



MINING (PRIVATE MINES) AMENDMENT ACT 1999

No. 73 of 1999

SUMMARY OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of s.6—Interpretation
4. Amendment of s. 17—Royalty
5. Repeal of s. 19
6. Insertion of Part 11B

**PART 11B
PRIVATE MINES**

- 73C. Interpretation
 - 73D. Exemption from Act
 - 73E. Royalty
 - 73F. Passing of property in minerals
 - 73G. Mine operations plans
 - 73H. General duty to avoid undue environmental damage
 - 73I. Compliance orders
 - 73J. Rectification orders
 - 73K. Rectification authorisations
 - 73L. Appeals to Warden's Court
 - 73M. Declaration of Warden's Court concerning variation or revocation of declaration of an area as a private mine
 - 73N. Variation or revocation of declaration of private mine
 - 73O. Powers of inspectors and authorised persons
 - 73P. Service of documents on proprietor
 - 73Q. Registration of mine operations plans
 - 73R. Power to correct errors in declarations
7. Revision of penalties
 8. Amendment of *Development Act 1993*

SCHEDULE 1
Revision of Penalties

SCHEDULE 2
Transitional Provisions



ANNO QUADRAGESIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1999

No. 73 of 1999

An Act to amend the Mining Act 1971 and to make related amendments to the Development Act 1993.

[Assented to 25 November 1999]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Mining (Private Mines) Amendment Act 1999*.

(2) The *Mining Act 1971* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s.6—Interpretation

3. Section 6 of the principal Act is amended by striking out from subsection (1) the definition of "proprietor" and substituting the following definition:

"proprietor", in relation to a private mine, means a person who was, on the commencement of this Act, divested of property in the minerals for the recovery of which the mine is operated, or a person lawfully claiming under that person;

Amendment of s. 17—Royalty

4. Section 17 of the principal Act is amended—

(a) by striking out paragraph (b) of subsection (5) and substituting the following paragraph:

(b) in the case of a private mine—

(i) on the proprietor of the private mine; and

(ii) if a notice has been given to the Minister under section 73E(3)—on the person carrying out mining operations at the private mine.;

(b) by striking out from subsection (6) "The person" and substituting "A person".

Repeal of s. 19

5. Section 19 of the principal Act is repealed.

Insertion of Part 11B

6. The following Part is inserted after Part 11A of the principal Act:

**PART 11B
PRIVATE MINES**

Interpretation

73C. (1) In this Part—

"**compliance order**"—*see section 73I*;

"**environment**" means land, air, water, organisms and ecosystems, and includes human-made or modified structures or areas;

"**general duty**" means the duty under section 73H;

"**mine operations plan**" means a mine operations plan under section 73G;

"**private mine**" means an area declared to be a private mine under section 19 as in force immediately before the commencement of this Part;

"**rectification authorisation**"—*see section 73K*;

"**rectification order**"—*see section 73J*.

(2) Without derogating from the general meaning of mining operations under this Act, "**mining operations**" includes, for the purposes of this Part, when carried out within the boundaries of a private mine—

- (a) the treatment, processing or handling of any material recovered in the course of mining operations; and
- (b) any activity ancillary to the conduct of mining operations.

Exemption from Act

73D. (1) Subject to this Part, and any other provisions of this Act that explicitly apply to a private mine or the operator of a private mine, a private mine is exempt from the other Parts of this Act.

(2) Land comprised within a private mine cannot be subject to a mining tenement under this Act.

Royalty

73E. (1) Royalty is, subject to and in accordance with the provisions of this Act, payable on extractive minerals recovered from a private mine, but is not payable on any other minerals so recovered.

(2) Subject to subsection (3), the proprietor of a private mine is liable for royalty payable under this section.

(3) If—

- (a) a person other than the proprietor is carrying out mining operations at a private mine; and
- (b) the proprietor gives notice to the Minister in the prescribed form under this section,

the person carrying out the mining operations (rather than the proprietor) is liable for royalty under this section.

(4) If—

- (a) the proprietor of a private mine has given a notice to the Minister under subsection (3); and
- (b) the person carrying out mining operations at the private mine fails to pay royalty; and
- (c) the proprietor pays the royalty,

the proprietor may, subject to any agreement to the contrary—

- (d) recover the amount paid as a debt from the person who failed to pay the royalty; or
- (e) set off the amount paid against a liability (if any) to the person who failed to pay the royalty.

