

LEGISLATIVE ASSEMBLY

Read 1^o 28 November 1979

(Brought in by Mr Balfour and Mr Borthwick)

A BILL

To amend the *Extractive Industries Act 1966* and the
Town and Country Planning Act 1961.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. (1) This Act may be cited as the *Extractive Industries (Amendment) Act 1979*. Short title.

(2) The *Extractive Industries Act 1966* is in this Act referred to as the Principal Act.

Principal Act
No. 7499.
Reprinted to
No. 8647 and
subsequently
amended by
No. 8953.
Commence-
ment.

10 (3) The several provisions of this Act shall come into operation on the day or the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the *Government Gazette*.

2. (1) In section 2 (1) of the Principal Act—

Amendment of
No. 7499 s. 2.
Interpretation.

15 (a) for the interpretation of "Extractive industry" there shall be substituted the following interpretations :—

"Extraction permit" means extraction permit issued under section 17A of this Act.

"Extraction
permit."

"Extractive industry."

"Extractive industry" means the extraction or removal from land of stone and includes—

(a) the treatment of stone or the manufacture of bricks tiles pottery or cement products on or adjacent to the land from which the stone is extracted ; and 5

(b) any place operation or class of operation declared by the Minister by notice published in the *Government Gazette* to be an extractive industry for the purposes of this Act.' ; 10

(b) in the interpretation of "Quarry" after the word "includes" there shall be inserted the words "roadways therefrom to a public highway and".

(2) After section 2 (2) of the Principal Act there shall be inserted the following sub-sections :— 15

Application of Act.

"(3) None of the provisions of this Act shall apply to or with respect to—

(a) any excavation made for *bona fide* use as a farm dam other farmworks or the footings or foundations of a building structure or roadway and not primarily for the sale or commercial use of the material excavated ; 20

(b) the extraction or removal from land of stone that is less than two metres below the natural surface of the land ; or

(c) any excavation or operation exempted in writing by the Minister from compliance with the provisions of this Act. 25

(4) In addition to and without in any way derogating from the provisions of sub-section (3) the provisions of this Act with respect to leases and licences shall not apply to or with respect to— 30

(a) any operation conducted on behalf of Her Majesty for the extraction or removal of stone for use in public works and undertakings ;

(b) any operation conducted by a municipality within the meaning of the *Local Government Act* 1958 or by any body incorporated by Act of Parliament for a public purpose for the extraction or removal of stone for use in its works and undertakings ; or 35

(c) any operation conducted within reserved forest within the meaning of the *Forests Act* 1958. 40

(5) Any

(5) Any exemption granted by the Minister under sub-section (3) may be revoked in writing by the Minister."

3. After section 4 (2) of the Principal Act there shall be inserted the following sub-section :—

Amendment of No. 7499 s. 4.

5 ' (3) For the purposes of this Act land in the leased area within the meaning of the interpretation of " leased area " in the agreement set forth in the *Mines (Aluminium Agreement) Act* 1961 shall be deemed to be private land of which Alcoa of Australia Proprietary Limited is the owner for any purpose other than the determination and payment of royalty to Her Majesty but the Minister shall not grant any licence over any part of the area without the consent of the Minister of Lands.'

Leased area under *Mines (Aluminium Agreement) Act* 1961 deemed to be private land.

15 4. In section 7 of the Principal Act after the words " extractive industry thereon " (where first occurring) there shall be inserted the words " unless the Minister is satisfied that there is stone in the land in respect of which the application is made for which stone there is an available market and in addition ".

Amendment of No. 7499 s. 7. Minister to be satisfied stone is present in land.

5. After section 8 of the Principal Act there shall be inserted the following section :—

New section inserted.

20 " 8A. (1) The holder of leases is at any time entitled, with the consent of the Governor in Council, to surrender the leases and the Governor in Council may grant to such holder a consolidated lease for any term not exceeding fifteen years.

Consolidation of leases.

25 (2) The holder of licences is at any time entitled, with the consent of the Minister, to surrender the licences and the Minister may grant to such holder a consolidated licence for any term not exceeding fifteen years.

Consolidation of licences.

(3) The rent payable on a new lease shall be adjusted according to the area of land comprised therein.

30 (4) A new lease or licence under this section shall be subject to such covenants and conditions as are prescribed or as the Governor in Council or the Minister (as the case requires) thinks fit."

35 6. In section 11 (2) of the Principal Act for the words " such plans as the Secretary considers necessary " there shall be substituted the expression—

Amendment of No. 7499 s. 11. Applicant to supply plans and evidence as to financial standing, &c.

" such plans (if any) as are prescribed or as the Secretary for Minerals and Energy considers necessary together with evidence of—

- 40 (a) the financial standing of the applicant ;
 (b) the technical qualifications of the applicant and his technical advisers ; and
 (c) the ability of the applicant to comply with the provisions of this Act."

7. After

New section
inserted.

7. After section 16 of the Principal Act there shall be inserted the following heading and section :—

“ Variation of Leases and Licences.

Variation of
leases and
licences.

16A. (1) On the application of the holder of a lease under this Act for the transfer or consolidation of the lease or the variation of any of the covenants or conditions to which the lease is subject the Governor in Council may, on the recommendation of the Minister amend the covenants and conditions to which the lease is subject. 5

(2) On the application of the holder of a licence under this Act for the transfer or consolidation of the licence or the variation of any of the conditions to which the licence is subject the Minister may, on the recommendation of the Advisory Committee, amend any of the conditions to which the licence is subject.” 10

New section
inserted.

8. After section 17 of the Principal Act there shall be inserted the following heading and section :— 15

“ Extraction Permits.

Issue of
extraction
permits.

