

Queensland



# **MINERAL RESOURCES AMENDMENT ACT 1998**

**Act No. 27 of 1998**



# Queensland



## MINERAL RESOURCES AMENDMENT ACT 1998

### TABLE OF PROVISIONS

Section		Page
1	Short title .....	4
2	Act amended .....	4
3	Amendment of s 5 (Definitions) .....	4
4	Amendment of s 194 (Conditions of mineral development licence) .....	4
5	Insertion of new s 194A .....	4
	194A Land Court's jurisdiction for At Risk agreement .....	5
6	Amendment of s 276 (Conditions of mining leases) .....	5
7	Insertion of new s 278A .....	6
	278A Land Court's jurisdiction for At Risk agreement .....	6
8	Insertion of new s 401A .....	7
	401A Protection against liability as condition of approval .....	7
9	Insertion of new part .....	8
	<b>PART 12—FURTHER TRANSITIONAL PROVISIONS</b>	
419	At Risk agreement conditions .....	8
420	Application of Mineral Resources Amendment Act 1998 .....	9



Queensland



## **Mineral Resources Amendment Act 1998**

**Act No. 27 of 1998**

---

*An Act to amend the *Mineral Resources Act 1989**

*[Assented to 18 May 1998]*

**The Parliament of Queensland enacts—****Short title**

1. This Act may be cited as the *Mineral Resources Amendment Act 1998*.

**Act amended**

2. This Act amends the *Mineral Resources Act 1989*.

**Amendment of s 5 (Definitions)**

3. Section 5—

*insert—*

- ‘ **“At Risk agreement”** means the document called the ‘At Risk’ agreement endorsed by Cabinet on 5 April 1988, and that document as amended and endorsed by Cabinet from time to time.<sup>1</sup>’

**Amendment of s 194 (Conditions of mineral development licence)**

4. Section 194—

*insert—*

- ‘(6) A mineral development licence granted after the commencement of the *Mineral Resources Amendment Act 1998* is subject to a condition that the holder comply with the At Risk agreement.’

**Insertion of new s 194A**

5. After section 194—

*insert—*

---

<sup>1</sup> A copy of the agreement is available from the department’s offices at 61 Mary Street, Brisbane.

**‘Land Court’s jurisdiction for At Risk agreement**

‘**194A.(1)** The Land Court has jurisdiction to hear and decide a proceeding about the following matters under a condition of a mineral development licence requiring compliance with the At Risk agreement—

- (a) whether hardship, as defined under the agreement, exists;
- (b) the fair market value of a property for the purposes of the agreement.

‘**(2)** In a proceeding under subsection (1)(a), the Land Court must consider—

- (a) all relevant matters put before the committee in any mediation under the agreement; and
- (b) the final recommendation made by the committee in the mediation.

‘**(3)** In a proceeding, a copy of the agreement as at a particular date, certified as a true copy by the chief executive, is admissible as evidence of the agreement at that date until the contrary is proved.

‘**(4)** Despite the *Limitations of Actions Act 1974*, a proceeding must start—

- (a) for a matter that arose before the commencement of this section—within 1 year after the commencement; or
- (b) for a matter that arose after the commencement of this section—within 1 year after the committee gives notice of its final recommendation about whether hardship, as defined under the agreement, exists.

‘**(5)** In this section—

“**committee**” means the committee mentioned in the At Risk agreement.’.

**Amendment of s 276 (Conditions of mining leases)**

**6.** Section 276—

*insert—*

‘**(5)** A mining lease granted after the commencement of the *Mineral*

*Resources Amendment Act 1998* is subject to a condition that the holder comply with the At Risk agreement.’.

### **Insertion of new s 278A**

7. After section 278—

*insert—*

#### **‘Land Court’s jurisdiction for At Risk agreement**

‘**278A.(1)** The Land Court has jurisdiction to hear and decide a proceeding about the following matters under a condition of a mining lease requiring compliance with the At Risk agreement—

- (a) whether hardship, as defined under the agreement, exists;
- (b) the fair market value of a property for the purposes of the agreement.

‘**(2)** In a proceeding under subsection (1)(a), the Land Court must consider—

- (a) all relevant matters put before the committee in any mediation under the agreement; and
- (b) the final recommendation made by the committee in the mediation.