(5) If royalty payable on extractive minerals recovered from a private mine has remained unpaid for more than three months after the day on which it fell due—

- (a) the Minister may, by written notice served on—
 - (i) the proprietor of the mine; and
 - (ii) if the Minister has been given a notice under subsection (3)—the person carrying out mining operations at the private mine,make an order suspending mining operations at the mine; and
- (b) the person liable for the royalty is liable to pay a penalty amount, in addition to the amount of royalty unpaid, equal to \$1 000 plus \$200 for each month (or part of a month) for which the royalty remains unpaid (disregarding the first three months after the day on which the royalty fell due).

(6) The Minister must revoke an order under subsection (5)(a) if the royalty and any penalty amount payable under subsection (5)(b) is subsequently paid.

(7) A person who carries out mining operations in contravention of an order under subsection (5)(a) is guilty of an offence.

Maximum penalty: \$5 000.

(8) If a person is convicted of an offence under subsection (7) and the offence continues after the date of conviction, the person is guilty of a further offence against that subsection and liable, in addition to the maximum penalty of \$5 000, to a penalty not exceeding \$1 000 for each month (or part of a month) the offence continues after the date of the conviction.

(9) A person who is entitled to receive a notice under subsection (5)(a) may appeal to the Warden's Court against an order under that subsection.

(10) An appeal must be made in a manner and form determined by the Warden's Court.

(11) The Warden's Court may, on hearing an appeal, revoke the order appealed against if satisfied that the making, or the continuation, of the order is unreasonable in the circumstances of the particular case.

(12) The Minister may, at the Minister's discretion, remit a penalty amount payable under subsection (5)(b) by any amount.

Passing of property in minerals

73F. (1) While a mine continues as a private mine under this Act, the property in any minerals recovered from the mine will—

- (a) in the case of all minerals except extractive minerals, pass to the person by whom the minerals are lawfully mined on recovery of the minerals; or
- (b) in the case of extractive minerals, pass to the person by whom the minerals are lawfully mined on, and in consideration of, payment of royalty.

(2) Subsection (1) operates subject to any contract, agreement, assignment, mortgage, charge or other instrument relating to proprietary rights in the minerals.

(3) An interested party may, by application to the Warden's Court, seek the determination of any question or dispute as to the effect or enforcement of a contract, agreement, assignment, mortgage, charge or other instrument under subsection (1).

(4) The Court may, on the hearing of an application under subsection (3), make such orders as it considers necessary or expedient to give effect, consistently with the provisions of this Act, to the intention of the contract, agreement, assignment, mortgage, charge or other instrument or to achieve a just settlement of any matters of dispute.

Mine operations plans

73G. (1) Unless otherwise approved by the Director, a person must not, after the commencement of this Part, carry out mining operations at a private mine unless a mine operations plan that relates to the operations and complies with requirements of this section is in place.

(2) A mine operations plan must, in order to comply with the requirements of this section—

- (a) include, in accordance with the requirements of the regulations—
 - (i) a set of objectives approved by the Director; and

- (ii) a set of criteria for measuring those objectives approved by the Director,

that relate to the mining operations carried out at the private mine; and

- (b) be consistent with any relevant environment improvement programme or environment protection policy under the *Environment Protection Act 1993*; and
- (c) comply with any other requirement prescribed by the regulations.

(3) Objectives under subsection (2)(a) must include specific objectives to achieve compliance with the general duty (*see* section 73H).

(4) A person wishing to obtain the approval of the Director to a set of objectives and a set of criteria, or to an alteration to a set of objectives or a set of criteria, must submit a draft of the objectives and criteria, or a draft of the objectives or criteria as altered, (as the case may be) to the Director in accordance with the regulations.

(5) The Director may, on receipt of a draft under subsection (4)—

- (a) accept the draft, without alteration; or
- (b) require alterations to the draft after consultation with the person who has submitted the draft (and in this case the person must (subject to any appeal under subsection (6)) alter the draft in accordance with the requirements of the Director).