17A. (1) Where the Minister is advised by the Advisory Committee in relation to an area—

(a) that there is a demand for stone in the area; 20

(b) that supplies of stone are not readily available in the area from the holders of leases or licences under this Act ; and

(c) that there are deposits of stone in the locality which may conveniently be worked for the supply of stone to the area— 25

the Minister may issue to some suitable person an extraction permit.

(2) An extraction permit shall be in such form and shall be subject to such conditions as are prescribed and to such further conditions as the Minister thinks fit to impose including in particular, without in any way derogating from the generality of the foregoing provisions of this section, conditions with respect to the observance of requirements as to reclamation and the lodgment of bonds relating thereto and in the case of Crown land to the payment of royalty. 30 35

(3) An extraction permit shall not be granted—

(a) in respect of Crown land—without the consent of the Minister of Lands ;

(b) in respect of any private leasehold land—without the consent of the Minister of Lands and of the owner ; 40 and

As to private
lands.

(c) in

(c) in respect of any private freehold land—unless the applicant is the owner of the land or has the right or, under an agreement in writing, will upon his obtaining a permit have the right to extract stone from the land during that period.

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(4) An extraction permit shall allow the extraction of stone only in an area where a permit is not required under a planning scheme or where a permit has been obtained from a responsible authority within the meaning of the *Town and Country Planning Act* 1961.

Extraction only where planning permit not required or has been granted.

(5) An extraction permit shall remain in force for a period of not more than twelve months and shall not be transferred or assigned.

Duration of permit.

(6) A person desiring to obtain an extraction permit shall make application therefor to the Secretary in the prescribed form and manner together with the prescribed fee.

Application for permit.

(7) In the event of any contravention of or failure to comply with any condition of an extraction permit the Minister may cause notice in writing of revocation thereof to be given to the holder of the permit either personally or by post and the permit shall be revoked accordingly and be null and void."

Revocation of permit.

9. (1) In section 19 (2) (c) of the Principal Act—

Amendment of No. 7499 s. 19.

(a) for the word "restoration" there shall be substituted the word "reclamation";

Regulations as to giving security for final reclamation.

(b) after the word "therein" there shall be inserted the words "and the final reclamation thereof after the cessation of quarrying therein"; and

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(c) after the word "security" there shall be inserted the words "from time to time".

(2) After section 19 (2) (c) of the Principal Act there shall be inserted the following paragraph :—

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"(ca) the circumstances in which deposits referred to in paragraph (c) may be used in the reclamation of land worked in quarrying after the cessation of quarrying therein whether or not the lease or licence or other authority under which the quarrying was carried on has expired or is still in force."

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(3) In section 19 (2) (d) of the Principal Act after the word "before" there shall be inserted the words "and after".

10. After section 24 (2) of the Principal Act there shall be inserted the following sub-section :—

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"(3) In addition to and without in any way derogating from the provisions of sub-section (1), where there is on Crown land any

Amendment of No. 7499 s. 24. Filling, &c. of excavations on Crown land.

such

such excavation, the Minister may cause the excavation to be filled levelled or graded or all or any thereof and when completed may cause suitable vegetation to be established and the cost of any works referred to in this sub-section shall be borne by the fund.'

Amendment of
No. 7499 s. 35.
Offences.

11. In section 35 (1) of the Principal Act— 5
- (a) in paragraph (a) after the words "extractive industry" there shall be inserted the words "or an extraction permit" ; and
- (b) at the end of paragraph (b) there shall be inserted the words "or an extraction permit" . 10

12. In section 43 (3) (b) of the Principal Act for sub-paragraphs (i) and (ii) there shall be substituted the following sub-paragraphs:—
- " (i) a representative of the council of every municipality within whose district any part of the area or land is situated ; and 15
- (ii) a representative of every authority established by Act of Parliament (not being a municipality) having planning functions in the area under or in relation to the *Town and Country Planning Act 1961* ; or
- (iii) if the area or land or any part thereof is Crown land—a 20 person nominated by the Secretary for Lands. "

Amendment of
No. 7499.
Increase in
level of
penalties.

13. The Principal Act is hereby amended as follows :—
- (a) In section 19 (2) (r)—
- (i) for the expression "\$100" there shall be substituted the expression "\$1,000" ; and 25
- (ii) for the expression "\$20" there shall be substituted the expression "\$100" ;
- (b) In section 33 (2) for the expression "\$100" there shall be substituted the expression "\$500" ;
- (c) In section 35— 30
- (i) for the expression "\$1,000" there shall be substituted the expression "\$5,000" ; and
- (ii) for the expression "\$20" there shall be substituted the expression "\$500" ;
- (d) In section 36 for the expression "\$100" there shall be 35 substituted the expression "\$500" ; and
- (e) In section 44 (2) for the expression "\$200" there shall be substituted the expression "\$500" .

14. (1) In

14. (1) In section 18A (1) of the *Town and Country Planning Act* 1961 for the words "lease or licence" there shall be substituted the words "lease licence or extraction permit".

Amendment of
No. 6849 s. 18A.
Application for
extraction
permit.

5 1961— (2) In section 18A (2) of the *Town and Country Planning Act*

(a) in paragraph (a) for the words "Secretary for Mines" there shall be substituted the words "Secretary for Minerals and Energy"; and

10 (b) at the end of paragraph (a) there shall be inserted the words "or, in the case of an application for an extraction permit, a copy of the application and a report from the Secretary for Minerals and Energy with respect to the land".

15 1961— (3) In section 20 (8) of the *Town and Country Planning Act*

(a) for the words "Secretary for Mines" (where twice occurring) there shall be substituted the words "Secretary for Minerals and Energy"; and

20 (b) after the words "in respect of the land" there shall be inserted the words "or in the case of an application for an extraction permit, a copy of the report from the Secretary for Minerals and Energy with respect to the land".

