



Atomic Energy Amendment (Mine Rehabilitation and Closure) Act 2022

No. 63, 2022

An Act to amend the *Atomic Energy Act 1953*, and for related purposes

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)

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An Act to amend the *Atomic Energy Act 1953*, and for related purposes

[Assented to 29 November 2022]

The Parliament of Australia enacts:

1 Short title

This Act is the *Atomic Energy Amendment (Mine Rehabilitation and Closure) Act 2022*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	30 November 2022

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Authorities under the Atomic Energy Act 1953

Part 1—Amendments

Atomic Energy Act 1953

1 Subsection 5(1)

Insert:

historic section 41 authority means the authority under section 41 that was conferred on Energy Resources of Australia Limited on 14 November 1999, as in force from time to time.

Land Council has the same meaning as in the *Aboriginal Land Rights (Northern Territory) Act 1976*.

mining-related operations, in relation to an area of land, means operations (including operations for mining) of a kind referred to in paragraph 41(2)(c) in relation to that area of land.

Northern Territory Mining Minister has the same meaning as in the *Aboriginal Land Rights (Northern Territory) Act 1976*.

Part III authority means an authority under section 41 or 41CA.

rehabilitation authority means an authority under section 41CA.

rehabilitation requirement, in relation to an area of land, means a requirement imposed by a Part III authority that relates to the protection, rehabilitation, remediation or monitoring of the whole, or a part, of that area of land.

2 Before section 41

Insert:

Division 1—Authority to carry on mining etc.

3 Before subsection 41(1)

Insert:

Minister may confer authority

4 Subsection 41(1)

Omit “Where it appears to the Minister that a prescribed substance, or minerals from which, in the opinion of the Minister, a prescribed substance can be obtained, is or are present on or under the whole or a part of an area of land in the Ranger Project Area, either in a natural state or in a deposit of waste material obtained from an underground or surface working, the Minister may”, substitute “The Minister may”.

5 Subsection 41(1)

Omit “operations in accordance with this section on that land”, substitute “operations in accordance with this section in relation to the whole, or a specified part, of the land in the Ranger Project Area”.

6 Before subsection 41(2)

Insert:

Powers under authority

7 Subsection 41(2)

Omit “Subject to any conditions or restrictions specified in the authority, the person so authorized in relation to any land may”, substitute “While the authority is in force in relation to an area of land, the person or persons on whom the authority has been conferred may (subject to any conditions or restrictions specified in the authority and any requirements imposed by the authority)”.

8 After paragraph 41(2)(c)

Insert:

- (ca) carry on, upon or under that land, operations relating to the protection, rehabilitation, remediation or monitoring of that land;
- (cb) carry on, upon or under that land, any other operations authorized by the authority as mentioned in subsection (2AAA);

9 Paragraph 41(2)(d)

Omit “the operations referred to in paragraph (c)”, substitute “operations referred to in paragraph (c), (ca) or (cb)”.

10 After subsection 41(2)

Insert:

(2AAA) An authority under this section may, for the purposes of paragraph (2)(cb), authorize the carrying on of specified operations in relation to the whole, or a specified part, of the land in the Ranger Project Area.

(2AAB) To avoid doubt, if an authority under this section is in force in relation to an area of land, conditions or restrictions specified in the authority, or requirements imposed by the authority, may have the effect of prohibiting the person or persons on whom the authority has been conferred from doing a thing referred to in a paragraph in subsection (2) in relation to that land.

11 After subsection 41(2AB)

Insert:

Conditions, restrictions and requirements

(2AC) An authority under this section may specify conditions or restrictions to which the authority is subject.

(2AD) An authority under this section may impose requirements on the person or persons on whom the authority has been conferred.

(2AE) Without limiting subsection (2AD), the requirements that may be imposed by an authority under this section include rehabilitation requirements in relation to the whole, or a part, of the land in the Ranger Project Area.

Period when authority is in force

12 Subsection 41(2A)

Omit “An authority”, substitute “Subject to Division 3, an authority”.

13 Paragraphs 41(2A)(a) and (b)

Repeal the paragraphs, substitute:

- (a) is varied to extend the period for which the authority is in force; or
- (b) terminates under a provision of this Act or under a provision of the authority; or
- (c) is revoked under a provision of this Act or under a provision of the authority.