(6) The person who has submitted the draft may appeal to the Warden's Court against a requirement of the Director under subsection (5)(b) and the Warden's Court may, on hearing an appeal—

- (a) confirm the requirement of the Director;
- (b) vary or revoke the requirement of the Director, or impose any requirement in substitution for a requirement of the Director;
- (c) make any consequential or ancillary order that it considers necessary or expedient.

(7) Subject to the outcome of any appeal under subsection (6), the Director will then, unless subsection (8) applies, be taken to have approved the objectives and criteria contained in the draft.

(8) If a draft relates to new operations to be carried out at a private mine, the draft must then be released for public consultation on the proposed objectives and criteria.

(9) The public consultation must be conducted in accordance with the regulations.

(10) The person who submitted the draft must, after complying with the public consultation requirements, prepare a report on the matters raised as a result of public consultation (insofar as they are relevant to the matters that were referred for public consultation) and, if relevant, on any recommended alterations to the objectives and criteria contained in the draft, and submit the report to the Director.

(11) The Director may then—

- (a) approve the objectives and criteria (with any alterations recommended under subsection (10)); or
- (b) refer the matter back to the person who submitted the draft for further consideration or report (and in this case the Director must provide written reasons for his or her action and may subsequently approve the objectives and criteria, or altered objectives and criteria, if or when the Director is satisfied that the matter has been satisfactorily resolved).

(12) The person who submitted the draft may appeal to the Warden's Court against a decision of the Director under subsection (11)(b) (including a decision not to approve objectives and criteria) and the Warden's Court may, on hearing an appeal—

- (a) confirm the decision of the Director;
- (b) vary or revoke the decision of the Director, or make any decision in substitution for a decision of the Director;
- (c) make any consequential or ancillary order that it considers necessary or expedient.

(13) A mine operations plan may be reviewed by a person carrying out, or intending to carry out, mining operations at the private mine at any time.

(14) A mine operations plan must be reviewed at the direction of the Director (which may be given at any time for any reasonable cause).

(15) A mine operations plan must also be reviewed—

- (a) within seven years after the commencement of the plan (unless it has been reviewed sooner under subsection (13) or (14)); or
- (b) in any event, within seven years after it was last reviewed.

(16) A review must be conducted in accordance with the regulations.

(17) A report must be furnished to the Director in accordance with the regulations on the completion of a review.

(18) An appeal under this section must be made in a manner and form determined by the Warden's Court, setting out the grounds of the appeal.

General duty to avoid undue environmental damage

73H. (1) A person must, in carrying out mining operations at a private mine, take all reasonable and practicable measures to avoid undue damage to the environment.

(2) In determining what measures are required to be taken under subsection (1), regard is to be had, amongst other things, to—

- (a) the nature of the mining operations and the sensitivity of the receiving environment; and
- (b) the financial implications of the various measures that might be taken as those implications relate to the class of persons undertaking activities of the same or a similar kind; and
- (c) the current state of technical knowledge and likelihood of successful application of the various measures that might be taken.

(3) A person will be taken to have complied with subsection (1) if the mining operations are the subject of a mine operations plan and meet objectives approved by the Director (when measured against criteria approved by the Director) contained in that plan.

(4) Subsection (1) operates in addition to, and does not limit or derogate from, the provisions of the *Environment Protection Act 1993* or any other Act.

Compliance orders

73I. (1) The Director may issue an order under this section (a "compliance order") for the purpose of securing compliance with—

- (a) the requirement to have a mine operations plan in accordance with this Part;
or
- (b) the objectives contained in a mine operations plan; or
- (c) the general duty.

(2) A compliance order—

- (a) must be in the form of a written notice served on the person to whom the notice is issued; and
- (b) must—
 - (i) specify the person to whom it is issued (whether by name or a description sufficient to identify the person);
 - (ii) if the order is issued for the purpose of securing compliance with the objectives contained in a mine operations plan—state the purpose and specify the objective that is not being met;
 - (iii) if the order is issued for the purpose of securing compliance with the general duty—state the purpose and specify the matters that it is directed towards; and

- (c) may impose any requirement reasonably required for the purpose for which the order is issued including one or more of the following:
- (i) a requirement that the person discontinue, or not commence, specified mining operations indefinitely or for a specified period or until further notice from the Director;
 - (ii) a requirement that the person not carry on specified mining operations except at specified times or subject to specified conditions;
 - (iii) a requirement that the person take specified action within a specified period; and
- (d) must state that the person may, within 28 days, appeal to the Warden's Court against the order.

