

South Australia

# **Statutes Amendment (Energy and Mining Reforms) Bill 2025**

A BILL FOR

An Act to amend the *Energy Resources Act 2000*, the *Hydrogen and Renewable Energy Act 2023* and the *Mining Act 1971*.

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## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

5 This Act may be cited as the *Statutes Amendment (Energy Resources and Mining Reforms) Act 2025*.

#### 2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

### Part 2—Amendment of *Energy Resources Act 2000*

#### 3—Amendment of section 86AAB—Approval of change in control of holder of licence

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(1) Section 86AAB—after subsection (2) insert:

(2a) Without limiting anything in subsection (2), the Minister may, in considering an application for approval for a change in control under this section, have regard to the following matters, so far as they may be relevant in a particular case:

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- (a) whether the holder of the licence after the change in control takes effect is a fit and proper person to hold the licence;
- (b) whether the change in control would be in the public interest;
- (c) the social, economic and environmental effect of the change in control;
- (d) the appropriateness of any foreign influence on Australia's energy resources industry consequent on the change in control;
- (e) the extent to which the change in control may affect continued investment in energy resources and related industries and infrastructure in Australia.

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- (2) Section 86AAB(3)(a)—after "application" insert:  
subject to such terms and conditions specified by the Minister in the notice

**4—Amendment of section 86AAC—Offences**

- (1) Section 86AAC(1), penalty provision—delete "\$250 000" and substitute:  
5 \$16 500 000
- (2) Section 86AAC(3), penalty provision—delete "\$250 000" and substitute:  
\$16 500 000

**5—Insertion of Part 11 Division 12AA**

Part 11—After Division 12 insert:

10 **Division 12AA—Forfeiture and transfer of licence**

**91AB—Forfeiture of licence**

- (1) This section applies in relation to a licence other than a special facilities licence.
- 15 (2) Subject to this section, the Minister may, on the Minister's own initiative, by notice in the Gazette, determine that a licence to which this section applies is forfeited to the Crown.
- (3) The Minister must not make a determination under this section unless the Minister is satisfied that 1 or more of the following have occurred in a material respect and that the matter is of sufficient gravity to justify the forfeiture of the licence:
- 20 (a) a breach of this Act;
- (b) without limiting paragraph (a)—a breach of a term or condition of the licence;
- 25 (c) undue damage to the environment in connection with any operations carried out under the licence;
- (d) a failure to carry out activities associated with holding the relevant type of licence within a reasonable time or to a reasonable extent.

**91AC—Transfer of forfeited licence**

- 30 (1) The Minister may, in accordance with this section, approve the transfer to a person of a licence forfeited to the Crown under section 91AB for the balance of its term.
- (2) An approval under this section—
- 35 (a) may be granted by the Minister—
- (i) on the application of a person in a manner and form determined by the Minister; or
- (ii) on the Minister's own initiative; and

(b) may be subject to such terms and conditions as specified in the notice of approval; and

(c) takes effect from the day on which notice of the transfer is published in the Gazette or such other day as may be specified in the notice.

(3) The regulations may provide—

(a) that a person to whom a licence is to be transferred under this section must—

(i) satisfy any prescribed requirements; and

(ii) be able to demonstrate any prescribed capability or other requirement before a transfer is approved; and

(iii) provide such supporting evidence in relation to the transfer as may be prescribed; and

(b) for limitations on, or exclusions from, an ability to make an application under subsection (2)(a)(i); and

(c) for other matters associated with making an application, approving or effecting a transfer under this section.

(4) The following provisions apply if an application for approval has been made under subsection (2)(a)(i):

(a) the licence to which the application relates must not be transferred or surrendered until the application has been determined;

(b) the Minister may, at any time and in the Minister's absolute discretion (and without consultation with the applicant or taking any other step) by notice to the applicant, refuse the application.

(5) The Minister must, on approving a transfer under this section, publish notice of the approval in the Gazette.

(6) The holder of a licence to which section 91AB applies must comply with any written direction given to them by the Minister in relation to the providing of specified information or the taking of any specified action that the Minister considers necessary or relevant to give effect to a transfer under this section.

