily in accordance with the *Criminal Procedure Act 1986*. **Schedule 1.1 [18]** and **1.2 [5]** and **Schedule 5** make the necessary amendments, and **Schedule 1.1 [4]** repeals section 12E of the *Mining Act 1992* as a consequence.

## **Schedule 2 Amendments relating to mining and petroleum titles**

### **Surface mining in proximity to improvements**

Sections 31 and 49 of the Act prohibit the holder of an exploration licence or assessment lease from exercising rights under the licence or lease within the prescribed distance of a dwelling or other improvement erected or installed on land over which the licence or lease is granted, unless certain consents are first obtained. Sections 62 and 188 prohibit the grant of a mining lease or mineral claim within such a distance without those consents. **Schedule 2.1 [1], [3], [4]** and **[17]** amend these sections to make it clear that the prohibition in each case only relates to mining operations and mining titles that affect the surface of the land in proximity to the improvement.

### **Assessment leases**

Part 4 of the *Mining Act 1992* and Division 3 of Part 3 of the *Petroleum (Onshore) Act 1991* relate to the assessment lease, which is a title that enables the holder to retain an interest in land that contains a valuable deposit of a mineral or of petroleum that is not commercially viable to be mined for the time being. **Schedule 2.1 [2]** and **2.2 [11]** insert explanatory notes at the end of relevant provisions in each Act that better describe the advantages and purposes of an assessment lease.

### **Conditions of consolidated leases**

**Schedule 2.1 [5]** repeals section 111 of the *Mining Act 1992*, which provided that, where mining leases are consolidated, a direction under section 77 of the Act that pertained to one of the existing leases and that allowed additional minerals to be mined only allowed mining for the additional mineral, after consolidation of the

leases, in the area to which that existing lease applied. The practice has been to redetermine the conditions of the consolidated lease at the time of consolidation, which makes the section unnecessary.

### **Cancellation of authorities and mineral claims**

Division 3 of Part 7 of the *Mining Act 1992* provides for the cancellation of a mining authority and prescribes the relevant grounds and procedures. **Schedule 2.1 [7]** amends section 125 of the Act to provide that, in addition to other available grounds, an authority may be cancelled because the holder has failed to use the land comprised in the authority in good faith for the purposes for which it has been granted, or has used the land for a purpose other than that for which the authority was granted. (Provision to that effect is already made in the *Petroleum (Onshore) Act 1991*.)

**Schedule 2.1 [18]** effects a similar amendment in relation to mineral claims.

### **Suspension of operations under mining and petroleum titles**

**Schedule 2.1 [8]** amends section 125 of the *Mining Act 1992* in order to permit all or any operations under an authority to be suspended by the Minister (as an alternative to cancellation), where the holder has failed to pay royalty or maintain a security deposit in accordance with the Act or has breached a condition of the authority that was imposed for the protection of the environment. **Schedule 2.1 [6]** and **[9]–[16]** make consequential amendments to other provisions of Division 3 of Part 7 of the Act.

**Schedule 2.1 [19]–[26]** effect similar amendments in relation to mineral claims.

**Schedule 2.2 [2]–[5]** effect similar amendments to the *Petroleum (Onshore) Act 1991* in relation to petroleum titles.

### **Opal prospecting licences**

Section 227 of the *Mining Act 1992* prohibits the grant of opal prospecting licences over certain areas of land. **Schedule 2.1 [27]** amends the section to make it clear that such a licence cannot be granted over land in respect of which an application for a mineral claim is pending.

In addition, a number of amendments are made to the Act so as to make opal prospecting licences subject to conditions similar to those applying to other mining titles. In particular:

- (a) **Schedule 2.1 [28]** amends section 228 of the Act to provide that, before granting an opal prospecting licence, the applicant for the licence may be required to lodge a security deposit to guarantee performance of the conditions of the licence. **Schedule 2.1 [29]** inserts a new section 232A into the Act which provides that an opal prospecting licence currently in force may be amended to include provision for such a condition. **Schedule 2.1 [30]** inserts a new section 235B into the Act which prescribes the circumstances in which such a security deposit may be appropriated and the manner in which it may be applied.
- (b) **Schedule 2.1 [31]** and **[32]** amend section 240 of the Act to provide that the holder of an opal prospecting licence must comply with any direction given by the Minister to carry out rehabilitation work on land over which the licence was granted.

### **Powers of royalty officers**

For the protection of the revenue, section 247A of the *Mining Act 1992* currently permits royalty officers to enter premises occupied by holders of authorities or mineral claims to inspect financial and other documents relating to mining activities. **Schedule 2.1 [33]** amends the section to permit entry by officers of premises occupied by other persons (such as an accountant) if there is reason to believe that such documents are kept there.

### **Royalty exemption**

**Schedule 2.1 [34]** amends section 286 of the *Mining Act 1992* to provide that methane gas obtained in conjunction with coal mining operations is exempt from royalty. **Schedule 2.2 [13]** makes a corresponding amendment to the *Petroleum (Onshore) Act 1991*.

### **Interim injunctions granted by a mining warden**

**Schedule 2.1 [35]** amends section 313 of the *Mining Act 1992* so as to extend, from one month to two months, the period for which an injunction granted by a mining warden in cases of emergency remains in force.

### **Mining museum**

**Schedule 2.1 [36]** repeals provisions of the *Mining Act 1992* that established and regulated the Geological and Mining Museum Trust, which no longer functions.

### **Departmental officers exercising functions under mining and petroleum titles**

**Schedule 2.1 [37]** inserts a new section 390 into the *Mining Act 1992*, which enables the regulations to provide that a reference in any mining title to the holder of an office within the Department is to be construed as a reference to the Minister (who has power to delegate any function to an appropriate officer or person).

**Schedule 2.2 [17]** makes a corresponding amendment to the *Petroleum (Onshore) Act 1991*.

### **Public consultation concerning mining leases**

**Schedule 2.1 [38]** amends Schedule 1 to the Act, which deals with consultation of persons affected by assessment leases and mining leases, to make it clear that where a mining lease affects the surface of any land, a provision of Division 4 of Part 2 of the Schedule requiring notification of landholders only requires notification of landholders whose land surfaces are affected.

**Schedule 2.1 [39]** amends Schedule 1 to the Act to require a person who objects to the grant of a mining lease on the ground that it would interfere with a valuable work or structure to notify the nature and location of the work or structure.

**Schedule 2.1 [40]** further amends Schedule 1 to the Act to require a notice issued to the general public advising of an intention to invite tenders for a mining lease or to grant a mining lease (otherwise than by way of tender) to indicate more clearly the persons who are eligible to object to the granting of the lease.

### **Natural reservoirs**

**Schedule 2.2 [6]** inserts a new section 28A into the *Petroleum (Onshore) Act 1991*, to provide every petroleum title holder with a right to explore for natural reservoirs (which are natural geological formations with the capacity to store significant quantities of petroleum).

### **Petroleum exploration licences**

Section 29 of the *Petroleum (Onshore) Act 1991* sets out the rights conferred by an exploration licence. **Schedule 2.2 [7]** repeals and replaces the section to express the rights in terms of “prospecting”, the definition of which is repealed and replaced by **Schedule 2.2 [1]**. The effect of these amendments is to allow assessment and testing of petroleum deposits discovered in the course of operations under the licence, and to allow the regulations to declare that certain operations may not be carried on

under the licence, reflecting similar provision already made in the *Mining Act 1992*. **Schedule 2.2 [10]** makes a consequential amendment.

**Schedule 2.2 [8]** amends section 30 of the Act to provide that the area over which a renewal of an exploration licence is granted cannot be more than 75 per cent of the area over which it was originally granted or last renewed, as the case may be. **Schedule 2.2 [9]** amends section 31 of the Act (which currently provides for a 25 per cent reduction only on first renewal) as a consequence.