(3) The Director may, by written notice served on a person to whom a compliance order has been issued, vary or revoke the order.

(4) A person to whom a compliance order is issued must comply with the order.

Maximum penalty: \$120 000.

(5) If the requirements of a compliance order are not complied with, the Director may take any action required by the order.

(6) Any action to be taken by the Director under subsection (5) may be taken on the Director's behalf by inspectors or by other persons authorised by the Director for the purpose.

(7) If a person other than an inspector is authorised to take action under subsection (6), the following provisions apply:

- (a) the Director must issue the person with an instrument of authority;
- (b) the person may exercise such powers of an inspector under this Part as are reasonably required for the purpose of taking action under that subsection;
- (c) the provisions of this Part apply in relation to the exercise of such powers by the person in the same way as in relation to an inspector;
- (d) the person must produce the instrument of authority for the inspection of any person in relation to whom the person intends to exercise powers of an inspector.

(8) The reasonable costs and expenses incurred by the Director in taking action under subsection (5) may be recovered by the Director as a debt from the person who failed to comply with the requirements of the compliance order.

Rectification orders

73J. (1) If the Director is satisfied that a person has caused damaged to the environment by a contravention of the general duty, the Director may issue an order (a "rectification order") to the person requiring the person to take specified action within a specified period to make good the damage.

(2) A rectification order—

- (a) must be in the form of a written notice served on the person to whom it is issued; and
- (b) must specify the person to whom it is issued (whether by name or a description sufficient to identify the person); and
- (c) must specify the contravention alleged to have caused the damage to the environment; and
- (d) may include requirements for action to be taken to prevent or mitigate further damage to the environment; and
- (e) may include requirements for monitoring and reporting to the Director the effectiveness of action taken in pursuance of the order; and
- (f) must state that the person may, within 28 days, appeal to the Warden's Court against the order.

(3) The Director may, by written notice served on a person to whom a rectification order has been issued, vary or revoke the order.

(4) A person to whom a rectification order is issued must comply with the order.

Maximum penalty: \$120 000.

Rectification authorisations

73K. (1) If the Director is satisfied that a person has caused damage to the environment by a contravention of the general duty, the Director may (whether or not a rectification order has been issued to the person) issue an authorisation (a "rectification authorisation") under which inspectors or other persons authorised by the Director for the purpose may take specified action to make good the damage.

(2) A rectification authorisation—

- (a) must be in the form of a written notice; and
- (b) must specify the person alleged to have caused the damage to the environment (whether by name or a description sufficient to identify the person); and
- (c) must specify the contravention alleged to have caused the damage to the environment; and
- (d) may include authorisation for action to be taken to prevent or mitigate further damage to the environment.

(3) The Director must, as soon as practicable after issuing a rectification authorisation, serve a copy of the authorisation on the person alleged to have caused the damage to the environment.

(4) The Director may, by notice in writing, vary or revoke a rectification authorisation and must, as soon as practicable after doing so, serve a copy of the notice on the person alleged to have caused the damage to the environment.

(5) If a person other than an inspector is authorised to take action under subsection (1), the following provisions apply:

- (a) the Director must issue the person with an instrument of authority;
- (b) the person may exercise such powers of an inspector as are reasonably required for the purpose of taking action under that subsection;
- (c) the provisions of this Part apply in relation to the exercise of such powers by the person in the same way as in relation to an inspector;
- (d) the person must produce the instrument of authority for the inspection of any person in relation to whom the person intends to exercise powers of an inspector.

(6) The reasonable costs and expenses incurred by the Director by virtue of work done under a rectification authorisation may be recovered by the Director as a debt from the person whose contravention gave rise to the issuing of the authorisation.

Appeals to Warden's Court

73L. (1) A person to whom a compliance order or a rectification order has been issued may appeal to the Warden's Court against the order or any variation of the order.

(2) An appeal must be made in a manner and form determined by the Warden's Court, setting out the grounds of the appeal.

