



New South Wales

# Mining Amendment (Ratting) Bill 1996

## Explanatory note

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

### Overview of Bill

The object of this Bill is to amend the *Mining Act 1992* so as:

- (a) to create an offence in relation to unlawful mining and in relation to the unlawful removal of minerals from land on which a mine is situated, and
  - (b) to create an offence in relation to trespassing on land used for mining, and
  - (c) to create another offence in relation to trespassing on land used for mining while in possession of implements of a kind generally used for mining, and
  - (d) to enable a court by which a person is convicted of an offence referred to in paragraph (a), (b) or (c) to make an order prohibiting the person from approaching, visiting or residing within 100 kilometres of the place where the offence was committed.
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## 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 the date of assent.

**Clause 3** is a formal provision giving effect to a Schedule of amendments to the *Mining Act 1992*.

**Schedule 1** contains a single amendment to the *Mining Act 1992*, which inserts proposed sections 6A and 6B.

**Proposed section 6A** contains provisions giving effect to the objects referred to in paragraphs (a), (b) and (c) above, that is, the creation of three new offences in relation to the theft of minerals from, and the unlawful entry to, land used for mining.

The maximum penalty proposed in respect of an offence in relation to unlawful mining or the unlawful removal of minerals from land on which a mine is situated is 500 penalty units (\$50,000) or imprisonment for 2 years (if the offence is dealt with summarily) and 2,000 penalty units (\$200,000) or imprisonment for 7 years (if the offence is dealt with on indictment). Either the prosecuting authority or the accused will be able to elect for the offence to be dealt with on indictment, otherwise the offence will be dealt with summarily.

The maximum penalty proposed in respect of an offence in relation to trespassing on land used for mining is 200 penalty units (\$20,000) or imprisonment for 6 months.

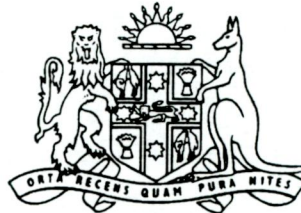
The maximum penalty proposed in respect of an offence in relation to trespassing on land used for mining while in possession of implements of a kind generally used for mining is 500 penalty units (\$50,000) or imprisonment for 2 years.

**Proposed section 6B** contains provisions giving effect to the object referred to in paragraph (d) above, that is, the making of banishment orders. The section provides for the making of a banishment order against a person convicted of an offence under proposed section 6A. It further provides for the effect on a banishment order of an appeal against the conviction from which the order arises, and creates an offence of knowingly contravening the terms of such an order.

The maximum penalty proposed in respect of the contravention of a banishment order is 500 penalty units (\$50,000) or imprisonment for 2 years.