### **Access to land near dwellings, gardens and improvements**

Section 72 of the *Petroleum (Onshore) Act 1991* requires the holder of a petroleum title to obtain the consent of the owner and occupier of land before carrying out prospecting or mining operations on a portion of the land that is within 200 metres of a principal residence or within 50 metres of a garden, vineyard or orchard, or on which an improvement has been constructed. **Schedule 2.2 [12]** repeals and replaces the section to require the consent of the owner of the improvement (whether or not that person is a landholder, or the sole landholder, of the land) and (in the case of a dwelling-house) to require the consent of the occupier also. The requirements of the new provision are similar to those in corresponding provisions of the *Mining Act 1992*.

### **Petroleum (Onshore) Act inspectors**

**Schedule 2.2 [14]** amends section 113 of the *Petroleum (Onshore) Act 1991* to make it clear that the section, in addition to conferring inspectors' powers, for the purposes of the Act, on inspectors appointed under other Acts, authorises the direct appointment of other inspectors. The amendment also provides that inspectors may be engaged under contract instead of being appointed as public servants.

### **Contraventions of conditions of petroleum title**

**Schedule 2.2 [15]** and **[16]** insert new sections 136A and 137A into the *Petroleum (Onshore) Act 1991*, which provide that it is an offence to contravene, without reasonable excuse, the conditions of a petroleum title and provide for the issue of penalty notices for such contraventions. (Provision to this effect is already made in the *Mining Act 1992*.)

## **Savings and transitional provisions**

**Schedule 2.1 [41] and [42] and 2.2 [18] and [19]** provide for savings and transitional provisions in relation to the amendments proposed by the Bill.

## **Schedule 3 Amendments relating to native title**

### **Fossicking**

Section 12 of the *Mining Act 1992* sets out the rights of persons to fossick for minerals. **Schedule 3.1 [1]** amends the section to require a person who seeks to fossick on land in which native title has been determined to exist to obtain the consent of the registered native title body corporate for the land.

### **Access arrangements**

Part 4A of the *Petroleum (Onshore) Act 1991* provides for access arrangements in connection with petroleum titles that authorise prospecting. **Schedule 3.2 [1]** amends section 69A of the Act to provide that a reference in the provisions of the Part to a landholder includes a reference to registered native title bodies corporate and registered native title claimants.

### **Arbitration Panel**

The access arrangement provisions of the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991* establish a panel of arbitrators whose functions are to settle the arrangements where the parties fail to agree on them. **Schedule 3.1 [2] and [3] and 3.2 [2]** amend the relevant provisions of each Act to require the Minister for Aboriginal Affairs to be consulted in relation to the appointment of members of the panel and to require the head of the Department of Aboriginal Affairs to be consulted in relation to the selection of arbitrators to assist in settlement of particular cases.

### **Compensation**

Part 13 of the *Mining Act 1992* and Part 11 of the *Petroleum (Onshore) Act 1991* deal with compensation issues arising out of mining activities and, for the purposes of those provisions, the meaning of “compensable loss” is defined in each Act. **Schedule 3.1 [4] and 3.2 [3]** amend the definition to make it abundantly clear that the loss by a native title holder of possession or use of the surface of land is a compensable loss.



### **Service of notices on native title landholders**

**Schedule 3.1 [5]** makes a minor amendment to section 383A of the *Mining Act 1992* by way of statute law revision.

### **Consent of landholders to mining operations**

Both the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991* require the consent of affected landholders (or their identification for compensation purposes) as a condition precedent to the grant of a title or the carrying on of mining or prospecting operations. Each Act also, however, authorises the grant of a title or the carrying on of operations without a landholder's consent if the landholder cannot be found or identified after proper efforts have been made to do so. **Schedule 3.1 [6]** and **3.2 [5]** amend the relevant provisions in relation to the efforts required to find and identify native title holders. The effect of the amendments is that if, in the period of 4 months after the prescribed notice has been given of the intention to grant the title or carry on the mining or prospecting operation concerned, a native title landholder does not come forward to make a native title claim, that landholder is taken to be unable to be identified.

In addition, **Schedule 3.2 [4]** amends section 134A of the *Petroleum (Onshore) Act 1991* to provide for service of documents where the Act requires them to be served on landholders. The amendment provides for the case of a landholder who is a native title holder whose claim to the land concerned has not been confirmed by an approved determination under Commonwealth legislation. (Provision to this effect is already made in the *Mining Act 1992*).

## **Schedule 4 Further amendment of Petroleum (Onshore) Act 1991**

The object of the amendments contained in **Schedule 4** is to abolish the distinction, currently maintained in the *Petroleum (Onshore) Act 1991*, between private landholdings and Crown landholdings in respect of:

- (a) rights to be given notice of applications lodged for certain petroleum titles in respect of the land, and
- (b) rights to object to proposals to grant petroleum titles over the land, and
- (c) rights to compensation for loss arising out of the grant of a petroleum title over the land, and
- (d) miscellaneous other rights of landholders against holders of petroleum titles.

## **Schedule 5 Consequential amendment of Criminal Procedure Act 1986**

The amendments contained in **Schedule 5** relate to offences under the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991* that, as a result of the amendments contained in Schedule 1, may be dealt with on indictment. The offences concern unlawful mining (for minerals or for petroleum, respectively) or contravention of a condition imposed on the mining or petroleum title in relation to environmental management.

The amendments in this Schedule provide, in relation to unlawful mining, that the offences are to be dealt with in a summary manner unless dealt with on indictment:

- (a) at the option of the prosecutor or the person accused, if the amount of minerals or petroleum involved in the alleged offence is \$5,000 or more, or
- (b) at the option of the prosecutor, if the amount of minerals or petroleum involved in the alleged offence is less than \$5,000.

Similar provision is currently made in section 12E of the *Mining Act 1992* in relation to existing offences under Division 2 of Part 2 of that Act concerning stealing of minerals.

In relation to contraventions of title conditions, the amendments provide that the offence may be dealt with on indictment at the option of the prosecutor, but is otherwise to be dealt with in a summary manner.

Provisions currently contained in section 12E of the *Mining Act 1992* that relate to existing indictable offences in that Act (and which are repealed by Schedule 1) are, to the extent necessary, re-enacted by this Schedule in the *Criminal Procedure Act 1986*.



New South Wales

# Mining and Petroleum Legislation Amendment Bill 2000

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New South Wales

# Mining and Petroleum Legislation Amendment Bill 2000

No. , 2000

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## A Bill for

An Act to amend the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991* with respect to the penalties for offences, the administration of mining and petroleum titles and other matters; to amend the *Criminal Procedure Act 1986* consequentially; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Mining and Petroleum Legislation Amendment Act 2000</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6 7
<b>3 Amendment of Mining Act 1992 No 29 and Petroleum (Onshore) Act 1991 No 84</b>	8 9
(1) The <i>Mining Act 1992</i> and the <i>Petroleum (Onshore) Act 1991</i> are amended as set out in Schedules 1–3.	10 11
(2) The <i>Petroleum (Onshore) Act 1991</i> is further amended as set out in Schedule 4.	12 13
<b>4 Consequential amendment of Criminal Procedure Act 1986 No 209</b>	14
The <i>Criminal Procedure Act 1986</i> is amended as set out in Schedule 5.	15