(3) Subject to subsection (4), an appeal must be made within 28 days after the order is issued or the variation is made.

(4) The Warden's Court may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirements that an appeal be made within the period fixed by subsection (3).

(5) Subject to subsection (6), the making of an appeal against an order does not affect the operation of the order or prevent the taking of action to implement the order.

(6) The Warden's Court may, on application by a party to an appeal, make an order staying or otherwise affecting the operation or implementation of the whole or a part of the order appealed against if the Warden's Court is satisfied that it is appropriate to do so having regard to—

- (a) the possible environmental consequences and the interests of any persons who may be affected by the appeal; and

- (b) the need to secure the effectiveness of the hearing and determination of the appeal.
- (7) An order under subsection (6)—
- (a) may be varied or revoked by the Warden's Court by further order; and
- (b) is subject to such conditions as are specified in the order; and
- (c) has effect until—
- (i) the end of the period of operation (if any) specified in the order; or
- (ii) the decision of the Warden's Court on the appeal comes into operation,
- whichever is the earlier.
- (8) The Warden's Court may, on hearing an appeal under this section—
- (a) confirm, vary or revoke the order appealed against;
- (b) order or direct a person or body to take such action as the Warden's Court thinks fit, or to refrain (either temporarily or permanently) from such action or activity as the Warden's Court thinks fit;
- (c) make any consequential or ancillary order or direction, or impose any condition, that it considers necessary or expedient.

Declaration of Warden's Court concerning variation or revocation of declaration of an area as a private mine

73M. (1) The Warden's Court may, on the application of the Director or the proprietor of the private mine, declare that proper grounds exist for the variation or revocation of an area as a private mine under this Act.

- (2) Proper grounds exist for the purposes of subsection (1) if—
- (a) in the case of an application by the Director or the proprietor—the Warden's Court is satisfied that the whole or any part of the private mine is not being effectively operated (for a reason other than the operation of an order under section 73E) and that in the circumstances it is appropriate that a declaration be made; or
- (b) in the case of an application by the proprietor—the Warden's Court is satisfied that in the circumstances of the particular case it is appropriate that a declaration be made.

(3) In the case of an application by the proprietor, the proprietor must disclose to the Warden's Court the name of any other person who appears to have an interest in the private mine and the Warden's Court may, as part of the proceedings, invite and hear submissions from any such person.

(4) If the Director satisfies the Warden's Court—

- (a)** that the Director, by written notice, required the proprietor of a private mine to furnish the Director with a report in accordance with the regulations demonstrating why the declaration of the area as a private mine should not be varied or revoked and that the proprietor failed to furnish such a report, or an adequate report, within a period (being not less than two months) specified by the Director; and
- (b)** that the Director, before making application under this section—
 - (i)** took reasonable steps to give notice of the proposed application to—
 - (A)** the proprietor of the private mine; and
 - (B)** any other person who, from an inspection of the current title to the relevant land and any instrument registered under this Act, appears to have an interest in the private mine or any minerals recovered from the private mine; and
 - (ii)** placed a notice in the prescribed form in a newspaper circulating generally throughout the State,

the Warden's Court may assume that it may make a declaration under subsection (2)(a).

(5) The Director may object to an application by the proprietor of a private mine for a declaration under this section on the grounds that a variation or revocation would effectively lead to the loss of the opportunity to recover minerals from the area of the private mine in the future.

Variation or revocation of declaration of private mine

73N. The Governor may, on the basis of a declaration of the Warden's Court under section 73M, by proclamation vary or revoke the declaration of an area as a private mine under this Act.

Powers of inspectors and authorised persons

73O. (1) An inspector, or any person authorised in writing by the Director, may do all or any of the following as may be reasonably required in connection with the administration or operation of this Part:

- (a)** enter and inspect any private mine;
- (b)** carry out, or cause to be carried out, any investigation, examination, test or survey;
- (c)** take, and remove, specimens and samples;
- (d)** require a person to produce documents (which may include a written record reproducing in an understandable form information stored by computer, microfilm or other process);
- (e)** examine, copy or take extracts from a document or information so produced or require a person to provide a copy of the document or information;

- (f) require a person to answer questions;
- (g) give directions.

