

Extractive Industries (Amendment) Bill

EXPLANATORY MEMORANDUM

Clause 1 cites the short title.

Clause 2 provides for the commencement of the several provisions on a day or days to be proclaimed.

Clause 3 cites the *Extractive Industries Act 1966* as the Principal Act.

Clause 4 makes several amendments to section 3 of the Act.

Sub-clause (1) amends section 3 to provide that the Minister, rather than the Governor in Council, shall grant leases. Sub-section (4) is amended to provide that the yearly rent payable on a lease shall be at a rate as may be prescribed in the Regulations.

Sub-clause (2) is a transitional provision in respect to applications lodged before the commencement of the amending Act.

Clause 5 inserts into the Act a new section 7A which provides for conditions relating to land reclamation and stabilization to be placed on extractive industry titles. Provision is made for the lodging of bonds or securities in relation to reclamation and stabilization operations. The proposed new section specifies the considerations the Minister shall have regard to in setting the relevant conditions and the amount of bonds or securities, and empowers the Minister to make orders as to the use of bonds and securities.

Clause 6 replaces section 8 of the Act with a new section which provides that a lease or licence may be assigned with the consent of the Minister, and which enables the Minister to refer an application for consent to the Extractive Industries Advisory Committee for report.

Clause 7 replaces section 8A of the Act with a new section relating to the consolidation of leases and licences. A consolidation application shall be referred to the Advisory Committee for report. After considering the report the Minister may grant a consolidated title for a period which does not exceed the longest remaining term of any lease or licence which is the subject of the application. A consolidated title shall not be granted unless necessary consents have been obtained, nor for any period beyond the period of a planning permit. Provision is made for the imposition of covenants and conditions on the consolidated title and the adjustment of rental.

Clause 8 replaces section 9 of the Act with a new section which provides that the Minister may either suspend or revoke a lease or licence in the event of any breach of or failure to comply with a covenant or condition in the lease or licence. A right of appeal to the Planning Appeals Board is established in respect of a decision to suspend or revoke a lease or licence. A suspension or revocation shall not take effect during the appeal period or until any appeal has been determined. An offence and penalty provision in respect of breaches of or non-compliance with covenants or conditions is inserted.

Clause 9 inserts a new section 9A which provides that land shall not be marked out for the purposes of making application for a mining tenement under the *Mines Act 1958* over land held under an extractive industry lease or licence or an extraction permit, unless the consent of the extractive industry title holder has first been obtained.

Clause 10 amends section 10 of the Act to enable an applicant for titles over two or more adjoining areas of land to request the Minister to grant one title over the whole area. The Minister is empowered to grant such a consolidated title where he is satisfied that the requirements of the Act have been complied with.

Clause 11 provides that a person proposing to apply for a lease, licence or extraction permit shall first mark out the relevant land in the manner prescribed.

Clause 12 inserts in section 11 (2) of the Act a provision relating to the supply by applicants for leases and licences of the results of any geological tests and such other information as the Secretary for Minerals and Energy reasonably requires.

Clause 13 inserts a new section 11A which provides that where land has been marked out for an extractive industry lease or licence or an extraction permit, the land shall not be further marked out for the purpose of an application for a mining tenement under the *Mines Act* 1958 without the consent of the applicant for the extractive industry title. Priority in the determination of applications shall be given to the applicant who first marked out the land, or otherwise as the Minister may direct.

Clause 14 amends section 12 of the Act to provide that an applicant for a lease or licence shall be required to give or send the notice of application to the owners and occupiers of all land adjoining the land under application. An applicant who has complied with the provisions of section 12 (4) in relation to advertising an application shall be deemed to have satisfied the requirements of section 18 (b) of the *Town and Country Planning Act* 1961.

Clause 15 amends section 16A (1) of the Act to provide that the Minister, on the recommendation of the Advisory Committee, may amend lease covenants and conditions where an application is made for the transfer or consolidation of a lease or the variation of covenants and conditions.

Clause 16 amends section 17 of the Act to provide that the Minister may refer an application for the renewal of a lease or licence to the Advisory Committee for report. The Minister is empowered at the time of renewal to vary any covenants or conditions. A right of appeal for an applicant is provided to the Planning Appeals Board against a decision of the Minister in regard to renewals.

Clause 17 amends section 17AA of the Act by altering the words "Secretary" to "Minister" to provide that the Minister shall be responsible for the renewal of leases and licences.

Clause 18 makes an amendment of a consequential nature to section 17A (2) of the Act.

Clause 19 inserts a new section 17B which provides that where the recovery of stone under an extractive industry title necessarily involves the mining of a mineral, the mineral may with the authority of the Minister be mined and sold in the course of the recovery of the stone. An authority of the Minister shall provide for the payment of royalty, shall remain in force for a period not longer than the extractive industry title and shall be subject to conditions imposed by the Minister. The holder of an authority shall be required to submit returns and shall not be required to hold a title under the Mines Act. The Minister is empowered at any time to withdraw an authority and an offence and penalty provision is included.

Clause 20 replaces section 18 of the Act with a new section which provides for the nomination of an officer as Chief Inspector of Quarries and officers as inspectors of quarries. The proposed new section 18A confers powers on inspectors for the purposes of ascertaining whether the provisions of the Act or regulations are being complied with. The proposed new section 18B empowers Inspectors to issue notices requiring the remedying of dangerous or defective matters, or requiring the withdrawal of workers if the matters cannot be remedied. Provision is made for the lodging of objections to such notices and determination of objections. Offence and penalty provisions are inserted in respect of non-compliance.

Clause 21 amends the regulation-making powers in Section 19 with respect to—

the reclamation and stabilization of land, and bonds or securities in relation thereto;

the marking out of land;

- the manner of dealing with cases when two or more applications are made in respect of the same land;
- the furnishing of plans and proposals with respect to reclamation and stabilization;
- the furnishing of annual returns in relation to minerals extracted in the course of an extractive industry operation;
- prohibiting the unauthorized entry of persons onto quarries;
- the powers of inspectors to investigate accidents;
- the power to adopt codes, practices &c. in the Regulations.

Clause 22 makes a consequential amendment to section 28 (d).

Clause 23 amends section 35 (1) of the Act, and creates an offence for any person to operate an extractive industry during a period of suspension.

Clause 24 inserts a new section 41A which makes provision with respect to the lodging with and the handling of appeals by the Planning Appeals Board.

Clause 25 inserts into the Act a general penalty provision.

Clause 26 amends section 43 of the Act to provide for the Extractive Industries Advisory Committee to deal with any matter referred to it by the Minister. Provision is made for the nomination of standing special members to the Committee, and the appointment of a person representing extractive industry operators and other persons as advisers to the Committee.

Clause 27 makes a series of machinery-type amendments to several provisions of the Act.

Clause 28 makes a series of amendments to the penalty provisions of the Act. Penalties are converted into penalty units, and the levels of certain penalties are increased.

Clause 29 makes several consequential and machinery-type amendments to several provisions of the Act.

Clause 30 makes consequential amendments to sections 3 and 4 of the Act.

Clause 31 amends references in the Act to the Minister of Lands.

Clause 32 makes amendments to the *Planning Appeals Board Act 1980* consequent upon amendments to the Extractive Industries Act by establishing a Mining and Extractive Industries Division of the Planning Appeals Board.

Clause 33 repeals section 379A of the Mines Act consequent upon the insertion of the new section 17B into the Extractive Industries Act.