‘**(3)** In a proceeding, a copy of the agreement as at a particular date, certified as a true copy by the chief executive, is admissible as evidence of the agreement at that date until the contrary is proved.

‘**(4)** Despite the *Limitations of Actions Act 1974*, a proceeding must start—

- (a) for a matter that arose before the commencement of this section—within 1 year after the commencement; or
- (b) for a matter that arose after the commencement of this section—within 1 year after the committee gives notice of its final recommendation about whether hardship, as defined under the agreement, exists.

‘**(5)** In this section—

“**committee**” means the committee mentioned in the At Risk agreement.’.

**Insertion of new s 401A**

8. After section 401—

*insert—*

**‘Protection against liability as condition of approval**

**‘401A.(1)** This section applies if the holder of a tenure, granted after 1 January 1994, applies for an approval under section 96, 151, 198 or 300.<sup>2</sup>

**‘(2)** As a condition of the grant of the approval, the Minister or mining registrar may require any or all of the parties for the tenure—

- (a) to waive any right to make a claim against the State because of a relevant matter; or
- (b) to agree to keep the State, Minister or mining registrar harmless against loss arising out of a claim made by anyone because of a relevant matter.

**‘(3)** This section is taken to have commenced on 1 January 1994.

**‘(4)** In this section—

**“claim”** includes any action, proceeding and demand.

**“holder”** of a tenure that is a mining lease includes an applicant for the mining lease.

**“parties”**, for a tenure, means the following—

- (a) the holder of the tenure;
- (b) for an approval to assign the tenure—the proposed assignee;
- (c) for an approval to mortgage the tenure—the proposed mortgagee;
- (d) for an approval to sublease the tenure—the proposed sublessee;
- (e) if the tenure is subject to a mortgage—the mortgagee.

**“relevant matter”** means—

- (a) the existence of native title; or

<sup>2</sup> Section 96 (Assignment etc. of mining claim)  
 Section 151 (Assignment of exploration permit)  
 Section 198 (Assignment etc. of mineral development licence)  
 Section 300 (Assignment etc. of mining lease or application therefor)

- (b) a claim or decision that native title to any land covered by the tenure exists; or
- (c) a claim or decision that the grant of the tenure, or an approval under section 96, 151, 198 or 300, is invalid because of—
  - (i) the existence of native title; or
  - (ii) a claim or decision that native title to any land subject to the tenure exists; or
  - (iii) the *Native Title Act 1993* (Cwlth); or
  - (iv) any other law relating to native title; or
- (d) any action taken under the tenure by the holder of the tenure, or any person acting for or with the authority of the holder, is unlawful or unauthorised because of—
  - (i) the existence of native title; or
  - (ii) a claim or decision that native title to any land subject to the tenure exists; or
  - (iii) the *Native Title Act 1993* (Cwlth); or
  - (iv) any other law relating to native title.

“**tenure**” means—

- (a) a mining claim, exploration permit, mineral development licence or mining lease; or
- (b) an interest in a mining claim, exploration permit, mineral development licence or mining lease.’.

### **Insertion of new part**

9. After part 11—

*insert—*

## **‘PART 12—FURTHER TRANSITIONAL PROVISIONS**

### **‘At Risk agreement conditions**

‘**419.(1)** This section applies to the following—

- (a) a mining lease granted under the repealed *Mining Act 1968*, No. 51;
- (b) a mineral development licence or mining lease granted before the commencement of the *Mineral Resources Amendment Act 1998*.

‘(2) To remove doubt, a condition contained in the licence or lease requiring the holder to comply with the At Risk agreement is and always was a valid condition.

### **‘Application of Mineral Resources Amendment Act 1998**

‘**420.(1)** This section applies to the following if they were subject to a condition requiring the holder to comply with the At Risk agreement—

- (a) a mining lease granted under the repealed *Mining Act 1968*;
- (b) a mineral development licence or mining lease granted before the commencement of the *Mineral Resources Amendment Act 1998*.

‘(2) To remove doubt, sections 194A and 278A, inserted by the *Mineral Resources Amendment Act 1998*, apply to the lease or licence.’.