(2) In the exercise of powers under this section an inspector or an authorised person may be assisted by such persons as may be necessary or desirable in the circumstances.

(3) A person exercising a power under this section must not unnecessarily impede or obstruct the lawful use or enjoyment of a private mine.

(4) Subject to the requirements of subsection (3), the proprietor or occupier of a private mine must give an inspector or an authorised person, or a person assisting an inspector or an authorised person, such assistance as is reasonably required for the effective exercise of a power conferred by this section.

Maximum penalty: \$2 500.

(5) A person who—

- (a) without reasonable excuse, hinders or obstructs a person in the exercise of powers under this section; or
- (b) uses abusive, threatening or insulting language to a person exercising a power under this section; or
- (c) without reasonable excuse, fails to obey a requirement or direction imposed or given under this section; or
- (d) without reasonable excuse, fails to answer, to the best of the person's knowledge, information and belief, a question put under this section,

is guilty of an offence.

Maximum penalty: \$2 500.

(6) It is not an excuse for a person to refuse or fail to answer a question or to produce, or provide a copy of, a document or information as required under this section on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.

(7) However, if compliance by a person with a requirement to answer a question or to produce, or provide a copy of, a document or information might tend to incriminate the person or make the person liable to a penalty, then—

- (a) in the case of a person who is required to produce, or provide a copy of, a document or information—the fact of production, or provision of a copy, of the document or the information (as distinct from the contents of the document or the information); or

(b) in any other case—the answer given in compliance with the requirement,

is not admissible in evidence against the person in proceedings for an offence or for the imposition of a penalty (other than proceedings in respect of the making of a false or misleading statement).

(8) An inspector or an authorised person, or a person assisting an inspector or an authorised person, who, in the course of exercising powers under this Act—

(a) addresses offensive language to another person; or

(b) without lawful authority, hinders or obstructs or uses or threatens to use force in relation to another person,

is guilty of an offence.

Maximum penalty: \$2 500.

(9) This section does not limit the action that an inspector may take in order to carry out the requirements of a compliance order or to give effect to a rectification authorisation.

Service of documents on proprietor

73P. (1) A document required or authorised to be served on or given to the proprietor of a private mine under this Act may be served on or given to the proprietor—

(a) personally; or

(b) by leaving it at the last address of the proprietor known to the Registrar; or

(c) by post addressed to the proprietor at the last address of the proprietor known to the Registrar (including, in the case of a corporation, the registered address or a business address of the corporation); or

(d) if the name or whereabouts of the proprietor is unknown—by fixing the document in a prominent position at the private mine or by publishing a copy of the document in a newspaper circulating generally throughout the State.

(2) If the name of the proprietor of a private mine is unknown to the Registrar, then it is not necessary to name the proprietor in a document served or given under subsection (1) (and the document may be addressed in a general way).

(3) If a private mine has two or more proprietors, service of a document on one proprietor may be taken to constitute service on each proprietor.

(4) For the purposes of this Act, service of a document on the person last known to the Registrar to be the proprietor of a private mine will be taken to constitute service on the proprietor of the private mine.

Registration of mine operations plans

73Q. (1) A mine operations plan must be registered on the Mining Register.

(2) However, a mine operations plan is not available for public inspection but the following must be provided to a person on application under this section:

- (a) the name of the proprietor of the mine; and
- (b) the location of the mine; and
- (c) an extract showing the objectives and criteria applying as part of the plan.

Power to correct errors in declarations

73R. (1) If, in the opinion of the Governor, there is an error in the declaration of an area as a private mine, the Governor may, by proclamation, correct the error.

(2) A proclamation under subsection (1) will, if it so provides, be taken to have had effect as from the making of the declaration to which it relates.

(3) A proclamation should not be made under subsection (1) except at the request of, or after consultation by the Minister with, the proprietor of the private mine.

Revision of penalties

7. The principal Act is further amended in the manner set out in schedule 1.

Amendment of *Development Act 1993*

8. The *Development Act 1993* is amended—

- (a) by striking out from section 76(2) "Subject to subsection (3), this" and substituting "This";
- (b) by striking out subsection (3) of section 76.