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<b>Schedule 1</b>	<b>Amendments relating to penalties</b>	1
	(Section 3)	2
<b>1.1</b>	<b>Mining Act 1992</b>	3
<b>[1]</b>	<b>Sections 5 and 9</b>	4
	Omit “Maximum penalty: 100 penalty units or imprisonment for 6 months, or both.” wherever occurring.	5 6
	Insert instead:	7
	Maximum penalty for prospecting in contravention of this section: 200 penalty units.	8 9
	Maximum penalty for mining in contravention of this section:	10
	(a) 1,000 penalty units or imprisonment for 5 years, or both, in the case of an offence dealt with on indictment, or	11 12 13
	(b) 200 penalty units or imprisonment for 2 years, or both, in the case of an offence dealt with summarily.	14 15
<b>[2]</b>	<b>Sections 6 (1), 7 (1) and 8 (1)</b>	16
	Omit “Maximum penalty: 100 penalty units or imprisonment for 6 months, or both.” wherever occurring.	17 18
	Insert instead:	19
	Maximum penalty for prospecting in contravention of this subsection: 200 penalty units.	20 21
	Maximum penalty for mining in contravention of this subsection:	22
	(a) 1,000 penalty units or imprisonment for 5 years, or both, in the case of an offence dealt with on indictment, or	24 25 26
	(b) 200 penalty units or imprisonment for 2 years, or both, in the case of an offence dealt with summarily.	27 28

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<b>[3] Section 12 Fossicking</b>	1
Omit “20 penalty units or imprisonment for 6 months, or both” from section 12 (4).	2
Insert instead “50 penalty units”.	3
	4
<b>[4] Section 12E Proceedings for offences under Division 2</b>	5
Omit the section.	6
<b>[5] Sections 75, 289, 290 and 365</b>	7
Omit “50 penalty units” wherever occurring.	8
Insert instead “100 penalty units”.	9
<b>[6] Sections 170, 217, 247, 247A, 257, 372 and 373</b>	10
Omit “20 penalty units” wherever occurring.	11
Insert instead “100 penalty units”.	12
<b>[7] Section 175A Unlawful entry to site of mineral claim</b>	13
Omit “10 penalty units” from section 175A (1) (a).	14
Insert instead “50 penalty units”.	15
<b>[8] Section 175A (1) (b)</b>	16
Omit “20 penalty units”. Insert instead “100 penalty units”.	17
<b>[9] Section 240 Direction to comply with conditions of authority or mineral claim</b>	18
	19
Omit “20 penalty units” from section 240 (2).	20
Insert instead “200 penalty units”.	21
<b>[10] Section 311 Warden may order deposit of mineral etc</b>	22
Omit “Maximum penalty: 20 penalty units.”.	23
Insert instead:	24
Maximum penalty:	25
(a) 100 penalty units, in the case of an offence committed by a corporation, or	26
	27

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(b)	50 penalty units, in the case of an offence committed by an individual.	1 2
<b>[11]</b>	<b>Section 315 Contravention of injunction</b>	3
	Omit “Maximum penalty: 50 penalty units.”. Insert instead:	4
	Maximum penalty:	5
(a)	200 penalty units, in the case of an offence committed by a corporation, or	6 7
(b)	100 penalty units, in the case of an offence committed by an individual.	8 9
<b>[12]</b>	<b>Section 330 Contempt of court and penalties</b>	10
	Omit “a penalty not exceeding 5 penalty units” from section 330 (1).	11
	Insert instead “a penalty not exceeding the maximum penalty prescribed by subsection (1A)”.	12 13
<b>[13]</b>	<b>Section 330 (1A)</b>	14
	Insert after section 330 (1):	15
(1A)	The maximum monetary penalty that may be imposed under subsection (1) is:	16 17
(a)	100 penalty units, in the case of a corporation, or	18
(b)	50 penalty units, in the case of an individual.	19
<b>[14]</b>	<b>Section 338 Witness neglecting to appear</b>	20
	Omit “Maximum penalty: 5 penalty units.”. Insert instead:	21
	Maximum penalty:	22
(a)	100 penalty units, in the case of an offence committed by a corporation, or	23 24
(b)	50 penalty units, in the case of an offence committed by an individual.	25 26



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<b>[15] Sections 339 and 340</b>	1
Omit “Maximum penalty: 10 penalty units.” wherever occurring.	2
Insert instead:	3
Maximum penalty:	4
(a) 100 penalty units, in the case of an offence committed by a corporation, or	5
	6
(b) 50 penalty units, in the case of an offence committed by an individual.	7
	8
<b>[16] Section 374 False or misleading information etc</b>	9
Omit “10 penalty units”. Insert instead “100 penalty units”.	10
<b>[17] Section 374A Contravention of conditions of mining title</b>	11
Omit “Maximum penalty: 100 penalty units.” from section 374A (1).	12
Insert instead:	13
Maximum penalty:	14
(a) if the condition of the lease, licence or claim is identified in the lease, licence or claim as a condition related to environmental management:	15
(i) 1,000 penalty units, in case of an offence dealt with on indictment, or	16
	17
(ii) 200 penalty units, in case of an offence dealt with summarily, or	18
	19
(iii) 200 penalty units, in case of an offence dealt with summarily, or	20
	21
(b) in any other case—200 penalty units.	22
<b>[18] Section 375</b>	23
Omit the section. Insert instead:	24
<b>375 Proceedings for offences</b>	25
(1) Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Warden’s Court or before a Local Court constituted by a Magistrate sitting alone, except as provided by this section.	26
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(2) If an appropriate election is made in accordance with Division 3 of Part 2 of the <i>Criminal Procedure Act 1986</i> , any of the following offences may be dealt with on indictment:	1 2 3
(a) an offence of mining in contravention of a provision of Division 1 of Part 2,	4 5
(b) an offence under Division 2 of Part 2,	6
(c) an offence, under section 374A, of contravening a condition of a lease, licence or mineral claim under this Act that is identified in the lease, licence or claim as a condition related to environmental management.	7 8 9 10
(3) For the purposes of dealing with an offence in accordance with Division 3 of Part 2 of the <i>Criminal Procedure Act 1986</i> , a Warden’s Court has the functions of, and is taken to be, a Local Court.	11 12 13 14
<b>[19] Section 375A Penalty notices for offences under section 374A</b>	15
Omit section 375A (7). Insert instead:	16
(7) The amount of penalty prescribed under this section for an offence may not exceed:	17 18
(a) 100 penalty units, in the case of an offence committed by a corporation, or	19 20
(b) 50 penalty units, in the case of an offence committed by an individual.	21 22
<b>[20] Section 388 Regulations</b>	23
Omit section 388 (2). Insert instead:	24
(2) A regulation may create an offence punishable by a penalty not exceeding:	25 26
(a) 100 penalty units, in the case of an offence committed by a corporation, or	27 28
(b) 50 penalty units, in the case of an offence committed by an individual.	29 30

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<b>1.2 Petroleum (Onshore) Act 1991</b>	1
<b>[1] Section 7 Offence of prospecting or mining without authority</b>	2
Omit “Maximum penalty: 1,000 penalty units.” from section 7 (1).	3
Insert instead:	4
Maximum penalty for prospecting in contravention of this section: 200 penalty units.	5
Maximum penalty for mining in contravention of this section:	7
(a) 1,000 penalty units or imprisonment for 5 years, or both, in case of an offence dealt with on indictment, or	8
	9
(b) 200 penalty units or imprisonment for 2 years, or both, in case of an offence dealt with summarily.	10
	11
<b>[2] Section 77 Direction to comply with conditions of petroleum title</b>	12
Omit “20 penalty units”. Insert instead “100 penalty units”.	13
<b>[3] Sections 127, 133 and 135</b>	14
Omit “100 penalty units” wherever occurring.	15
Insert instead “200 penalty units”.	16
<b>[4] Section 136 Other offences</b>	17
Omit “20 penalty units” wherever occurring in section 136 (1)–(3).	18
Insert instead “100 penalty units”.	19
<b>[5] Section 137</b>	20
Omit the section. Insert instead:	21
<b>137 Proceedings for offences</b>	22
(1) Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Warden’s Court or before a Local Court constituted by a Magistrate sitting alone, except as provided by this section.	23
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(2) If an appropriate election is made in accordance with Division 3 of Part 2 of the <i>Criminal Procedure Act 1986</i> , any of the following offences may be dealt with on indictment:	1
	2
	3
(a) an offence of mining in contravention of section 7,	4
(b) an offence, under section 136A, of contravening a condition of a petroleum title that is identified in the title as a condition related to environmental management.	5
	6
	7
	8
(3) For the purposes of dealing with an offence in accordance with Division 3 of Part 2 of the <i>Criminal Procedure Act 1986</i> , a Warden's Court has the functions of, and is taken to be, a Local Court.	9
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	11
	12
<b>[6] Section 138 Regulations</b>	13
Omit "20 penalty units" from section 138 (4).	14
Insert instead "100 penalty units".	15

