



New South Wales

Mining Amendment (Compensation for Cancellation of Exploration Licence) Bill 2019

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Mining Act 1992* to provide that persons financially affected by the cancellation of exploration licence 7270 over certain land at Doyles Creek can apply to an independent arbitrator for an assessment and determination of compensation for the licence cancellation. That exploration licence was cancelled as a result of the ICAC findings in Operation Acacia and Schedule 6A to the Act currently precludes compensation being payable by the State.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 amends the *Mining Act 1992* in the manner described in the above overview.



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Mining Amendment (Compensation for Cancellation of Exploration Licence) Bill 2019

No. , 2019

A Bill for

An Act to amend the *Mining Act 1992* to make provision with respect to the assessment and determination of compensation for the cancellation of an exploration licence following the ICAC inquiry in Operation Acacia.

The Legislature of New South Wales enacts:

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1 Name of Act

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This Act is the *Mining Amendment (Compensation for Cancellation of Exploration Licence) Act 2019*.

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2 Commencement

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This Act commences on the date of assent to this Act.

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Schedule 1	Amendment of Mining Act 1992 No 29	1
[1] Schedule 6A Cancellation of certain authorities		2
Insert after clause 3 (2):		3
(3) This clause is subject to clause 7A.		4
[2] Schedule 6A, clause 7 (1)		5
Omit “Compensation”.		6
Insert instead “Except as provided by clause 7A, compensation”.		7
[3] Schedule 6A, clause 7A		8
Insert after clause 7:		9
7A Assessment and determination of compensation for losses resulting from cancellation of EL 7270		10 11
(1) In enacting this clause, Parliament recognises that persons who have been financially affected by the cancellation of EL 7270 as a consequence of the findings by the ICAC in Operation Acacia should, after having their claims assessed in accordance with this clause, receive fair compensation for the value of the cancelled licence and for the consequences of the cancellation.		12 13 14 15 16
(2) The Minister is, before the end of 2019, to appoint a legally qualified person as the independent arbitrator for the purposes of this clause. A person who has been an employee or officer of the ICAC is not eligible to be appointed as the independent arbitrator.		17 18 19 20
(3) A person (a <i>claimant</i>) may make a claim for compensation to the independent arbitrator in accordance with this clause.		21 22
(4) A claimant has the right to make submissions and to be heard by the independent arbitrator within a reasonable time of making the claim.		23 24
(5) A claim for compensation must be supported by the information determined by the independent arbitrator and published on a publicly accessible website.		25 26
(6) The procedure for assessing claims for compensation is to be determined by the independent arbitrator and published on a publicly accessible website within 2 months of the arbitrator’s appointment.		27 28 29
(7) The procedure is to include provisions relating to the following:		30
(a) the manner in which claims are to be made,		31
(b) the manner in which submissions may be made to the independent arbitrator,		32 33
(c) the manner and procedure by which claims are determined,		34
(d) the manner in which a claimant may exercise a right of appeal in the event of an adverse finding,		35 36
(e) the limitation period for the making of claims for compensation,		37
(f) the requirements of any other law under which the independent arbitrator is to exercise his or her functions or under which the procedure for assessing claims is to be conducted,		38 39 40
(g) any other matter that the independent arbitrator considers relevant.		41
(8) The independent arbitrator may, in assessing a claim for compensation:		42
(a) determine whether the claimant is entitled to compensation, and		43

- (b) determine the amount of compensation the claimant is entitled to receive, using valuation methods that have been used to determine compensation for the cancellation under this Act of other exploration licences, and 1
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 - (c) determine any conditions on the payment of compensation. 5
- (9) A claimant may appoint another person or body to make a claim and to receive compensation on the claimant's behalf. 6
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- (10) The independent arbitrator may: 8
 - (a) require claimants to be represented by another person or body, and 9
 - (b) give directions to that representative person or body in relation to the manner in which any compensation for those claimants is to be distributed. 10
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- (11) Parliament recommends that any compensation determined by the independent arbitrator in accordance with this clause is to be paid by the State out of money to be provided by Parliament or that is otherwise legally available. 13
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- (12) This clause has effect despite any other provision of this Schedule. 17