SCHEDULE 1
Revision of Penalties

Amendment of s. 14—Misuse of information

1. Section 14 of the principal Act is amended—

(a) by striking out "and liable to a penalty not exceeding \$2 000 or imprisonment for 2 years";

(b) by inserting after its present contents (as amended by paragraph (a)):

Maximum penalty: \$5 000 or imprisonment for 2 years.

Amendment of s. 15—Powers of Minister, Director and authorised persons

2. Section 15 of the principal Act is amended—

(a) by striking out from subsection (3) "and liable to a penalty not exceeding \$200";

(b) by inserting the following as a penalty provision at the foot of subsection (3):

Maximum penalty: \$2 500.

Amendment of s. 20—Issue, transfer, surrender, etc., of miner's right

3. Section 20 of the principal Act is amended by striking out the penalty provision at the foot of subsection (5) and substituting the following provision:

Maximum penalty: \$1 250.

Amendment of s. 25—Rights conferred by ownership of mineral claim

4. Section 25 of the principal Act is amended by striking out the penalty provision at the foot of subsection (2) and substituting the following provision:

Maximum penalty: \$750.

Amendment of s. 32—Licensee to keep and, on request, furnish Director with geological records, etc.

5. Section 32 of the principal Act is amended—

(a) by striking out the penalty provision at the foot of subsection (1) and substituting the following provision:

Maximum penalty: \$250.;

(b) by striking out the penalty provision at the foot of subsection (2) and substituting the following provision:

Maximum penalty: \$250.

Amendment of s. 56C—Power to exempt from or modify Act

6. Section 56C of the principal Act is amended by striking out "Penalty" from the penalty provision at the foot of subsection (7) and substituting "Maximum penalty".

Amendment of s. 58A—Notice of entry

7. Section 58A of the principal Act is amended by striking out the penalty provision at the foot of subsection (6) and substituting the following provision:

Maximum penalty: \$1 250.

Amendment of s. 59—Use of declared equipment

8. Section 59 of the principal Act is amended—

- (a) by striking out the penalty provision at the foot of subsection (1) and substituting the following provision:

Maximum penalty: \$1 250.;

- (b) by striking out the penalty provision at the foot of subsection (1b) and substituting the following provision:

Maximum penalty: \$1 250.;

- (c) by striking out from subsection (7) "and liable to a penalty not exceeding \$1 000";

- (d) by inserting the following as a penalty provision at the foot of subsection (7):

Maximum penalty: \$1 250.

Amendment of s. 60—Restoration of land

9. Section 60 of the principal Act is amended by striking out the penalty provision at the foot of subsection (2) and substituting the following provision:

Maximum penalty: \$750.

Amendment of s. 62—Bond and security

10. Section 62 of the principal Act is amended—

- (a) by striking out from subsection (4) "and liable to a penalty not exceeding \$1 000";

- (b) by inserting the following as a penalty provision at the foot of subsection (4):

Maximum penalty: \$1 250.

Amendment of s. 63ZBA—Mining Native Title Register

11. Section 63ZBA of the principal Act is amended by striking out "Penalty" from the penalty provision at the foot of subsection (7) and substituting "Maximum penalty".

Amendment of s. 74—Penalty for illegal mining

12. Section 74 of the principal Act is amended—

- (a) by striking out from subsection (1) "and liable to a penalty not exceeding \$2 000 or imprisonment for 2 years";

- (b) by inserting the following as a penalty provision at the foot of subsection (1):

Maximum penalty: \$5 000 or imprisonment for 2 years.;

- (c) by striking out from subsection (1a) "and liable to a penalty not exceeding \$2 000 or imprisonment for 2 years";

- (d) by inserting the following as a penalty provision at the foot of subsection (1a):

Maximum penalty: \$5 000 or imprisonment for 2 years.

Amendment of s. 74A—Compliance orders

13. Section 74A of the principal Act is amended by striking out "Penalty" from the penalty provision at the foot of subsection (3) and substituting "Maximum penalty".

Amendment of s. 76—Returns

14. Section 76 of the principal Act is amended—

- (a) by striking out from subsection (2) "and liable to a penalty not exceeding \$500";
- (b) by inserting the following as a penalty provision at the foot of subsection (2):

Maximum penalty: \$750.

