

MINING (AMENDMENT) BILL 1986

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Coal Mining (Amendment) Bill 1986 is cognate with this Bill.

The objects of this Bill are—

- (a) to amend the Mining Act 1973 so as to allow the transfer of parts of mining leases and mining purposes leases; and
- (b) to make other miscellaneous amendments to that Act.

Clause 1 specifies the short title of the proposed Act.

Clause 2 is a formal provision that gives effect to the Schedules of amendments.

SCHEDULE 1—AMENDMENTS TO THE MINING ACT 1973 RELATING TO THE TRANSFER OF PARTS OF LEASES

Schedule 1 (1) inserts proposed section 107A which authorises, with the Minister's approval, the transfer of a part of a mining lease or mining purposes lease. In particular, the proposed section—

- (a) applies to the transfer of part of a lease the same laws as apply to the transfer of a whole lease;
- (b) deems a new lease to have been granted over the transferred part for the balance of the term of the original lease and on the conditions determined by the Minister;

- (c) excludes, from the area of the original lease, the part transferred;
- (d) authorises the Minister to make any alterations to the conditions of the original lease made necessary by the transfer of the part;
- (e) requires, as a condition precedent to the transfer, that the Minister and the proposed transferee sign a document setting out the terms of the new lease and that the Minister and the proposed transferor sign a document setting out the terms of any proposed amendments of the original lease;
- (f) provides that where the boundaries of the transferred part have not been surveyed, or satisfactorily surveyed, the Minister may approve the transfer subject to an alteration of areas, rents and conditions having regard to any subsequent survey of the land; and
- (g) authorises the making of regulations of a savings or transitional nature consequent on the transfer.

Schedule 1 (2) gives a warden's court jurisdiction to hear questions or disputes in connection with certain interests and provisions for compensation arising because of the transfer of a lease or other authority under the Principal Act or of a part of a lease.

SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO THE MINING ACT 1973

Schedule 2 (1) enables the Minister to constitute reserves which prevent the granting of specific types of mining or prospecting titles (at present the Minister may only prevent the granting of general classes of mining or prospecting titles).

Schedule 2 (2) removes references to the "Minister for Lands" and provides, in effect, that the appropriate Minister shall give certain concurrences or consents in relation to the constitution of fossicking areas on Crown lands.

Schedule 2 (3) is consequential on the amendments in Schedule 2 (1).

Schedule 2 (4) changes references to "an instrument in writing" to references to "a statutory declaration" so as to accord with an earlier provision.

Schedule 2 (5) enables an application for an exploration licence to be made over an area of land in respect of which a mining lease is in force (the exploration licence to take effect on the cessation of the mining lease).

Schedule 2 (6) requires a copy of every notice served on an owner or occupier of land in connection with an application for a renewal of a licence or lease under the Principal Act to be lodged with the application.

Schedule 2 (7) and (8) enable the Minister to make, at the time of dealing with an application for renewal of an exploration permit, a determination as to whether the maximum area in respect of which the permit may be renewed can be exceeded. At present, such a determination is required to be made before the application is lodged.

Schedule 2 (9) requires certain objections to the grant of a prospecting licence, mining lease or mining purposes lease to be referred to an inspector appointed under section 183 of the Principal Act for investigation and report instead of to the Chief Inspector of Mines or the Chief Inspector of Coal Mines.

Schedule 2 (10) changes references to “a lessee” to references to “the registered holder of a lease” for the purpose of consistency with other provisions of the Principal Act.

Schedule 2 (11) removes an unnecessary reference from the provisions relating to the cancellation of existing leases included in a consolidated mining lease.

MINING (AMENDMENT) BILL 1986

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Amendment of Act No. 42, 1973

SCHEDULE 1—AMENDMENTS TO THE MINING ACT 1973 RELATING TO THE
TRANSFER OF PARTS OF LEASES

SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO THE MINING ACT 1973

MINING (AMENDMENT) BILL 1986

NEW SOUTH WALES



No. , 1986

A BILL FOR

An Act to amend the Mining Act 1973 to allow the transfer of parts of leases, and for other purposes.