Maximum penalty: \$250 000.

## Part 3—Amendment of *Hydrogen and Renewable Energy Act 2023*

### 6—Amendment of section 52—Approval of change in control of holder of licence

- 5 (1) Section 52—after subsection (2) insert:
- (2a) Without limiting anything in subsection (2), the Minister may, in considering an application for approval for a change in control under this section, have regard to the following matters, so far as they may be relevant in a particular case:
- 10 (a) whether the holder of the licence after the change in control takes effect is a fit and proper person to hold the licence;
- (b) whether the change in control would be in the public interest;
- 15 (c) the social, economic and environmental effect of the change in control;
- (d) the appropriateness of any foreign influence on Australia's hydrogen or renewable energy industry consequent on the change in control;
- 20 (e) the extent to which the change in control may affect continued investment in energy resources and related industries and infrastructure in Australia.
- (2) Section 52(3)(a)—after "application" insert:  
subject to such terms and conditions specified by the Minister in the notice

### 7—Amendment of section 53—Offences

- 25 (1) Section 53(1), penalty provision—delete "\$250 000" and substitute:  
\$16 500 000
- (2) Section 53(3), penalty provision—delete "\$250 000" and substitute:  
\$16 500 000

### 8—Insertion of Part 4 Division 3 Subdivision 15A

- 30 Part 4 Division 3—after Subdivision 15 insert:

#### Subdivision 15A—Forfeiture and transfer of licence

##### 55A—Forfeiture of licence

- (1) This section applies in relation to a licence other than a special enterprise licence.
- 35 (2) Subject to this section, the Minister may, on the Minister's own initiative, by notice in the Gazette, determine that a licence to which this section applies is forfeited to the Crown.

(3) The Minister must not make a determination under this section unless the Minister is satisfied that 1 or more of the following have occurred in a material respect and that the matter is of sufficient gravity to justify the forfeiture of the licence:

- (a) a breach of this Act;
- (b) without limiting paragraph (a)—a breach of a term or condition of the licence;
- (c) undue damage to the environment in connection with any authorised operations carried out under the licence;
- (d) a failure to carry out activities associated with holding the relevant type of licence within a reasonable time or to a reasonable extent.

### **55B—Transfer of forfeited licence**

(1) The Minister may, in accordance with this section, approve the transfer to a person of a licence forfeited to the Crown under section 55A for the balance of its term.

(2) An approval under this section—

- (a) may be granted by the Minister—
  - (i) on the application of a person in a manner and form determined by the Minister; or
  - (ii) on the Minister's own initiative; and
- (b) may be subject to such terms and conditions as specified in the notice of approval; and
- (c) takes effect from the day on which notice of the transfer is published in the Gazette or such other day as may be specified in the notice.

(3) The regulations may provide—

- (a) that a person to whom a licence is to be transferred under this section must—
  - (i) satisfy any prescribed requirements; and
  - (ii) be able to demonstrate any prescribed capability or other requirement before a transfer is approved; and
  - (iii) provide such supporting evidence in relation to the transfer as may be prescribed; and
- (b) for limitations on, or exclusions from, an ability to make an application under subsection (2)(a)(i); and
- (c) for other matters associated with making an application, approving or effecting a transfer under this section.

(4) The following provisions apply if an application for approval has been made under subsection (2)(a)(i):

(a) the licence to which the application relates must not be transferred or surrendered until the application has been determined;

(b) the Minister may, at any time and in the Minister's absolute discretion (and without consultation with the applicant or taking any other step) by notice to the applicant, refuse the application.

(5) The Minister must, on approving a transfer under this section, publish notice of the approval in the Gazette.

(6) The holder of a licence to which section 55A applies must comply with any written direction given to them by the Minister in relation to the providing of specified information or the taking of any specified action that the Minister considers necessary or relevant to give effect to a transfer under this section.

Maximum penalty: \$250 000.