Amendment of s. 77—Records and samples

15. Section 77 of the principal Act is amended—

- (a) by striking out the penalty provision at the foot of subsection (1) and substituting the following provision:

Maximum penalty: \$750.;

- (b) by striking out the penalty provision at the foot of subsection (2) and substituting the following provision:

Maximum penalty: \$750.;

- (c) by striking out the penalty provision at the foot of subsection (3) and substituting the following provision:

Maximum penalty: \$750.

Amendment of s. 80—Conditions under which land may be simultaneously subject to more than one tenement

16. Section 80 of the principal Act is amended—

- (a) by striking out "Penalty" from the penalty provision at the foot of subsection (1d) and substituting "Maximum penalty";
- (b) by striking out "Penalty" from the penalty provision at the foot of subsection (5) and substituting "Maximum penalty".

Amendment of s. 87—Obligations in respect of takeover of corporations

17. Section 87 of the principal Act is amended by striking out the penalty provision at the foot of subsection (4) and substituting the following provision:

Maximum penalty: \$250.

Amendment of s. 88—Obstruction, etc., of officers exercising powers under this Act

18. Section 88 of the principal Act is amended by striking out the penalty provision at the foot of that section and substituting the following provision:

Maximum penalty: \$2 500.

Amendment of s. 89—Obstruction, etc., of person authorised to mine under this Act

19. Section 89 of the principal Act is amended by striking out the penalty provision at the foot of that section and substituting the following provision:

Maximum penalty: \$1 250.

Amendment of s. 92—Regulations

20. Section 92 of the principal Act is amended by striking out from paragraph (g) "\$1 000" and substituting "\$1 250".

SCHEDULE 2
Transitional Provisions

Existing rights and proceedings

1. (1) Subject to this clause, the repeal of section 19 of the principal Act by this Act does not affect—

- (a) the effect of an application under section 19 of the principal Act before the commencement of this Act;
- (b) the declaration of an area as a private mine under the principal Act;
- (c) any other process commenced before the commencement of this Act.

(2) Subject to this clause, section 19 of the principal Act, as in existence immediately before the commencement of this Act, will continue in force and effect as if this Act had not been enacted for the purpose of—

- (a) determining any application for a declaration under that section (including by making an application to the Environment, Resources and Development Court in the event of a difference between the Minister and the applicant);
- (b) making any declaration of an area as a private mine;
- (c) any right to the payment of royalty pursuant to an application under subsection (17) of that section before 1 March 1980.

(3) The general duty under section 73H of the principal Act (as enacted by this Act) applies from the commencement of this Act (including to mining operations commenced before the commencement of this Act).

(4) The Director may take action under section 73I, 73J or 73K of the principal Act (as enacted by this Act) in relation to circumstances arising after the commencement of this Act (even if those circumstances are attributable to mining operations commenced before the commencement of this Act).

(5) Sections 73M and 73N of the principal Act (as enacted by this Act) extend to grounds in existence before the commencement of this Act (and to any declaration of a private mine before the commencement of this Act).

Mine operation plans

2. (1) The following provisions apply with respect to mine operations plans under Part 11B of the principal Act (as enacted by this Act):

- (a) subject to paragraph (b), section 73G of the principal Act (as enacted by this Act) does not apply to mining operations being carried out at a private mine immediately before the commencement of this Act until six months after that commencement; and
- (b) a development programme approved by the Chief Inspector under the *Mines and Works Inspection Act 1920* before the commencement of section 73G of the principal Act (as enacted by this Act) will be taken to be a mine operations plan for the purposes of that Part to the extent that it relates to mining operations being carried out at a private mine at a particular time (and may be reviewed and amended from time to time under section 73G of the principal Act (as enacted by this Act) as if it were a mine operations plan under that section).

(2) A mine operations plan to which subclause (1)(b) applies must be reviewed in accordance with section 73G of the principal Act (as enacted by this Act) within seven years after the commencement of that section (and will not be subject to the operation of subsection (15)(a) of that section).

Additional matters

3. (1) The Governor may, by regulation, make provision for other matters of a savings or transitional nature consequent on the enactment of this Act.

(2) The *Acts Interpretation Act 1915* will, except to the extent of any inconsistency with the provisions of this Act, apply to any repeal or amendment effected by this Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor