

LEGISLATIVE COUNCIL

Mining and Petroleum Legislation Amendment (Land Access Arbitration) Bill 2015

First print

Proposed amendments

No. 1 **Abolition of arbitration**

Page 3, Schedule 1. Insert after before line 13:

[2] Section 32F Access arrangement required for prospecting operations under low-impact licences

Omit “, or that is determined for them by an arbitrator in accordance with that Division” from section 32F (2) (a).

No. 2 **Abolition of arbitration**

Pages 3 and 4, Schedule 1 [4], line 29 on page 3 to line 21 on page 4. Omit all words on those lines. Insert instead:

[4] Section 139 Arbitration Panel

Omit the section.

[5] Section 140 Prospecting to be carried out with consent and in accordance with access arrangement

Omit section 140 (1). Insert instead:

- (1) The holder of a prospecting title must not carry out prospecting operations on any particular area of land without the consent of each landholder of that area of land.
- (1A) The holder of a prospecting title must not carry out prospecting operations on any particular area of land except in accordance with an access arrangement or arrangements applying to that area of land agreed (in writing) between the holder of the prospecting title and each landholder of that area of land.

[6] Section 140 (2)

Omit “or determined”.

No. 3 **Abolition of arbitration**

Page 4, Schedule 1 [5] and [6], lines 22–25. Omit all words on those lines. Insert instead:

[5] Section 141 Matters for which access arrangement to provide

Omit section 141 (2) and (2A).

[6] Section 141 (4)

Omit the subsection. Insert instead:

- (4) If the holder of a prospecting title contravenes an access arrangement, a landholder of the land concerned may deny the holder access to the land until the holder ceases the contravention or the contravention is remedied to the reasonable satisfaction of the landholder.

No. 4 **Abolition of arbitration**

Page 5, Schedule 1. Insert after line 28:

[9] Section 142 (4)

Omit the subsection.

[10] Section 143 Appointment of arbitrator by agreement

Omit the section.

No. 5 **Abolition of arbitration**

Pages 5–12, Schedule 1 [9]–[22], line 29 on page 5 to line 16 on page 12. Omit all words on those lines. Insert instead:

[9] Sections 144–156

Omit the sections.

[10] Section 157 Variation of access arrangements

Omit section 157 (2). Insert instead:

- (2) An access arrangement may also be varied by the agreement of the parties to the arrangement.

[11] Section 158 Change in landholders

Omit “or determined” wherever occurring in section 158 (2), (3), (4) and (6).

[12] Section 158 (5)

Omit the subsection. Insert instead:

- (5) If the new landholder objects to the access arrangement within 28 days after being given a copy of the arrangement, the access arrangement ceases to apply to the new landholder unless the new landholder agrees to an access arrangement with the holder of the prospecting title concerned in accordance with this Division.

No. 6 **Abolition of arbitration**

Page 12, Schedule 1. Insert before line 28:

[25] Schedule 4 Regulation making powers

Omit clause 10 from Schedule 4.

No. 7 **Abolition of arbitration**

Page 13, Schedule 1 [26], lines 1–21. Omit all words on those lines. Insert instead:

Application of amendments to existing access arrangements determined by arbitrator

The amendments made by the 2015 amending Act to the provisions of this Act relating to access arrangements do not apply to prospecting operations in relation to which:

- (a) an access arrangement determined by an arbitrator was in force immediately before the commencement of the 2015 amending Act, or
- (b) an arbitrator had been appointed (by agreement or in default of an agreement) and had begun to conduct a hearing but in relation to which no final determination had been made by the arbitrator before the commencement of the 2015 amending Act.

No. 8 **Abolition of arbitration**

Page 15, Schedule 2. Insert before line 38:

[4] Section 45F Access arrangement required for prospecting operations under low-impact prospecting titles

Omit “, or that is determined for them by an arbitrator in accordance with that Part” from section 45F (2) (a).

No. 9 **Abolition of arbitration**

Page 15, Schedule 2. Insert before line 38:

[4] Section 69B Arbitration Panel

Omit the section.

[5] Section 69C Prospecting to be carried out with consent and in accordance with access arrangement

Omit section 69C (1). Insert instead:

- (1) The holder of a prospecting title must not carry out prospecting operations on any particular area of land without the consent of each landholder of that area of land.
- (1A) The holder of a prospecting title must not carry out prospecting operations on any particular area of land except in accordance with an access arrangement or arrangements applying to that area of land agreed (in writing) between the holder of the prospecting title and each landholder of that area of land.

[6] Section 69C (2)

Omit “or determined”.

No. 10 **Abolition of arbitration**

Page 16, Schedule 2 [7], lines 8 and 9. Omit all words on those lines. Insert instead:

[7] Section 69D (4)

Omit the subsection. Insert instead:

- (4) If the holder of a prospecting title contravenes an access arrangement, a landholder of the land concerned may deny the holder access to the land until the holder ceases the contravention or the contravention is remedied to the reasonable satisfaction of the landholder.

No. 11 **Abolition of arbitration**

Page 17, Schedule 2. Insert after line 14:

[10] Section 69E (4)

Omit the subsection.

[11] Section 69F Appointment of arbitrator by agreement

Omit the section.

No. 12 **Abolition of arbitration**

Pages 17–24, Schedule 2 [10]–[23], line 15 on page 17 to line 1 on page 24. Omit all words on those lines. Insert instead:

[10] Sections 69G–69S

Omit the sections.

[11] Section 69T Variation of access arrangements

Omit section 69T (2). Insert instead:

- (2) An access arrangement may also be varied by the agreement of the parties to the arrangement.

[12] Section 69U Change in landholders

Omit “or determined” wherever occurring in section 69U (2), (3), (4) and (6).

[13] Section 69U (5)

Omit the subsection. Insert instead:

- (5) If the new landholder objects to the access arrangement within 28 days after being given a copy of the arrangement, the access arrangement ceases to apply to the new landholder unless the new landholder agrees to an access arrangement with the holder of the prospecting title concerned in accordance with this Part.

No. 13 **Abolition of arbitration**

Page 26, Schedule 2. Insert before line 11:

[37] Section 138 Regulations

Omit section 138 (1) (q).

No. 14 **Abolition of arbitration**

Pages 26 and 27, Schedule 2 [40], line 35 on page 26 to line 20 on page 27. Omit all words on those lines. Insert instead:

Application of amendments to existing access arrangements determined by arbitrator

The amendments made by the 2015 amending Act to the provisions of this Act relating to access arrangements do not apply to prospecting operations in relation to which:

- (a) an access arrangement determined by an arbitrator was in force immediately before the commencement of the 2015 amending Act, or
(b) an arbitrator had been appointed (by agreement or in default of an agreement) and had begun to conduct a hearing but in relation to which no final determination had been made by the arbitrator before the commencement of the 2015 amending Act.