Introduced by Mr J H Turner, MP

First print



New South Wales

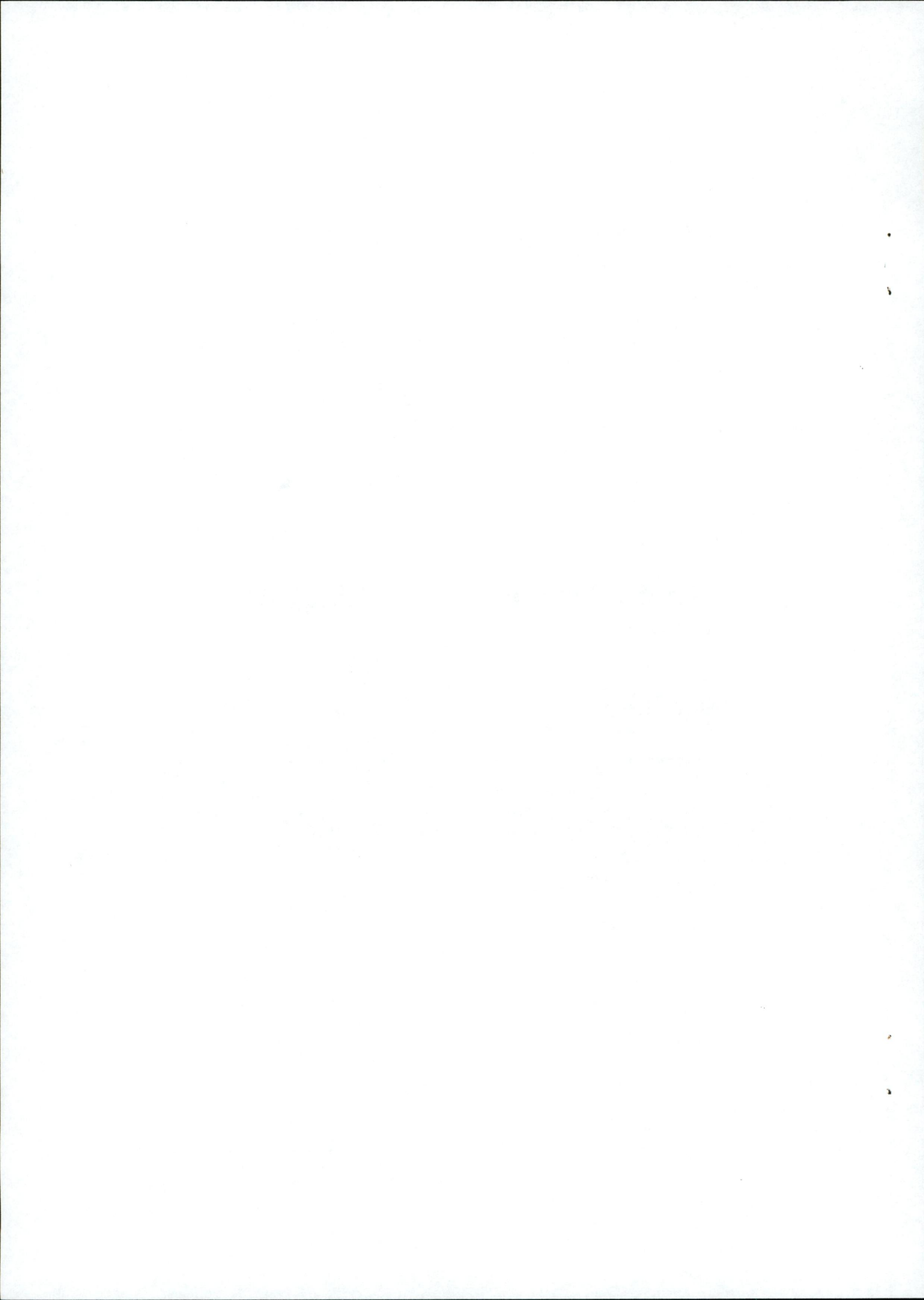
# Mining Amendment (Ratting) Bill 1996

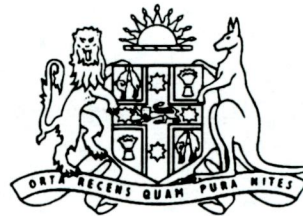
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New South Wales

## **Mining Amendment (Ratting) Bill 1996**

No. , 1996

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### **A Bill for**

An Act to amend the *Mining Act 1992* in relation to illegal mining and the theft of minerals; and for other purposes.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Mining Amendment (Ratting) Act 1996*.

**2 Commencement**

This Act commences on the date of assent.

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**3 Amendment of Mining Act 1992 No 29**

The *Mining Act 1992* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Section 3)

### Sections 6A and 6B

Insert after section 6:

- 6A Illegal mining, possession of implements and trespassing** 5
- (1) A person must not:
- (a) mine, or attempt to mine, any mineral, or
  - (b) remove any mineral from land, or any implement on land, on which a mine is situated, 10
- unless the person is authorised or entitled to do so under an Act of Parliament.
- Maximum penalty:
- (a) 500 penalty units or imprisonment for 2 years, in the case of an offence that is dealt with summarily, or 15
  - (b) 2,000 penalty units or imprisonment for 7 years, in the case of an offence that is dealt with on indictment.
- (2) Proceedings for an offence under subsection (1) are to be dealt with summarily unless the prosecuting authority or the accused otherwise elects, in which case the proceedings are to be dealt with on indictment. 20
- (3) A person must not, without lawful excuse, enter or remain on any land: 25
- (a) over which an authority, mineral claim or opal prospecting licence is in force, or
  - (b) on which a mine is situated.
- Maximum penalty: 200 penalty units or imprisonment for 6 months. 30

Mining Amendment (Rating) Bill 1996

Schedule 1 Amendments

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- (4) A person must not, without lawful excuse, enter or remain on any land:
- (a) over which an authority, mineral claim or opal prospecting licence is in force, or
  - (b) on which a mine is situated, 5
- while in possession of any implement of a kind generally used for or in connection with mining.
- Maximum penalty: 500 penalty units or imprisonment for 2 years.

**6B Banishment orders** 10

- (1) The court by which a person is convicted of an offence under section 6A may make an order (referred to in this section as a *banishment order*) prohibiting the person from approaching, visiting or residing within 100 kilometres of the place where the offence occurred. 15
- (2) If an appeal (or an application for leave to appeal) is made against the conviction from which a banishment order arises, the operation of the banishment order is suspended until the appeal or application is finally disposed of. 20
- (3) Unless the appellate court orders otherwise, the banishment order is annulled if the conviction is quashed.
- (4) The appellate court may, by order, annul or vary the banishment order even if the conviction is not quashed. 25
- (5) A banishment order has effect for the period specified in the order.
- (6) A person must not knowingly contravene the terms of a banishment order.
- Maximum penalty: 500 penalty units or imprisonment for 2 years. 30



- (7) In this section, *appellate court* means the court to which an appeal (or an application for leave to appeal) is made as referred to in subsection (2).