See also Coal Mining (Amendment) Bill 1986.

Mining (Amendment) 1986

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

5 Short title

1. This Act may be cited as the "Mining (Amendment) Act 1986".

Amendment of Act No. 42, 1973

2. The Mining Act 1973 is amended in the manner set forth in Schedules 1 and 2.

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SCHEDULE 1

(Sec. 2)

AMENDMENTS TO THE MINING ACT 1973 RELATING TO THE
TRANSFER OF PARTS OF LEASES

(1) Section 107A—

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After section 107, insert:

Transfer of part of lease

107A. (1) In this section—

"lease" means a mining lease or mining purposes lease.

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(2) Section 107 and any other provision of this Act or other law applying to the transfer of a lease shall, subject to this section, apply to the transfer of part of a lease as if the part were a whole lease.

(3) On approval by the Minister of the transfer of part of a lease—

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- (a) the lease (in this section referred to as "the original lease") shall be deemed to have been cancelled as to the area of the part transferred;

*Mining (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE MINING ACT 1973 RELATING TO THE
TRANSFER OF PARTS OF LEASES—*continued*

- 5 (b) a lease over the part transferred (in this section referred to as “the new lease”) shall be deemed to have been granted under this Act to the transferee for the period ending on the date of expiry of the original lease and on the conditions determined by the Minister in granting approval of the transfer; and
- 10 (c) if the Minister considers that it is necessary to do so as a result of the transfer, the conditions to which the original lease is subject shall be amended in the manner determined by the Minister in granting approval of the transfer.
- (4) It is a condition precedent to the granting of approval by the Minister of the transfer of part of a lease that—
- 15 (a) the Minister and the proposed transferee sign a document setting out the terms of the proposed new lease; and
- (b) the Minister and the proposed transferor sign a document setting out the terms of any proposed amendments of the original lease.
- 20 (5) The provisions of section 57 apply to the granting of approval by the Minister of the transfer of part of a lease in the same way as those provisions apply to the granting of a lease.
- (6) The regulations may make provisions of a savings or transitional nature consequent on the transfer of parts of leases.
- (2) Section 133 (**Jurisdiction of warden’s court**)—
- 25 (a) Section 133 (n)—
Omit “and”.
- (b) Section 133 (o), (p)—
At the end of section 133 (o), insert:
; and

*Mining (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE MINING ACT 1973 RELATING TO THE
TRANSFER OF PARTS OF LEASES—*continued*

(p) any question or dispute in connection with—

(i) an interest (whether legal or equitable) in, or affecting, an authority; or

(ii) an assessment or agreement in respect of compensation under section 122,

arising because of the transfer of an authority or of part of a mining lease or mining purposes lease.

SCHEDULE 2

(Sec. 2)

10 MISCELLANEOUS AMENDMENTS TO THE MINING ACT 1973

(1) Section 24 (**Reserves**)—

(a) Section 24 (2) (b)–(i)—

Omit section 24 (2) (b)–(e), insert instead:

15 (b) that no exploration licence shall be granted over land in the reserve;

(c) that no prospecting licence shall be granted over land in the reserve;

(d) that no mining lease shall be granted over land in the reserve;

20 (e) that no mining purposes lease shall be granted over land in the reserve;

(f) that no authorisation shall be granted over land in the reserve;

*Mining (Amendment) 1986*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE MINING ACT 1973—
continued

(g) that no exploration permit shall be granted over land in the reserve;

(h) that no coal lease shall be granted over land in the reserve;

(i) that no person shall fossick within the reserve.