## Part 4—Amendment of *Mining Act 1971*

### 9—Amendment of section 15AL—Release of material

(1) Section 15AL(2)—delete subsection (2)

(2) Section 15AL(6)—delete ", (2)"

### 10—Amendment of section 28—Preliminary

(1) Section 28(1), definition of *open ground*, (b)—delete paragraph (b) and substitute:

(b) that has become available due to—

(i) the partial surrender of a mineral tenement; or

(ii) the reduction in the size of an exploration licence under section 30AAA(9),

other than where the Minister has determined that the land should be considered to be relinquished ground; or

(2) Section 28(1), definition of *relinquished ground*, (a)—delete ", or should be the subject of a mineral tenement granted to a particular person"

(3) Section 28(1), definition of *relinquished ground*, (b)—delete ", or should be the subject of a mineral tenement granted to a particular person"

(4) Section 28(1), definition of *relinquished ground*, (e)—delete "the partial surrender of a mineral tenement; or" and substitute:

(i) the partial surrender of a mineral tenement; or

(ii) the reduction in the size of an exploration licence under section 30AAA(9); or

**11—Amendment of section 29A—Application for exploration licence**

Section 29A(8)—delete subsection (8)

**12—Amendment of section 30AAA—Expenditure**

Section 30AAA(12)—delete "will" and substitute:

5                   may

**13—Amendment of section 30A—Term and renewals of licence**

Section 30A(7)(c)—after "renewals" insert:

, subject to sections 30AAB and 56Y,

**14—Insertion of sections 30AAB and 30AAC**

10           After section 30A insert:

**30AAB—Special circumstances extension**

- 15           (1) This section applies to the holder of an exploration licence that has been renewed such that the term of the licence will reach the 18th anniversary of the grant date.
- 20           (2) The holder of a licence to whom this section applies may, before the date of expiry of their exploration licence, apply to the Minister to extend the term of the licence for a period of up to 5 years (a *special circumstances extension*).
- 25           (3) The Minister may only receive and consider an application under subsection (2) if the Minister is satisfied—
- 30                   (a) that the applicant—
- (i) during the term of their exploration licence—
- (A) has satisfactorily met the requirements of the expenditure commitment under the licence; and
- (B) has otherwise satisfactorily performed authorised operations under the licence; and
- 35                           (ii) has made a discovery of minerals, has a new exploration model in respect of minerals or is further developing a mineral deposit; and
- (iii) would be capable of undertaking exploration operations within the term of a special circumstances extension (if the extension were to be granted); or
- 40                   (b) that the applicant has been unable to meet the requirements of the expenditure commitment, work program or other requirement under their exploration licence within the existing term of the licence due to circumstances—
- (i) beyond the control of the applicant; and

- (ii) that could not reasonably have been foreseen at the time at which the licence was last renewed; or
- (c) of such other circumstances as may be prescribed by the regulations for the purposes of this paragraph.
- 5 (4) An application under this section must—
- (a) be made to the Minister in a manner and form determined by the Minister; and
- (b) specify the period for which the extension is sought; and
- (c) be accompanied by the prescribed fee; and
- 10 (d) address any matters determined by the Minister by notice in the Gazette; and
- (e) include any other information that the Minister may require.
- (5) If an application under this section is not decided before the date on which the relevant exploration licence is due to expire, the licence continues in operation until the application is decided and, if the application is granted, the licence is extended from the date on which the licence would, but for this section, have expired.
- 15 (6) The Minister may, on granting a special circumstances extension—
- (a) add, vary or revoke a term or condition of the relevant exploration licence; or
- 20 (b) alter the relevant exploration licence by reducing the licence area by an amount determined by the Minister (in which case the surrendered area will be taken to be relinquished ground).
- (7) The holder of an exploration licence to whom this section applies who has been granted a special circumstances extension may apply for a second or subsequent special circumstances extension however, the Minister may, in the Minister's absolute discretion, refuse to grant the second or subsequent application.
- 25 (8) The Minister may, at any time and in the Minister's absolute discretion (and without consultation with the applicant or taking any other step) by notice to the applicant, refuse an application for a special circumstances extension.
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### **30AAC—Minister may refuse certain applications**

- 35 (1) This section applies to an application for—
- (a) an exploration licence; or
- (b) the renewal of an exploration licence.

