

URANIUM MINING (IMPLEMENTATION OF GOVERNMENT COMMITMENTS) BILL 2007

EXPLANATORY MEMORANDUM

Purpose of the Bill

The purpose of the Bill is to implement a commitment given in Parliament on 25 June 2002, when Clive Brown MLA, the then Minister for State Development, said:

*I wish to announce that the Western Australian Government has prohibited the mining of uranium for nuclear purposes from any mining leases granted from Saturday, 22 June 2002, when I first made the announcement to delegates at the Australian Labor Party state conference in Perth. The decision meets the policy of the Labor Government, which came to power on a platform that included banning the mining of uranium for nuclear purposes. The ban will initially be implemented under section 110 of the Mining Act 1978, which allows the minister to limit mining in the public interest to only those minerals specified in a lease. Accordingly, future mining leases will not authorise mining for uranium. **The policy will be ratified in legislation through the early introduction to Parliament of a government Bill that will specifically amend the Mining Act 1978 to prohibit the mining of uranium for nuclear purposes.** The decision will not interfere with existing rights under the Mining Act, nor where the mining of uranium is incidental to the mining of other minerals and is not extracted for sale.*

(Emphasis added)

Effect of the Bill

The effect of the Bill will be to entrench the ban on uranium mining that is currently applied to post-22 June 2002 mining leases under section 110 of the *Mining Act 1978* (**Attachment 1**). Once the Bill is passed and enacted, the ban could not be lifted without the repeal of the Act.

This Bill does not remove any rights to mine uranium, as it simply entrenches a ban already applying to post 22-June 2002 mining leases. As a result, no issue of compensation arises.

Detail of the Bill

Clause 1

This clause sets out the short title of the Bill.

Clause 2

This clause provides that the Bill comes into effect on Royal Assent.

Clause 3

This clause provides that the Bill amends the *Mining Act 1978*. This is consistent with the commitment given to Parliament on 25 June 2002 that the prohibition on uranium mining would be introduced by an amendment to that Act.

Clause 4

Consistent with the commitment given to Parliament on 25 June 2002, this clause prohibits the mining of uranium, unless:

- the uranium is mined under authority of a mining lease granted on or before 22 June 2002; or
- the mining of uranium is incidental to the mining of other minerals and the uranium is not extracted for sale.

The \$500,000 maximum penalty for breaching this prohibition is consistent with the penalties contained in the *Nuclear Waste Storage and Transportation (Prohibition) Act 1999*.

The words “mine” and “minerals” are already defined in section 8 of the *Mining Act 1978*. These definitions, and the definition of the related term “mining operations”, are reproduced at **Attachment 2**.

Mining Act 1978 – section 110

110. Mining lease restricted to certain minerals

Notwithstanding anything to the contrary in this Act, the Minister may, having regard to the locality wherein the land the subject of an application for a mining lease is, and if the Minister considers it is in the public interest to do so, grant the applicant a mining lease that authorises the holder thereof to mine on or under or both, and remove from the land the subject of the mining lease, only such mineral as is specified in the lease.

Mining Act 1978 - definitions

“**mine**”, as a verb, includes any manner or method of mining operations.

“**minerals**” means naturally occurring substances obtained or obtainable from any land by mining operations carried out on or under the surface of the land, but does not include —

- (a) soil;
- (b) a substance the recovery of which is governed by the *Petroleum Act 1967* or the *Petroleum (Submerged Lands) Act 1982*;
- (c) a meteorite as defined in the *Museum Act 1969*; or
- (d) any of the following substances if it occurs on private land —
 - (i) limestone, rock or gravel;
 - (ii) shale, other than oil shale;
 - (iii) sand, other than mineral sand, silica sand or garnet sand; or
 - (iv) clay, other than kaolin, bentonite, attapulgite or montmorillonite;

“**mining operations**” means any mode or method of working whereby the earth or any rock structure stone fluid or mineral bearing substance may be disturbed removed washed sifted crushed leached roasted distilled evaporated smelted or refined or dealt with for the purpose of obtaining any mineral therefrom whether it has been previously disturbed or not and includes —

- (a) the removal of overburden by mechanical or other means and the stacking, deposit, storage and treatment of any substance considered to contain any mineral;
- (b) operations by means of which salt or other evaporates may be harvested
- (c) operations by means of which mineral is recovered from the sea or a natural water supply; and

(d) the doing of all lawful acts incident or conducive to any such operation or purposes.