5 (b) Section 24 (5) (a)–(g)—

Omit section 24 (5) (a)–(c), insert instead:

(a) an exploration licence is made or pending in respect of land that is the subject of a direction under subsection (2) (b);

10 (b) a prospecting licence is made or pending in respect of land that is the subject of a direction under subsection (2) (c);

(c) a mining lease is made or pending in respect of land that is the subject of a direction under subsection (2) (d);

15 (d) a mining purposes lease is made or pending in respect of land that is the subject of a direction under subsection (2) (e);

(e) an authorisation is made or pending in respect of land that is the subject of a direction under subsection (2) (f);

20 (f) an exploration permit is made or pending in respect of land that is the subject of a direction under subsection (2) (g); or

(g) a coal lease is made or pending in respect of land that is the subject of a direction under subsection (2) (h),

(2) Section 25 (**Fossicking areas**)—

25 (a) Section 25 (2) (a)—

Omit “Minister for Lands”, insert instead “Minister who has the control or supervision of the Crown lands”.

*Mining (Amendment) 1986*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE MINING ACT 1973—
continued

- (b) Section 25 (5)—
Omit “Minister for Lands”, insert instead “Minister who has the control or supervision of the Crown lands”.
- (3) Section 26C (**Rights of holder of fossicking licence**)—
- 5 Section 26C (3) (j)—
Omit “(e)”, insert instead “(i)”.
- (4) Section 44 (**Marking out land over which prospecting licence or lease sought**)—
- (a) Section 44 (1) (b)—
- 10 Omit “an instrument in writing”, insert instead “a statutory declaration”.
- (b) Section 44 (1) (b)—
Omit “that instrument”, insert instead “that declaration”.
- (5) Section 50A (**Certain land excluded from applications**)—
- 15 Section 50A (3), (4)—
After “authority” wherever occurring, insert “(other than an exploration licence)”.
- (6) Section 66 (**Application for renewal of authority**)—
Section 66 (11)—
- 20 Omit “Where a notice has been served in accordance with subsection (7) in respect of the area or part of the area of the land to which an application for the renewal of an authority relates, a copy of the notice”, insert instead “A copy of every notice served in accordance with subsection (7) in respect of an
- 25 area or part of an area of land to which an application for the renewal of an authority relates”.

*Mining (Amendment) 1986*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE MINING ACT 1973—
continued(7) Section 67 (**Lands to which application for renewal of exploration licence relates**)—

Section 67 (1A), (2)—

Omit the subsections.

5 (8) Section 69 (**Powers of Minister on application for renewal of authority**)—

Section 69 (3A), (3B)—

After section 69 (3), insert:

10 (3A) Except where the Minister is satisfied that special circumstances exist, the size of a single area or the total size of the number of areas in respect of which an exploration licence is renewed shall not exceed—

15 (a) where the licence has not previously been renewed—half the size of the exploration area over which the licence was granted; or

(b) where the licence has previously been renewed—half the size of the exploration area over which the licence was last renewed.

20 (3B) The size of an area referred to in subsection (3A) shall be as determined by the Minister in each case and, for that purpose, the Minister may deem any such area to include or exclude any particular land.

(9) Section 84 (**Restriction on grant of prospecting licence or mining lease over land subject to an exploration licence**)—

25 Section 84 (4)—

Omit the subsection, insert instead:

30 (4) If an objection is made, the Minister shall refer the application and the objection to an inspector appointed under section 183 for investigation and report, and no licence or lease applied for shall be granted until the Minister has considered that report.

Mining (Amendment) 1986

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE MINING ACT 1973—
continued

(10) Section 94A (**Tourist activities**)—

(a) Section 94A (6)—

Omit “a lessee”, insert instead “the registered holder of a lease”.

(b) Section 94A (6)—

5 Omit “the lessee”, insert instead “the holder”.

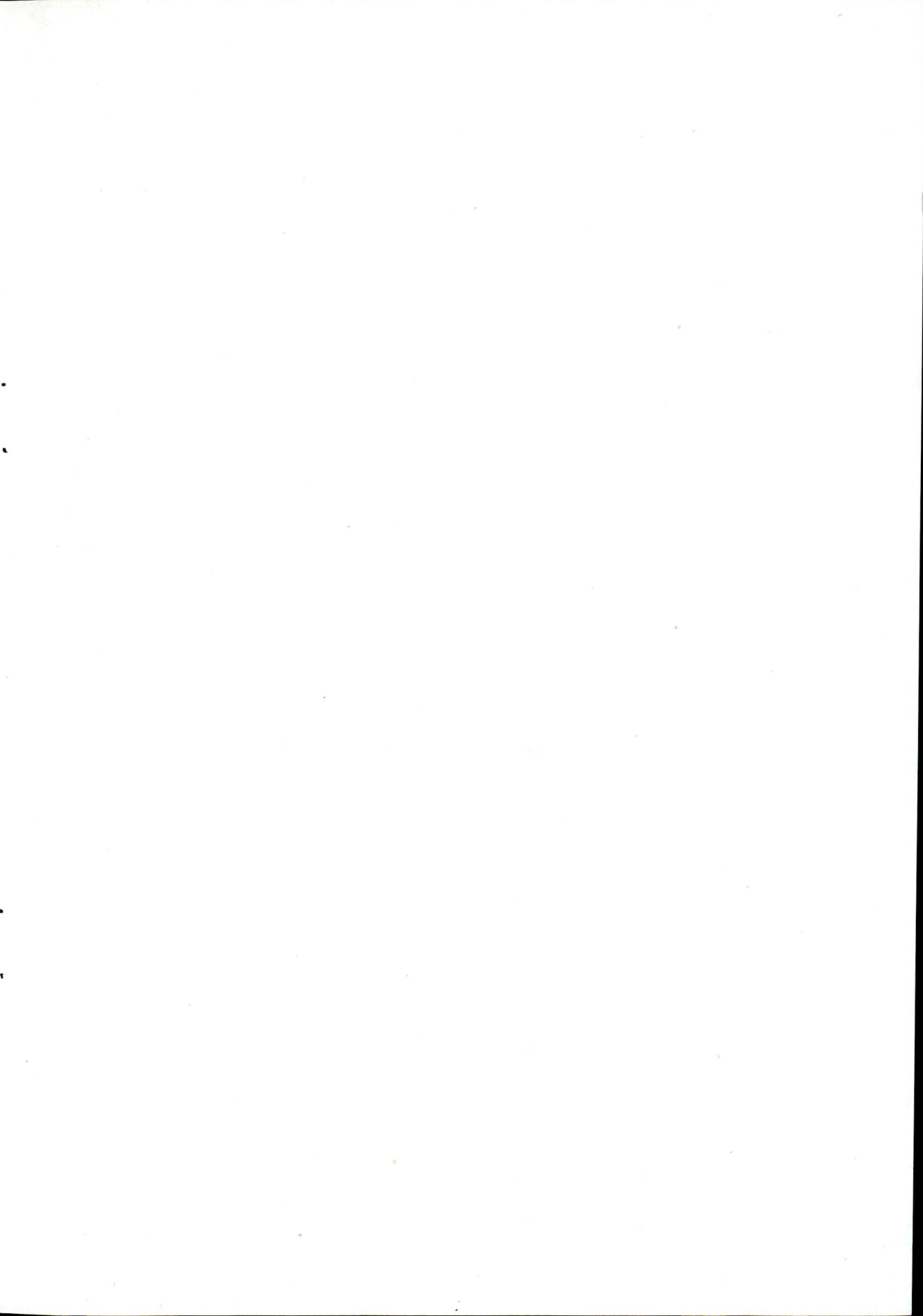
(11) Section 111H (**Grant of consolidated mining lease**)—

Section 111H (4)—

Omit “under section 75”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986



MINING (AMENDMENT) ACT 1986 No. 14

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Amendment of Act No. 42, 1973

**SCHEDULE 1—AMENDMENTS TO THE MINING ACT 1973 RELATING TO THE
TRANSFER OF PARTS OF LEASES**

SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO THE MINING ACT 1973



MINING (AMENDMENT) ACT 1986 No. 14

NEW SOUTH WALES



Act No. 14, 1986

An Act to amend the Mining Act 1973 to allow the transfer of parts of leases, and for other purposes. [Assented to 29 April 1986.]