<b>Schedule 2</b>	<b>Amendments relating to mining and petroleum titles</b>	1
		2
	(Section 3)	3
<b>2.1</b>	<b>Mining Act 1992</b>	4
<b>[1]</b>	<b>Section 31 Dwelling-houses, gardens and improvements</b>	5
	Insert “the surface of” after “over” in section 31 (1).	6
<b>[2]</b>	<b>Section 47 Rights under assessment lease</b>	7
	Insert at the end of the section:	8
	<b>Note.</b> An assessment lease is designed to allow retention of rights over an area in which a significant mineral deposit has been identified, if mining the deposit is not commercially viable in the short term but there is a reasonable prospect that it will be in the longer term. The holder is allowed to continue prospecting operations and to recover minerals in the course of assessing the viability of commercial mining.	9 10 11 12 13
<b>[3]</b>	<b>Section 49 Dwelling-houses, gardens and improvements</b>	14
	Insert “the surface of” after “over” in section 49 (1).	15
<b>[4]</b>	<b>Section 62 Dwelling-houses, gardens and improvements</b>	16
	Insert “the surface of” after “over” in section 62 (1).	17
<b>[5]</b>	<b>Section 111 Directions affecting range of minerals</b>	18
	Omit the section.	19
<b>[6]</b>	<b>Part 7, Division 3, heading and Part 9, Division 6, heading</b>	20
	Insert “or operational suspension” after “Cancellation” and after “cancellation” wherever occurring.	21 22

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<b>[7] Section 125 Grounds of cancellation or operational suspension</b>	1
Insert at the end of section 125 (1) (e):	2
, or	3
(f) if the holder of the authority fails to use the land	4
comprised in the authority in good faith for the purposes	5
for which the authority has been granted, or uses the	6
land for a purpose other than that for which the	7
authority has been granted.	8
<b>[8] Section 125 (3)</b>	9
Insert after section 125 (2):	10
(3) The Minister may suspend all or any specified operations under	11
an authority until further notice if the holder of the authority	12
contravenes:	13
(a) a requirement under this Act to pay royalty, or to give or	14
maintain security for the performance of the holder’s	15
obligations under the authority, or	16
(b) any condition of the authority that is identified in the	17
authority as a condition related to environmental	18
management.	19
<b>[9] Section 126 Cancellations and operational suspensions</b>	20
Omit “(b), (c) or (d)” from section 126 (1).	21
Insert instead “(b), (c), (d) or (f), or suspending operations under an	22
authority”.	23
<b>[10] Section 126 (1)–(3)</b>	24
Insert “or suspension” after “cancellation” wherever occurring.	25
<b>[11] Section 126 (2) and (3)</b>	26
Insert “or suspension of operations under” after “Cancellation of” wherever	27
occurring.	28

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<b>[12] Section 126 (4) and (5)</b>	1
Insert after section 126 (3):	2
(4) A suspension of operations under an authority is revoked on the date on which written notice from the Minister is served on the holder of the authority or on such later date as is specified in the notice.	3 4 5 6
(5) While any operations under an authority are suspended, the authority confers no right on its holder to carry out the operations concerned.	7 8 9
<b>[13] Section 127 Compensation for cancellation or suspension of operations</b>	10
Insert “or operations under it are suspended” after “cancelled” in section 127 (1).	11 12
<b>[14] Section 128 Appeals against decisions concerning cancellation or suspension of operations</b>	13 14
Insert “, or suspend operations under,” after “cancel” in section 128 (1).	15
<b>[15] Section 128 (1)</b>	16
Omit “the cancellation”. Insert instead “its cancellation”.	17
<b>[16] Section 128 (1A)</b>	18
Insert “or suspension” after “cancellation”.	19
<b>[17] Section 188 Dwelling-houses, gardens and improvements</b>	20
Insert “the surface of” after “over” in section 188 (1).	21
<b>[18] Section 203 Grounds of cancellation or operational suspension</b>	22
Insert at the end of section 203 (1) (g):	23
, or	24
(h) if the holder of the claim fails to use the land comprised in the claim in good faith for the purposes for which the claim has been granted, or uses the land for a purpose other than that for which the claim has been granted.	25 26 27 28

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<b>[19] Section 203 (4)</b>	1
Insert after section 203 (3):	2
(4) A mining registrar may suspend all or any specified operations under a mineral claim until further notice if the holder of the claim contravenes:	3
	4
	5
(a) a requirement under this Act to pay royalty, or to give or maintain security for the performance of the holder's obligations under the claim, or	6
	7
	8
(b) any condition of the claim that is identified in the claim as a condition related to environmental management.	9
	10
<b>[20] Section 204 Cancellations and suspensions</b>	11
Omit "(c), (d) or (e)" from section 204 (1).	12
Insert instead "(c), (d), (e) or (h), or suspending operations under a claim".	13
<b>[21] Section 204 (1)–(3)</b>	14
Insert "or suspension" after "cancellation" wherever occurring.	15
<b>[22] Section 204 (2) and (3)</b>	16
Insert "or suspension of operations under" after "Cancellation of" wherever occurring.	17
	18
<b>[23] Section 204 (4) and (5)</b>	19
Insert after section 204 (3):	20
(4) A suspension of operations under a mineral claim is revoked on the date on which written notice from the mining registrar is served on the holder of the claim or on such later date as is specified in the notice.	21
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(5) While any operations under a mineral claim are suspended, the claim confers no right on its holder to carry out the operations concerned.	25
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<b>[24]</b>	<b>Section 205 Compensation for cancellation or suspension of operations</b>	1
	Insert “or operations under it are suspended” after “cancelled” in section 205 (1).	2 3
<b>[25]</b>	<b>Section 206 Review of decisions concerning cancellation or suspension of operations</b>	4 5
	Insert “, or suspend operations under,” after “cancel” in section 206 (1).	6
<b>[26]</b>	<b>Section 206 (1)</b>	7
	Omit “the cancellation”. Insert instead “its cancellation”.	8
<b>[27]</b>	<b>Section 227 Restrictions on grant of licence</b>	9
	Insert at the end of section 227:	10
	(2) An opal prospecting licence may not be granted over any part of an opal prospecting block in respect of which an application for a mineral claim is pending.	11 12 13
<b>[28]</b>	<b>Section 228 Power of mining registrar in relation to applications</b>	14
	Insert after section 228 (3):	15
	(4) Before granting an opal prospecting licence, the mining registrar may require the applicant to give and maintain security, in such amount and form as the mining registrar may (in accordance with the regulations) require, for the fulfilment of the obligations arising under this Act in relation to the licence.	16 17 18 19 20 21
	(5) A condition requiring security to be given and maintained by the holder of an opal prospecting licence ( <i>the new licence</i> ) may be expressed so as to require the security given and maintained in relation to some other opal prospecting licence or licences, whether under this section or under section 232A, to be extended to the new licence.	22 23 24 25 26 27
	(6) If the mining registrar proposes to grant an opal prospecting licence to a person on the condition that the person gives and maintains security, the mining registrar may cause a written	28 29 30