- (2) The Minister may refuse an application to which this section applies at any time and without consultation with the applicant or taking any other step, at any stage of its consideration under this Act if—
- (a) the applicant fails to comply with a requirement under this Act that is relevant to the making or consideration of the application; or
  - (b) the Minister considers—
    - (i) that the applicant has not proceeded with reasonable diligence to obtain any other permission, authorisation, consent or other form of approval under another Act or law that is relevant in the circumstances; or
    - (ii) that there are other sufficient grounds for not assessing the application further after taking into account the public interest and such other matters as the Minister thinks fit.

## 15—Insertion of Part 8B Division 6A

Part 8B—after Division 6 insert:

### Division 6A—Change in control of tenement holder

#### 56PA—Interpretation

- (1) In this Division—
- (a) a person *acts jointly with* another person if the person acts or is accustomed to acting, in agreement with, or in accordance with the wishes of, the other person; and
  - (b) the *approval period* for a change in control of the registered holder of a mineral tenement is the period—
    - (i) commencing on the day on which notice of approval of an application for the change in control is given; and
    - (ii) ending—
      - (A) immediately after the change in control takes effect; or
      - (B) if the approval of a change in control is revoked—on the day on which notice of the revocation of the change in control is given; or
      - (C) 9 months after the day on which notice of approval of the change in control is given, whichever is the earlier; and
  - (c) there is a *change in control* of the registered holder of a mineral tenement if—

- (i) 1 or more persons (the *original controllers*) control the registered holder of the mineral tenement at a particular time; and
- (ii) either—
- 5 (A) 1 or more other persons begin to control the registered holder of a mineral tenement (whether alone or together with 1 or more other persons the person or persons act jointly with) after that time; or
- 10 (B) an original controller (whether alone or together with 1 or more other persons the person acts jointly with) ceases to control the registered holder of the mineral tenement after that time; and
- 15 (d) a person *controls* the registered holder of a mineral tenement if the person (whether alone or together with 1 or more other persons the person acts jointly with)—
- (i) holds the power to exercise, or control the exercise of, 20% (or such other percentage as may be prescribed by the regulations for the purposes of this subparagraph) or more of the voting rights in the registered holder of the mineral tenement; or
- 20 (ii) holds, or holds an interest in, 20% (or such other percentage as may be prescribed by the regulations for the purposes of this subparagraph) or more of the issued securities in the registered holder of the mineral tenement.
- (2) It is the intention of the Parliament that this Division apply within the State and outside the State to the full extent of the extraterritorial legislative capacity of the Parliament.
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### 56PB—Approval of change in control of holder of tenement

- (1) An application for approval for a change in control of the registered holder of a mineral tenement must—
- 35 (a) be made in a manner and form determined by the Minister; and
- (b) be accompanied by the prescribed fee; and
- (c) be accompanied by such information as the Minister may require (which must be provided within a period determined by the Minister and notified to the applicant).
- 40 (2) In considering an application for approval for a change in control under this section, the Minister must have regard to—
- (a) whether the technical capability and financial resources available to the registered holder of the mineral tenement after the change in control takes effect are sufficient to—

(i) carry out authorised operations under the mineral tenement; and

(ii) discharge the obligations that are imposed under this Act in relation to the mineral tenement; and

5 (b) any other matters prescribed by the regulations,

and may have regard to any other matters the Minister thinks relevant.

10 (3) Without limiting anything in subsection (2), the Minister may, in considering an application for approval for a change in control under this section, have regard to the following matters, so far as they may be relevant in a particular case:

(a) whether the proposed registered holder of the mineral tenement after the change in control takes effect is a fit and proper person to hold the mineral tenement;

15 (b) whether the change in control would be in the public interest;

(c) the social, economic and environmental effect of the change in control;

20 (d) the appropriateness of any foreign influence on Australia's mineral resource industry consequent on the change in control;

(e) the extent to which the change in control may affect continued investment in mineral resources and related industries and infrastructure in Australia.

25 (4) The Minister may, by written notice to an applicant under this section—

(a) approve the application subject to such terms and conditions specified by the Minister in the notice; or

(b) refuse the application.

30 (5) The Minister may, during the approval period for a change in control of the registered holder of a mineral tenement, by written notice to an applicant under this section, revoke the approval.

35 (6) An applicant under this section may apply to the ERD Court for a review of a decision of the Minister under this section within 28 days after receiving notice of the decision or such longer period as the Minister may allow in a particular case.

(7) On a review under subsection (6), the ERD Court may—

(a) confirm the decision of the Minister; or

40 (b) vary or revoke the decision of the Minister, or impose any term or condition considered appropriate by the Court; or

(c) make any other orders that the Court thinks fit.

**56PC—Offences**

(1) If—

(a) there is a change in control of the registered holder of a mineral tenement; and

(b) —

(i) the Minister has not approved the change in control under this Division; or

(ii) the Minister has given an approval under this Division but the change in control took effect after the end of the approval period for the change in control,

the person who begins to control, or ceases to control, the registered holder of the mineral tenement is guilty of an offence.

Maximum penalty: \$16 500 000.

(2) A person does not commit an offence against subsection (1) if the person did not know, and could not reasonably be expected to have known, that the change in control had taken effect.

(3) If—

(a) there is a change in control of the registered holder of a mineral tenement; and

(b) —

(i) the Minister has not approved the change in control under this section; or

(ii) the Minister has given an approval under this section but the change in control took effect after the end of the approval period for the change in control; and

(c) the registered holder of the mineral tenement knows or ought reasonably to know that the change in control has taken effect; and

(d) the registered holder of the mineral tenement does not notify the Minister of the change in control within 30 days of the change taking effect,

the registered holder of the mineral tenement is guilty of an offence.

Maximum penalty: \$16 500 000.

(4) If a person commits an offence against subsection (1), the Minister may, by written notice to the registered holder of the mineral tenement in relation to which the change in control took effect, cancel the tenement.

**16—Insertion of Part 8B Division 8A**

Part 8B—after Division 8 insert:

**Division 8A—Forfeiture and transfer of mineral tenement****56XA—Forfeiture of mineral tenement**

- 5 (1) This section applies in relation to—
- (a) a mineral claim; or
  - (b) an exploration licence; or
  - (c) a mining lease; or
  - (d) a retention lease; or
  - 10 (e) a miscellaneous purposes licence.
- (2) Subject to this section, the Minister may, on the Minister's own initiative, by notice in the Gazette, determine that a mineral tenement to which this section applies is forfeited to the Crown.
- (3) The Minister must not make a determination under this section unless the Minister is satisfied that 1 or more of the following have occurred in a material respect and that the matter is of sufficient gravity to justify the forfeiture of the mineral tenement:
- (a) a breach of this Act;
  - (b) without limiting paragraph (a)—
    - 20 (i) a breach of a term or condition of the tenement; or
    - (ii) a breach of a program under Part 10A;
  - (c) undue damage to the environment in connection with any authorised operations carried out under the tenement;
  - (d) a failure to carry out activities associated with holding the relevant type of tenement within a reasonable time or to a reasonable extent.
- (4) The Minister must give notice of a determination under this section to the holder of the mineral tenement to be forfeited.

**56XB—Transfer of forfeited mineral tenement**

- 30 (1) The Minister may, in accordance with this section, approve the transfer to a person of a mineral tenement forfeited to the Crown under section 56XA for the balance of its term.
- (2) An approval under this section—
- (a) may be granted by the Minister—
    - 35 (i) on the application of a person in a manner and form determined by the Minister; or
    - (ii) on the Minister's own initiative; and

- 5
- (b) may be subject to such terms and conditions as specified in the notice of approval; and
- (c) takes effect from the day on which notice of the transfer is published in the Gazette or such other day as may be specified in the notice.
- (3) The regulations may provide—
- (a) that a person to whom a mineral tenement is to be transferred under this section must—
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- (i) satisfy any prescribed requirements; and
- (ii) be able to demonstrate any prescribed capability or other requirement before a transfer is approved; and
- (iii) provide such supporting evidence in relation to the transfer as may be prescribed; and
- 15
- (b) for limitations on, or exclusions from, an ability to make an application under subsection (2)(a)(i); and
- (c) for other matters associated with making an application, approving or effecting a transfer under this section.
- (4) The following provisions apply if an application for approval has been made under subsection (2)(a)(i):
- 20
- (a) the mineral tenement to which the application relates must not be transferred or surrendered until the application has been determined;
- (b) the Minister may, at any time and in the Minister's absolute discretion (and without consultation with the applicant or taking any other step) by notice to the applicant, refuse the application.
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- (5) The Minister must, on approving a transfer under this section, publish notice of the approval in the Gazette.
- (6) The holder of a mineral tenement to which section 56XA applies must comply with any written direction given to them by the Minister in relation to the providing of specified information or the taking of any specified action that the Minister considers necessary or relevant to give effect to a transfer under this section.
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- Maximum penalty: \$250 000.

35 **17—Amendment of section 56Y—Extension of term of tenement**

Section 56Y(1)—before paragraph (a) insert:

- (aa) an exploration licence; or

**18—Amendment of section 62AA—Mining Rehabilitation Fund**

(1) Section 62AA—after subsection (4) insert:

(4a) The regulations may prescribe a scheme setting out the manner and circumstances in which the holder of a mineral tenement may pay a prescribed amount into the fund either annually or at such time as may be set out in the scheme.

(4b) Without limiting the generality of subsection (4a), regulations made for the purposes of that subsection may—

(a) set out the manner in which a prescribed amount payable by a tenement holder is to be calculated; and

(b) provide for the prescribed amount to vary according to—

(i) the size of a mineral tenement; or

(ii) the size and type of authorised operations; or

(iii) the extent and likelihood of action that may be required to take action to restore the environment as a result of environmental damage or impairment resulting from authorised operations; or

(iv) any other factor to which the regulation is expressed to apply; and

(c) provide for when the prescribed amount is to be paid; and

(d) provide for the provision of returns and other information to the Minister.

(2) Section 62AA(10)(a)—delete "in relation to which a requirement under this section has been imposed" and substitute:

disturbed by authorised operations

(3) Section 62AA(10)(b)—delete "in relation to which a requirement under this section has been imposed" and substitute:

disturbed by authorised operations

(4) Section 62AA(10)—after paragraph (d) insert:

(da) to rehabilitate land disturbed by authorised operations (or any costs associated with ensuring that such land is rehabilitated in accordance with the requirements under this Act);

(db) to satisfy any liability to pay an amount that is due to the Crown under this Act;

(5) Section 62AA—after subsection (10) insert:

(10a) A reference to authorised operations in this section will be taken to include exploration operations, mining operations or ancillary operations not authorised by or under the Act.

**19—Amendment of section 70—Forfeiture and transfer of mineral tenement**

(1) Section 70(1)(b)—delete "if the regulations so provide—"

(2) Section 70(1)—after paragraph (d) insert:

or

(e) a miscellaneous purposes licence.

## **20—Amendment of section 70C—Review of programs**

5 (1) Section 70C—after subsection (4a) insert:

(4b) The Minister may require a person who has submitted a revised program to furnish the Minister with any additional information specified by the Minister (and that information must be furnished within any period specified by the Minister).

10 (2) Section 70C(5)—after paragraph (b) insert:

or

(c) reject the revised program on the basis that it fails to comply with the requirements of section 70B(2) (and any other relevant provision of this Act).

15 (3) Section 70C(6)—delete "required to make any alterations under subsection (5)" and substitute:

in relation to whom a decision is made by the Minister under subsection (5)(b) or (c)

20 (4) Section 70C(6)—delete "requirement" first and second occurring and substitute in each case:

decision

(5) Section 70C(7)—delete "requirement" wherever occurring and substitute in each case:  
decision