See also Coal Mining (Amendment) Act 1986.

Mining (Amendment) 1986

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Mining (Amendment) Act 1986".

Amendment of Act No. 42, 1973

2. The Mining Act 1973 is amended in the manner set forth in Schedules 1 and 2.

SCHEDULE 1

(Sec. 2)

**AMENDMENTS TO THE MINING ACT 1973 RELATING TO THE
TRANSFER OF PARTS OF LEASES**

(1) Section 107A—

After section 107, insert:

Transfer of part of lease

107A. (1) In this section—

"lease" means a mining lease or mining purposes lease.

(2) Section 107 and any other provision of this Act or other law applying to the transfer of a lease shall, subject to this section, apply to the transfer of part of a lease as if the part were a whole lease.

(3) On approval by the Minister of the transfer of part of a lease—

- (a) the lease (in this section referred to as "the original lease") shall be deemed to have been cancelled as to the area of the part transferred;

*Mining (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE MINING ACT 1973 RELATING TO THE
TRANSFER OF PARTS OF LEASES—*continued*

- (b) a lease over the part transferred (in this section referred to as “the new lease”) shall be deemed to have been granted under this Act to the transferee for the period ending on the date of expiry of the original lease and on the conditions determined by the Minister in granting approval of the transfer; and
 - (c) if the Minister considers that it is necessary to do so as a result of the transfer, the conditions to which the original lease is subject shall be amended in the manner determined by the Minister in granting approval of the transfer.
- (4) It is a condition precedent to the granting of approval by the Minister of the transfer of part of a lease that—
- (a) the Minister and the proposed transferee sign a document setting out the terms of the proposed new lease; and
 - (b) the Minister and the proposed transferor sign a document setting out the terms of any proposed amendments of the original lease.
- (5) The provisions of section 57 apply to the granting of approval by the Minister of the transfer of part of a lease in the same way as those provisions apply to the granting of a lease.
- (6) The regulations may make provisions of a savings or transitional nature consequent on the transfer of parts of leases.
- (2) Section 133 (**Jurisdiction of warden’s court**)—
- (a) Section 133 (n)—
Omit “and”.
 - (b) Section 133 (o), (p)—
At the end of section 133 (o), insert:
; and

*Mining (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE MINING ACT 1973 RELATING TO THE
TRANSFER OF PARTS OF LEASES—*continued*

- (p) any question or dispute in connection with—
- (i) an interest (whether legal or equitable) in, or affecting, an authority; or
 - (ii) an assessment or agreement in respect of compensation under section 122,
- arising because of the transfer of an authority or of part of a mining lease or mining purposes lease.
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SCHEDULE 2

(Sec. 2)

MISCELLANEOUS AMENDMENTS TO THE MINING ACT 1973

(1) Section 24 (**Reserves**)—

(a) Section 24 (2) (b)—(i)—

Omit section 24 (2) (b)—(e), insert instead:

- (b) that no exploration licence shall be granted over land in the reserve;
- (c) that no prospecting licence shall be granted over land in the reserve;
- (d) that no mining lease shall be granted over land in the reserve;
- (e) that no mining purposes lease shall be granted over land in the reserve;
- (f) that no authorisation shall be granted over land in the reserve;

*Mining (Amendment) 1986*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE MINING ACT 1973—
continued

- (g) that no exploration permit shall be granted over land in the reserve;
- (h) that no coal lease shall be granted over land in the reserve;
- (i) that no person shall fossick within the reserve.