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notice to be served on the person requiring the person to lodge the security with the mining registrar on or before the date specified in the notice.	1 2 3
<b>[29] Section 232A</b>	4
Insert after section 232:	5
<b>232A Amendment of opal prospecting licence in respect of certain conditions</b>	6 7
(1) A mining registrar may amend an opal prospecting licence that does not contain a condition requiring the holder to give and maintain security for the fulfilment of the obligations of the holder arising under this Act so as to include such a condition.	8 9 10 11
(2) A mining registrar may amend an opal prospecting licence that contains such a condition so as to vary the amount and form of the security that is required to be given and maintained.	12 13 14
(3) A mining registrar may amend any 2 or more opal prospecting licences held by the same holder that contain such a condition so as to require a single security to be given and maintained.	15 16 17
(4) The amendment of an opal prospecting licence takes effect on the date on which written notice of the amendment is served on the holder of the licence or on such later date as may be specified in the notice.	18 19 20 21
<b>[30] Section 235B</b>	22
Insert after section 235A:	23
<b>235B Retention and forfeiture of security deposit</b>	24
(1) A security in relation to an opal prospecting licence may be retained by the Director-General until the Director-General is satisfied that the holder of the licence has fulfilled the obligations arising under this Act in relation to the licence, whether the obligations concerned are required to be fulfilled during or after the period for which the licence remains in force.	25 26 27 28 29 30 31

(2) Obligations required to be fulfilled after the period for which the opal prospecting licence remains in force do not cease merely because the licence has ceased to be in force, and the relevant security may be retained under subsection (1) even though the licence is no longer in force.	1 2 3 4 5
(3) Such part of any security in relation to an opal prospecting licence as the Director-General may determine is to be forfeited to the Crown if the holder of the licence fails to fulfil the obligations arising under this Act in relation to the licence.	6 7 8 9
(4) Money realised from the forfeiture of any such security may be applied for the purpose of rehabilitating any land in the State affected by prospecting or mining operations.	10 11 12
(5) The functions of the Director-General under this section may be exercised with or without the benefit of a finding by a court or tribunal that the holder of the opal prospecting licence concerned has failed to fulfil any obligations arising under this Act in relation to the licence.	13 14 15 16 17
<b>[31] Section 240 Direction to comply with conditions</b>	18
Omit “or mineral claim” from section 240 (1).	19
Insert instead “, mineral claim or opal prospecting licence”.	20
<b>[32] Section 240 (1)</b>	21
Omit “or claim”. Insert instead “, claim or licence”.	22
<b>[33] Section 247A Powers of royalty officers</b>	23
Omit section 247A (1) (a). Insert instead:	24
(a) may enter:	25
(i) any premises occupied by the holder of an authority or mineral claim, or	26 27
(ii) any premises where the royalty officer reasonably believes documents, of the kind referred to in paragraph (b), of or relating to the holder are kept, and	28 29 30 31

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<b>[34]</b>	<b>Section 286 Royalty payable on petroleum recovered under mining lease for coal</b>	1
		2
	Insert after section 286 (3):	3
	(4) This section does not apply to methane recovered in conjunction with coal mining operations.	4
		5
<b>[35]</b>	<b>Section 313 Granting of injunctions in cases of urgency</b>	6
	Omit “one month” from section 313 (1). Insert instead “2 months”.	7
<b>[36]</b>	<b>Part 16 The Geological and Mining Museum</b>	8
	Omit the Part.	9
<b>[37]</b>	<b>Section 390</b>	10
	Insert after section 389:	11
	<b>390 References to certain officers in mining titles</b>	12
	(1) The regulations may provide that a reference in any authority, mineral claim or opal prospecting licence to the holder of a specified office within the Department is, for the purposes of the performance of any specified function in connection with the authority, claim or licence, to be read as a reference to the Minister, and the authority, claim or licence is to be construed accordingly.	13
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		19
	(2) Nothing in this section affects the Minister’s power of delegation under section 363.	20
		21
<b>[38]</b>	<b>Schedule 1 Public consultation with respect to the granting of assessment leases and mining leases</b>	22
		23
	Insert at the end of clause 20:	24
	(2) References in this Division to:	25
	(a) land, and	26
	(b) a landholder,	27
	are references only to land to whose surface the lease is proposed to extend, and the landholder of any such land, respectively.	28
		29
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<b>[39] Schedule 1, clause 23A (2)</b>	1
Insert “, identifying the nature and location of the work or structure,” after “writing”.	2 3
<b>[40] Schedule 1, clause 24 (2) (c) and (4) (c)</b>	4
Omit each paragraph. Insert instead:	5
(c) must state that objections to the granting of the lease may be made in writing to the Minister and must explain (having regard to the provisions of clause 28) what persons are entitled to object, and	6 7 8 9
<b>[41] Schedule 6 Savings, transitional and other provisions</b>	10
Insert at the end of clause 1 (1):	11
<i>Mining and Petroleum Legislation Amendment Act 2000</i>	12
<b>[42] Schedule 6, Part 7</b>	13
Insert after Part 6:	14
 <b>Part 7 Provisions consequent on the enactment of the Mining and Petroleum Legislation Amendment Act 2000</b>	 15 16 17
 <b>74 Definition</b>	 18
In this Part, <i>amending Act</i> means the <i>Mining and Petroleum Legislation Amendment Act 2000</i> .	19 20
 <b>75 Authorities and claims over land in proximity to improvements</b>	 21
(1) Rights exercised under an exploration licence:	22
(a) at a time before the amendment made by the amending Act to section 31 took effect, and	23 24

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(b)	the exercise of which contravened that section, but would not have done if that amendment had been in force at the time,	1 2 3
	are taken to have been exercised without contravention of that section, as in force at the time.	4 5
(2)	Rights exercised under an assessment lease:	6
(a)	at a time before the amendment made by the amending Act to section 49 took effect, and	7 8
(b)	the exercise of which contravened that section, but would not have done if that amendment had been in force at the time,	9 10 11
	are taken to have been exercised without contravention of that section, as in force at the time.	12 13
(3)	A mining lease:	14
(a)	that was granted at a time before the amendment made by the amending Act to section 62 took effect, and	15 16
(b)	the grant of which contravened that section, but would not have done if that amendment had been in force at the time,	17 18 19
	is taken to have been granted without contravention of that section, as in force at the time.	20 21
(4)	A mineral claim:	22
(a)	that was granted at a time before the amendment made by the amending Act to section 188 took effect, and	23 24
(b)	the grant of which contravened that section, but would not have done if that amendment had been in force at the time,	25 26 27
	is taken to have been granted without contravention of that section, as in force at the time.	28 29
(5)	Subclauses (3) and (4) apply to a renewal of a mining lease or mineral claim in the same way as to its grant.	30 31
<b>76</b>	<b>Conditions of mining titles</b>	32
	The Minister may, by instrument in writing served on the holder of an authority, mineral claim or opal prospecting licence in force at the commencement of this clause, vary the	33 34 35

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conditions of the authority, claim or licence so as to identify those conditions of the authority, claim or licence that are related to environmental management.	1 2 3
<b>77 Direction affecting consolidated mining lease</b>	4
The repeal by the amending Act of section 111 does not affect the operation of a condition that, immediately before the repeal of that section, continued to have affect by reason of that section.	5 6 7 8
<b>2.2 Petroleum (Onshore) Act 1991</b>	9
<b>[1] Section 3 Definitions</b>	10
Omit the definition of <i>prospect</i> from section 3 (1). Insert instead:	11
<i>prospect</i> means to carry out works on, or to remove samples from, land for the purpose of testing the quality and quantity of petroleum in the land and the potential to recover petroleum from the land, but does not include any activity declared by the regulations not to constitute prospecting.	12 13 14 15 16
<b>[2] Section 22 Cancellation or operational suspension of titles</b>	17
Insert after section 22 (3):	18
(3A) The Minister may suspend all or any specified operations under a petroleum title until further notice if the holder of the title contravenes:	19 20 21
(a) a requirement under this Act to pay royalty, or to give or maintain security for the performance of the holder's obligations under the title, or	22 23 24
(b) any condition of the title that is identified in the title as a condition related to environmental management.	25 26

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<b>[3] Section 22 (4A)</b>	1
Insert after section 22 (4):	2
(4A) A suspension under this section takes effect on the date on which written notice of the suspension is served on the holder of the title or on such later date as is specified in the notice.	3 4 5
<b>[4] Section 22 (5)</b>	6
Insert “, or a suspension of operations under,” after “cancellation of”.	7
<b>[5] Section 22 (6)–(8)</b>	8
Insert after section 22 (5):	9
(6) Before cancelling a title on a ground referred to in subsection (1), or suspending operations under a title, the Minister:	10 11
(a) must cause written notice of the proposed cancellation or suspension, and of the grounds of the proposed cancellation or suspension, to be served on the holder of the title, and	12 13 14 15
(b) must give the holder of the title a reasonable opportunity to make representations with respect to the proposed cancellation or suspension, and	16 17 18
(c) must take any such representations into consideration.	19
(7) A suspension under this section is revoked on the date on which written notice from the Minister is served on the holder of the affected petroleum title or on such later date as is specified in the notice.	20 21 22 23
(8) While any operations under a petroleum title are suspended, the title confers no right on its holder to carry out the operations concerned.	24 25 26



<b>[6] Section 28A</b>	1
Insert after section 28:	2
<b>28A Right to explore for natural reservoirs</b>	3
(1) In addition to the other rights conferred by the title, every petroleum title confers on its holder the right to carry on such operations as are necessary to explore the land comprised in the title for the existence and availability of natural reservoirs.	4 5 6 7
(2) The right conferred by operation of subsection (1) is subject to any order of the Minister served on the holder of the title.	8 9
(3) By order under this section, the Minister may prohibit, or direct the holder of the title to desist from, carrying on operations of a kind specified in the order.	10 11 12
(4) Contravention of an order under this section is taken to be a breach of the conditions of the title.	13 14
<b>[7] Section 29</b>	15
Omit the section. Insert instead:	16
<b>29 Rights of holders of exploration licences</b>	17
The holder of an exploration licence has the exclusive right, in accordance with the conditions of the licence, to prospect for petroleum on the land comprised in the licence.	18 19 20
<b>[8] Section 30 Area of exploration licence</b>	21
Insert at the end of section 30:	22
(2) The size of the area over which the renewal of an exploration licence is granted must not exceed 75 per cent of the size of:	23 24
(a) the area over which the licence was originally granted, in the case of a first renewal of the licence, or	25 26
(b) the area over which its last previous renewal was granted, in any other case,	27 28
unless the Minister, being satisfied that special circumstances exist, otherwise determines.	29 30

<b>[9] Section 31 Term of exploration licence</b>	1
Omit section 31 (2).	2
<b>[10] Section 33 Rights of holders of assessment leases</b>	3
Omit “explore”. Insert instead “prospect”.	4
<b>[11] Section 33</b>	5
Insert at the end of the section:	6
<b>Note.</b> An assessment lease is designed to allow retention of rights over an area in which a significant petroleum deposit has been identified, if mining the deposit is not commercially viable in the short term but there is a reasonable prospect that it will be in the longer term. The holder is allowed to continue prospecting operations and to recover petroleum in the course of assessing the viability of commercial mining.	7 8 9 10 11
<b>[12] Section 72</b>	12
Omit the section. Insert instead:	13
<b>72 Restrictions on rights of holders of titles over other land</b>	14
(1) The holder of a petroleum title must not carry on any prospecting or mining operations or erect any works on the surface of any land:	15 16 17
(a) on which, or within 200 metres of which, is situated a dwelling-house that is the principal place of residence of the person occupying it, or	18 19 20
(b) on which, or within 50 metres of which, is situated any garden, vineyard or orchard, or	21 22
(c) on which is situated any improvement (being a substantial building, dam, reservoir, contour bank, graded bank, levee, water disposal area, soil conservation work, or other valuable work or structure) other than an improvement constructed or used for mining or prospecting operations,	23 24 25 26 27 28
except with the written consent of the owner of the dwelling-house, garden, vineyard, orchard or improvement (and, in the case of the dwelling-house, the written consent of its occupant).	29 30 31
(2) A consent under this section is irrevocable.	32

(3) If need be, the Minister is to determine whether any improvement referred to in subsection (1) (c) is substantial or valuable, and may define an area adjoining any such improvement on the surface of which no prospecting or mining operations are to be carried out, or works erected, without the consent of the owner of the improvement.	1 2 3 4 5 6
<b>[13] Section 85 Royalty</b>	7
Insert after section 85 (3):	8
(4) This section does not apply to methane recovered in conjunction with coal mining operations.	9 10
<b>[14] Section 113 Officers</b>	11
Insert after section 113 (1):	12
(1A) Other inspectors, having such powers, authorities, duties and functions as may be conferred or imposed on them by or under this or any other Act, may be employed under Part 2 of the <i>Public Sector Management Act 1988</i> or engaged under contract.	13 14 15 16 17
<b>[15] Section 136A</b>	18
Insert after section 136:	19
<b>136A Contravention of conditions of title</b>	20
(1) The holder of any petroleum title must not, without reasonable excuse, contravene or fail to comply with any conditions of the title.	21 22 23
Maximum penalty:	24
(a) if the condition of the title is identified in the title as a condition related to environmental management:	25
(i) 1,000 penalty units, in the case of an offence dealt with on indictment, or	26 27 28
(ii) 200 penalty units, in the case of an offence dealt with summarily, or	29 30
(b) in any other case—200 penalty units.	31

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(2) If the conditions of a petroleum title held by more than one person are contravened, each holder who knowingly authorised or permitted the contravention is guilty of an offence under this section.	1 2 3 4
<b>[16] Section 137A</b>	5
Insert after section 137:	6
<b>137A Penalty notices for offences under section 136A</b>	7
(1) The Minister may serve a penalty notice on the holder of a petroleum title if it appears to the Minister that the person has committed an offence under section 136A.	8 9 10
(2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay, within the time and to the person specified in the notice, the penalty prescribed by the regulations for the offence if dealt with under this section.	11 12 13 14 15
(3) A penalty notice may be served personally or by post.	16
(4) If the amount of the penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.	17 18 19
(5) Payment under this section is not an admission of liability for the purposes of, and does not affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.	20 21 22
(6) The regulations may:	23
(a) prescribe the amount of penalty for an offence under section 136A if dealt with under this section, and	24 25
(b) prescribe different amounts of penalty for different offences or classes of offences under that section.	26 27
(7) The amount of penalty prescribed under this section for an offence may not exceed 100 penalty units.	28 29
(8) This section does not limit the operation of any provision made by or under this or any other Act relating to proceedings that may be taken in respect of offences.	30 31 32

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<b>[17] Section 138B</b>	1
Insert after section 138A:	2
<b>138B References to certain officers in petroleum titles</b>	3
(1) The regulations may provide that a reference in any petroleum title to the holder of a specified office within the Department is, for the purposes of the performance of any specified function in connection with the title, to be read as a reference to the Minister, and the petroleum title is to be construed accordingly.	4 5 6 7 8
(2) Nothing in this section affects the Minister's power of delegation under section 126.	9 10
<b>[18] Schedule 1 Savings and transitional provisions</b>	11
Insert at the end of clause 2 (1) (b):	12
<i>Mining and Petroleum Legislation Amendment Act 2000</i>	13
<b>[19] Schedule 1, Part 5</b>	14
Insert after Part 4:	15
<b>Part 5 Provisions consequent on enactment of Mining and Petroleum Legislation Amendment Act 2000</b>	16 17 18
<b>21 Conditions of petroleum titles</b>	19
The Minister may, by instrument in writing served on the holder of a petroleum title in force at the commencement of this clause, vary the conditions of the title so as to identify those conditions of the title that are related to environmental management.	20 21 22 23 24

<b>Schedule 3</b>	<b>Amendments relating to native title</b>	1
	(Section 3)	2
<b>3.1</b>	<b>Mining Act 1992</b>	3
<b>[1]</b>	<b>Section 12 Fossicking</b>	4
	Insert after section 12 (5):	5
	(6) A person must not carry out fossicking on any land that is, or in waters that are, the subject of an approved determination of native title under the Commonwealth Native Title Act to the effect that native title exists, except with the consent of the relevant registered native title body corporate with respect to that native title.	6 7 8 9 10 11
	Maximum penalty: 50 penalty units.	12
<b>[2]</b>	<b>Section 139 Arbitration Panel</b>	13
	Omit “the Minister for Agriculture and Rural Affairs” from section 139 (2).	14
	Insert instead “the Minister for Aboriginal Affairs and the Minister for Agriculture”.	15 16
<b>[3]</b>	<b>Section 144 Appointment of arbitrator in default of agreement</b>	17
	Omit “the Director-General of the Department of Agriculture” from section 144 (3).	18 19
	Insert instead “the Heads of the Departments of Aboriginal Affairs and Agriculture”.	20 21
<b>[4]</b>	<b>Section 262 Definition</b>	22
	Omit “deprivation” from paragraph (b) of the definition of <i>compensable loss</i> .	23 24
	Insert instead “depriving a native title holder or other landholder”.	25
<b>[5]</b>	<b>Section 383A Service of documents on native title holders</b>	26
	Omit “effected” from section 383A (2) (a). Insert instead “served”.	27

<b>[6] Section 383B Consent of landholders and others</b>	1
Omit section 383B (3) and (4). Insert instead:	2
(3) For the purposes of subsection (2), a landholder who is a native title holder is taken to have been unable, after diligent inquiry, to be identified if:	3
	4
	5
(a) where the purpose for which the landholder's consent or agreement is required to be obtained is an act to which Subdivision P of Division 3 of Part 2 of the Commonwealth Native Title Act applies:	6
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	9
(i) notice of an intention to carry out that purpose is given by the Government party under section 29 of that Act, and	10
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	12
(ii) at the expiration of the prescribed period, the landholder is neither a registered native title claimant nor a registered native title body corporate in relation to the land concerned, or	13
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	16
(b) where the purpose for which the landholder's consent or agreement is required to be obtained is not such an act:	17
	18
(i) notice of an intention to carry out that purpose is served in the manner authorised by section 383 (1) and (4), on any representative Aboriginal/Torres Strait Islander bodies for an area that includes the land concerned, and	19
	20
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	23
(ii) at the expiration of the prescribed period, the landholder is neither a registered native title claimant nor a registered native title body corporate in relation to the land concerned.	24
	25
	26
	27
(4) In this section:	28
<i>Government party</i> has the same meaning as it has in the Commonwealth Native Title Act.	29
	30
<i>prescribed period</i> means:	31
(a) in relation to a notice referred to in subsection (3) (a)—the period of 4 months referred to in section 30 of the Commonwealth Native Title Act, or	32
	33
	34
(b) in relation to a notice referred to in subsection (3) (b)—the period of 4 months commencing on service of the notice.	35
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<b>3.2 Petroleum (Onshore) Act 1991</b>	1
<b>[1] Section 69A Application of Part</b>	2
Insert after section 69A (2) (and before the note at the end of the section):	3
(3) This Part applies, in the case of a prospecting title that is a low-impact exploration licence or a low-impact special prospecting authority, as though a reference in this Part to a landholder included a reference to:	4
(a) any registered native title body corporate, and	5
(b) any registered native title claimant,	6
in relation to the land over which the licence is granted.	7
<b>[2] Section 69G Appointment of arbitrator in default of agreement</b>	8
Omit “the Director-General of the Department of Agriculture” from section 69G (3).	9
Insert instead “the Heads of the Departments of Aboriginal Affairs and Agriculture”.	10
<b>[3] Section 109 Measure of compensation</b>	11
Omit “deprivation” from section 109 (1) (b).	12
Insert instead “depriving a native title holder or other landholder”.	13
<b>[4] Section 134A Service of documents on native title holders</b>	14
Omit section 134A (2). Insert instead:	15
(2) If no approved determination of native title (within the meaning of the Commonwealth Native Title Act) exists in relation to the land concerned, a document authorised or required under this Act to be served on a landholder cannot, for the purposes of serving it on a landholder who is a native title holder who cannot be identified, be served in the manner prescribed by section 134 (2).	16
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(3) Such a document may, however, be served on a landholder referred to in subsection (2) by serving it, in a manner authorised by section 134 (1) and (3)–(5), on:	1 2 3
(a) any representative Aboriginal/Torres Strait Islander bodies for an area that includes the land concerned, and	4 5
(b) any registered native title claimants in relation to the land concerned.	6 7
(4) In this section, <i>registered native title body corporate</i> and <i>registered native title claimant</i> have the same meanings as in the Commonwealth Native Title Act.	8 9 10
<b>[5] Section 134B Consents of landholders</b>	11
Omit section 134B (3) and (4). Insert instead:	12
(3) For the purposes of subsection (2), a landholder who is a native title holder is taken to have been unable, after diligent inquiry, to be identified if:	13 14 15
(a) where the purpose for which the landholder’s consent or agreement is required to be obtained is an act to which Subdivision P of Division 3 of Part 2 of the Commonwealth Native Title Act applies:	16 17 18 19
(i) notice of an intention to carry out that purpose is given by the Government party under section 29 of that Act, and	20 21 22
(ii) at the expiration of the prescribed period, the landholder is neither a registered native title claimant nor a registered native title body corporate in relation to the land concerned, or	23 24 25 26
(b) where the purpose for which the landholder’s consent or agreement is required to be obtained is not such an act:	27 28
(i) notice of an intention to carry out that purpose is served, in a manner authorised by section 134 (1) and (3)–(5), on any representative Aboriginal/Torres Strait Islander bodies for an area that includes the land concerned, and	29 30 31 32 33
(ii) at the expiration of the prescribed period, the landholder is neither a registered native title claimant nor a registered native title body corporate in relation to the land concerned.	34 35 36 37

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- (4) In this section: 1
- Government party, registered native title body corporate* and 2  
*registered native title claimant* have the same meaning as in 3  
the Commonwealth Native Title Act. 4
- prescribed period* means: 5
- (a) in relation to a notice referred to in subsection (3) 6  
(a)—the period of 4 months referred to in section 30 of 7  
the Commonwealth Native Title Act, or 8
- (b) in relation to a notice referred to in subsection (3) 9  
(b)—the period of 4 months commencing on service of 10  
the notice. 11

<b>Schedule 4</b>	<b>Further amendment of Petroleum (Onshore) Act 1991</b>	1
		2
	(Section 3)	3
<b>[1]</b>	<b>Section 3 Definitions</b>	4
	Omit the definitions of <i>Crown land</i> , <i>lease for pastoral purposes</i> , <i>owner</i> and <i>private land</i> from section 3 (1).	5 6
<b>[2]</b>	<b>Section 3 (1)</b>	7
	Insert in alphabetical order:	8
	<i>landholder</i> means, in relation to any land:	9
	(a) the owner of an estate in fee simple in the land, or	10
	(b) a native title holder of the land, or	11
	(c) the holder of a lease or licence granted under the <i>Crown Lands Act 1989</i> over the land, or	12 13
	(d) the holder of a tenure referred to in Part 1 or 2 of Schedule 1 to the <i>Crown Lands (Continued Tenures) Act 1989</i> in the land, or	14 15 16
	(e) the holder of a permissive occupancy granted over the land, or	17 18
	(f) the holder of a lease granted under the <i>Western Lands Act 1901</i> over the land, or	19 20
	(g) a person identified in any register or record kept by the Registrar-General as a person having an interest in the land, or	21 22 23
	(h) a person of a class prescribed by or determined in accordance with the regulations to be landholders for the purposes of this definition,	24 25 26
	but does not include a person of a class prescribed as outside the scope of this definition.	27 28

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<b>[3] Section 9 Grant of petroleum titles</b>	1
Omit section 9 (3). Insert instead:	2
(3) A petroleum title may be granted over land of any title or tenure.	3 4
<b>[4] Section 45F Access arrangement required for prospecting operations under low-impact prospecting titles</b>	5 6
Omit “owners or occupiers” from section 45F (4).	7
Insert instead “landholders”.	8
<b>[5] Section 69A Application of Part</b>	9
Omit “on private land or on land held under a lease for pastoral purposes” from section 69A (1).	10 11
<b>[6] Sections 69A (2) and 134 (2)</b>	12
Omit “an owner or occupier of land” wherever occurring.	13
Insert instead “a landholder”.	14
<b>[7] Section 69A (2)</b>	15
Omit “such an owner or occupier”. Insert instead “such a landholder”.	16
<b>[8] Sections 69C (a), 69F (1) and (2), 69G (1), 69H (2), 69I (1), 69M (3) and 71 (1)</b>	17 18
Omit “owner and occupier of the land” wherever occurring.	19
Insert instead “landholder”.	20
<b>[9] Section 69D Matters for which access arrangement to provide</b>	21
Omit “owner or occupier of the land” wherever occurring in section 69D (1) (f) and (4).	22 23
Insert instead “landholder”.	24
<b>[10] Sections 69D (2) and (4) (b) and 101 (1) (b)</b>	25
Omit “owner or occupier” wherever occurring.	26
Insert instead “landholder”.	27

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<b>[11] Sections 69E (1) and (3) and 134B (1) (b)</b>	1
Omit “owner and occupier” wherever occurring.	2
Insert instead “landholder”.	3
<b>[12] Section 69F Appointment of arbitrator by agreement</b>	4
Insert “title” before “holder’s” in section 69F (1).	5
<b>[13] Sections 69F (1) and 69G (1)</b>	6
Insert “title” before “holder and” wherever occurring.	7
<b>[14] Section 69F (1)</b>	8
Insert “title” before “holder may”.	9
<b>[15] Section 69F (1)</b>	10
Omit “each such owner and occupier”.	11
Insert instead “each such landholder”.	12
<b>[16] Sections 69H (1) (b) and 69M (2) (b)</b>	13
Omit “each owner and occupier of that land” wherever occurring.	14
Insert instead “each landholder”.	15
<b>[17] Section 69U Duration of access arrangements</b>	16
Omit “an owner or occupier of the land” where firstly occurring in section 69U (a).	17
Insert instead “a landholder”.	18
<b>[18] Section 69U (a)</b>	19
Omit “an owner or occupier of the land” where secondly occurring.	20
Insert instead “a landholder of the land concerned”.	21
<b>[19] Section 69U (b)</b>	22
Omit “an owner or occupier of the land”. Insert instead “a landholder”.	23
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<b>[20] Section 101 Notice to landholder</b>	1
Omit “owner and occupier of the land” from section 101 (1) (a).	2
Insert instead “landholder”.	3
<b>[21] Section 106 Rights of way over land</b>	4
Omit “Crown land or private” from section 106 (1).	5
<b>[22] Section 109 Measure of compensation</b>	6
Omit “owner or occupier of that land” from section 109 (1) (c).	7
Insert instead “landholder”.	8
<b>[23] Section 115 Jurisdiction of court</b>	9
Omit “owners or occupiers of private lands or occupiers of Crown lands” from section 115 (1) (n) (ii).	10 11
Insert instead “landholders”.	12
<b>[24] Section 134A Service of documents on native title holders</b>	13
Omit “an owner of land” from section 134A (1).	14
Insert instead “a landholder”.	15
<b>[25] Section 134B Consents of landholders</b>	16
Omit “the owner and occupier of the land concerned” from section 134B (1) (a).	17 18
Insert instead “a landholder or other person”.	19
<b>[26] Section 134B (2)</b>	20
Omit “an owner or occupier of land”.	21
Insert instead “a landholder or other person”.	22
<b>[27] Section 134B (2) (a)</b>	23
Omit “owner or occupier of the land concerned” from section 134B (2) (a).	24
Insert instead “landholder or other person”.	25

Mining and Petroleum Legislation Amendment Bill 2000

Schedule 4 Further amendment of Petroleum (Onshore) Act 1991

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<b>[28] Section 134B (2) (b)</b>	1
Omit “owners and occupiers”. Insert instead “landholders”.	2
<b>[29] Section 134B (2) (b)</b>	3
Omit “an owner or occupier of the land”. Insert instead “a landholder”.	4
<b>[30] Section 136 Other offences</b>	5
Omit “Any owner or occupier of private land or any occupier of Crown land or” from section 136 (3).	6
Insert instead “A landholder of any land or”.	7
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<b>Schedule 5</b>	<b>Consequential amendment of Criminal Procedure Act 1986</b>	1
		2
	(Section 4)	3
<b>[1]</b>	<b>Schedule 1, Table 1, Part 7</b>	4
	Insert after Part 6:	5
	<b>Part 7 Offences relating to mining</b>	6
	<b>31 Mining Act 1992</b>	7
	(1) An offence of mining in contravention of a provision of Division 1 of Part 2 of the <i>Mining Act 1992</i> , where the value of the minerals to which the alleged offence relates is \$5,000 or more.	8 9 10 11
	(2) An offence under Division 2 of Part 2 of the <i>Mining Act 1992</i> , where the value of the minerals to which the alleged offence relates is \$5,000 or more.	12 13 14
<b>[2]</b>	<b>Schedule 1, Table 2</b>	15
	Insert after Part 8:	16
	<b>Part 9 Offences relating to mining</b>	17
	<b>17 Mining Act 1992</b>	18
	(1) An offence of mining in contravention of a provision of Division 1 of Part 2 of the <i>Mining Act 1992</i> , where the value of the minerals to which the alleged offence relates is less than \$5,000.	19 20 21 22
	(2) An offence under Division 2 of Part 2 of the <i>Mining Act 1992</i> , where the value of the minerals to which the alleged offence relates is less than \$5,000.	23 24 25



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|-----------|--|----------------------|
| (3)       | An offence, under section 374A of the <i>Mining Act 1992</i> , of contravening a condition of a lease, licence or mineral claim under that Act that is identified in the lease, licence or claim as a condition related to environmental management. | 1<br>2<br>3<br>4     |
| <b>18</b> | <b>Petroleum (Onshore) Act 1991</b>  | 5                    |
| (1)       | An offence of mining petroleum in contravention of section 7 of the <i>Petroleum (Onshore) Act 1991</i> , where the value of the petroleum to which the alleged offence relates is less than \$5,000.  | 6<br>7<br>8<br>9     |
| (2)       | An offence, under section 136A of the <i>Petroleum (Onshore) Act 1991</i> , of contravening a condition of a petroleum title that is identified in the title as a condition related to environmental management.                                     | 10<br>11<br>12<br>13 |