



Explanation of Clauses - Draft Statutes *Amendment (Energy and Mining Reforms) Bill 2025*

Part 1 – Preliminary

Clauses 1 and 2: Short Title and Commencement

These are standard operational provisions.

Part 2 – Amendment of *Energy Resources Act 2000* (ER Act) and Part 3 - Amendment of *Hydrogen and Renewable Energy Act 2023* (HRE Act)

Clauses 3 - 8

Consequential amendments are being made to the change in control provisions and to introduce forfeiture to the Crown provisions in the ER and HRE Acts, consistent with proposed amendments to the *Mining Act 1971* (Mining Act) provisions below.

Part 4 – Amendment of *Mining Act 1971*

Clause 9: Release of Material

This provision repeals (removes) the current section 15AL(2) of the Mining Act to remove restrictions on the release of prescribed material relating to a private mine consistent with the legislative requirements that apply to other tenements under the Mining Act.

Clause 10: Preliminary

These provisions clarify the definitions of “open ground” and “relinquished ground” in relation to exploration licences, including to clarify that land which has become available through a licence area reduction following non-compliance with an expenditure commitment can become relinquished ground and subject to the competitive exploration release area process.

Clause 11: Application for Exploration Licence

This provision removes the current section 29(8) of the Mining Act concerning refusal of an application, as this is now prescribed in the new section 30AAC (see Clause 14 below).

Clause 12: Expenditure

This provision is a minor clarification of the current wording in section 30AAA(12) of the Mining Act concerning a reduction of licence areas pursuant to an amalgamation of expenditure commitments.



Clause 13: Term and Renewals of Licence

This provision clarifies that the current fixed 18-year term of an exploration licence will be subject to the special circumstances extension in the new section 30AAB (see Clause 14 below) and any extension under section 56Y (see Clause 17 below) of the Act.

Clause 14: Special Circumstances Extension for Exploration Licences

These provisions introduce a new section 30AAB that prescribes a special circumstances extension for exploration licences beyond the current fixed term of 18 years, providing that the holder of an exploration licence may apply for such an extension for a period up to five (5) years.

The provisions provide that the Minister must be satisfied that the applicant meets one of the grounds in subsection (3) before he can consider an application. The application requirements provide the ability for the Minister to prescribe additional matters that must be addressed in an application by Ministerial notice in the Gazette.

The Minister may add or vary conditions of the licence or reduce the licence area when granting an extension. The Minister retains an absolute discretion to refuse an application for a special circumstances extension by notice to the applicant.

The new section 30AAC replaces the former s 29A(8) of the Mining Act, prescribing the Minister's ability to refuse an application for an exploration licence or a renewal of an exploration licence.

Clause 15: Change in Control of Tenement Holder

These provisions introduce change in control provisions in the Mining Act, seeking consistency of regulation in both the *Energy Resources Act 2000* and the *Hydrogen and Renewable Energy Act 2023*. These provisions also clarify that the Minister can impose conditions on any approval of a change in control and expand the types of considerations which the Minister may have regard to in considering an application for a change in control.

The maximum penalty for the relevant offence provisions (i.e. if a change in control proceeds without the Minister's approval) have been increased from \$250k to \$16.5m, consistent with the minimum penalty available to ASIC for contravention of a civil penalty provision by a body corporate under the *Corporations Act 2001* (Cth). The Court retains discretion to impose a penalty at an appropriate level up to this maximum amount.

Clause 16: Forfeiture and Transfer of Mineral Tenement

This provision introduces a forfeiture process to be available where the State is entitled to terminate or suspend a mining tenement under the Act (in addition to the Warden's Court process in section 70), and the ability for the Minister to approve the transfer of a mineral tenement forfeited to the Crown, either upon application or on the Minister's own initiative.



Clause 17: Extension of Term of Tenement

This provision enables the extension of an exploration licence for the limited purpose of authorising a tenement holder to rectify a non-compliance and undertake environmental rehabilitation, for consistency with existing provisions that apply to other tenement types under the Act.

Clause 18: Mining Rehabilitation Fund

These provisions amend the current section 62AA of the Mining Act to provide that the Mining Regulations may prescribe a scheme enabling the holder of a mineral tenement to pay a prescribed amount into the Mining Rehabilitation Fund as a recognised financial assurance mechanism to cover environmental rehabilitation liabilities.

The provisions expand the purposes of the Fund to clarify that these include the rehabilitation of land disturbed by authorised operations, or any costs associated with ensuring that such land is rehabilitated, or to satisfy any liability to pay an amount that is due to the Crown.

The draft Bill clarifies that any reference to authorised operations in the MRF provisions will be taken to include authorised operations not authorised by or under the Act, enabling the funds to be used for legacy rehabilitation purposes.

Clause 19: Forfeiture and Transfer of Mineral Tenement

This reform includes miscellaneous purposes licence in the existing forfeiture provisions in section 70 of the Mining Act.

Clause 20: Review of Programs

These provisions clarify that following a review of a Program for Environment Protection and Rehabilitation (PEPR), a revised PEPR is able to be refused (in addition to existing powers to approve or require alterations).