(b) Section 24 (5) (a)–(g)—

Omit section 24 (5) (a)–(c), insert instead:

- (a) an exploration licence is made or pending in respect of land that is the subject of a direction under subsection (2) (b);
- (b) a prospecting licence is made or pending in respect of land that is the subject of a direction under subsection (2) (c);
- (c) a mining lease is made or pending in respect of land that is the subject of a direction under subsection (2) (d);
- (d) a mining purposes lease is made or pending in respect of land that is the subject of a direction under subsection (2) (e);
- (e) an authorisation is made or pending in respect of land that is the subject of a direction under subsection (2) (f);
- (f) an exploration permit is made or pending in respect of land that is the subject of a direction under subsection (2) (g); or
- (g) a coal lease is made or pending in respect of land that is the subject of a direction under subsection (2) (h),

(2) Section 25 (**Fossicking areas**)—

(a) Section 25 (2) (a)—

Omit “Minister for Lands”, insert instead “Minister who has the control or supervision of the Crown lands”.

*Mining (Amendment) 1986*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE MINING ACT 1973—
continued

(b) Section 25 (5)—

Omit “Minister for Lands”, insert instead “Minister who has the control or supervision of the Crown lands”.

(3) Section 26C (**Rights of holder of fossicking licence**)—

Section 26C (3) (j)—

Omit “(e)”, insert instead “(i)”.

(4) Section 44 (**Marking out land over which prospecting licence or lease sought**)—

(a) Section 44 (1) (b)—

Omit “an instrument in writing”, insert instead “a statutory declaration”.

(b) Section 44 (1) (b)—

Omit “that instrument”, insert instead “that declaration”.

(5) Section 50A (**Certain land excluded from applications**)—

Section 50A (3), (4)—

After “authority” wherever occurring, insert “(other than an exploration licence)”.

(6) Section 66 (**Application for renewal of authority**)—

Section 66 (11)—

Omit “Where a notice has been served in accordance with subsection (7) in respect of the area or part of the area of the land to which an application for the renewal of an authority relates, a copy of the notice”, insert instead “A copy of every notice served in accordance with subsection (7) in respect of an area or part of an area of land to which an application for the renewal of an authority relates”.

*Mining (Amendment) 1986*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE MINING ACT 1973—
continued

- (7) Section 67 (**Lands to which application for renewal of exploration licence relates**)—

Section 67 (1A), (2)—

Omit the subsections.

- (8) Section 69 (**Powers of Minister on application for renewal of authority**)—

Section 69 (3A), (3B)—

After section 69 (3), insert:

(3A) Except where the Minister is satisfied that special circumstances exist, the size of a single area or the total size of the number of areas in respect of which an exploration licence is renewed shall not exceed—

- (a) where the licence has not previously been renewed—half the size of the exploration area over which the licence was granted; or
- (b) where the licence has previously been renewed—half the size of the exploration area over which the licence was last renewed.

(3B) The size of an area referred to in subsection (3A) shall be as determined by the Minister in each case and, for that purpose, the Minister may deem any such area to include or exclude any particular land.

- (9) Section 84 (**Restriction on grant of prospecting licence or mining lease over land subject to an exploration licence**)—

Section 84 (4)—

Omit the subsection, insert instead:

(4) If an objection is made, the Minister shall refer the application and the objection to an inspector appointed under section 183 for investigation and report, and no licence or lease applied for shall be granted until the Minister has considered that report.

Mining (Amendment) 1986

SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE MINING ACT 1973—
continued(10) Section 94A (**Tourist activities**)—

(a) Section 94A (6)—

Omit “a lessee”, insert instead “the registered holder of a lease”.

(b) Section 94A (6)—

Omit “the lessee”, insert instead “the holder”.

(11) Section 111H (**Grant of consolidated mining lease**)—

Section 111H (4)—

Omit “under section 75”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986