14 At the end of subsection 41(2A)

Add:

Note: Division 3 allows the Minister to declare that a Part III authority, or specified provisions of a Part III authority, are no longer in force in relation to a specified area of land.

15 Before subsection 41(3)

Insert:

Vesting of property in Commonwealth

16 Subsection 41(4)

Repeal the subsection.

17 Section 41A

Repeal the section.

18 After section 41C

Insert:

Division 2—Authority to carry on rehabilitation etc.

41CA Authority to carry on rehabilitation etc.

Minister may confer rehabilitation authority

- (1) If a person or persons apply under section 41CB the Minister may, in writing, confer on the person or persons an authority (a ***rehabilitation authority***) to carry on any of the following:

- (a) specified operations relating to the protection, rehabilitation, remediation or monitoring of the whole, or a specified part, of the land in the Ranger Project Area;
 - (b) specified operations of another kind in relation to the whole, or a specified part, of the land in the Ranger Project Area.
- (2) However, a rehabilitation authority (whether as originally conferred or as varied in accordance with this Act) must not authorize the carrying on of mining-related operations in relation to any part of the land in the Ranger Project Area.

Note: For *mining-related operations*, see subsection 5(1).

- (3) There is no limit on the number of rehabilitation authorities that may be conferred on a person or persons under this section.

Applicant must agree to terms of rehabilitation authority

- (4) The Minister must not confer a rehabilitation authority on a person or persons under this section unless:
- (a) before the Minister confers the rehabilitation authority, the Minister gives the person or persons written notice of the proposed terms of the authority, including:
 - (i) the operations that are to be authorized by the authority; and
 - (ii) the period for which the authority is to be in force; and
 - (iii) any conditions or restrictions to which the authority is to be subject; and
 - (iv) any requirements that are to be imposed by the authority (including any rehabilitation requirements that are to be imposed in accordance with section 41CE); and
 - (b) before the Minister confers the rehabilitation authority, the persons or persons notify the Minister in writing that the person or persons agree to those proposed terms; and
 - (c) the terms of the rehabilitation authority that is conferred on the person or persons are the same as the proposed terms agreed to by the person or persons under paragraph (b).

Agreement with Land Council must be in force

- (5) The Minister must not confer a rehabilitation authority under this section unless, at the time when the rehabilitation authority is conferred, the following conditions are satisfied in relation to each area of land to which the authority relates:
- (a) an agreement between the Commonwealth and the Land Council for the area of land, of the kind referred to in subsection 44(2) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (as that Act applies in relation to the Ranger Project Area), is in force;
 - (b) that agreement relates to:
 - (i) the area of land; and
 - (ii) the whole of the period for which the rehabilitation authority is to be in force in relation to the area of land (as that period is specified in the rehabilitation authority at the time when it is conferred).

Note: The version of subsection 44(2) of the *Aboriginal Land Rights (Northern Territory) Act 1976* that applies in relation to the Ranger Project Area is the version in force immediately before the commencement of the *Aboriginal Land Rights (Northern Territory) Amendment Act (No. 3) 1987*: see section 8 of that amendment Act.

Consultation with Land Council

- (6) The Minister must not confer a rehabilitation authority under this section unless, before conferring the authority, the Minister consults on the proposed authority with the Land Council for each area of land to which the authority relates.

When rehabilitation authority is in force

- (7) Subject to Division 3, a rehabilitation authority is in force for the period specified in the authority unless, before the end of that period, the authority:
- (a) is varied to extend the period for which the authority is in force; or
 - (b) terminates under a provision of this Act or under a provision of the authority; or
 - (c) is revoked under a provision of the authority.

Note: Division 3 allows the Minister to declare that a Part III authority, or specified provisions of a Part III authority, are no longer in force in relation to a specified area of land.

Copies of the rehabilitation authority

- (8) If the Minister confers a rehabilitation authority under this section, the Minister must give a copy of the authority to each of the following:
- (a) the person or persons on whom the authority has been conferred;
 - (b) the Land Council for each area of land to which the authority relates;
 - (c) the Minister who administers the *Environment Protection and Biodiversity Conservation Act 1999*;
 - (d) the Northern Territory Mining Minister.

41CB Application for rehabilitation authority

Who may apply

- (1) The following persons may apply in writing to the Minister for a rehabilitation authority:
- (a) a person on whom an authority under section 41 has been conferred;
 - (b) a person on whom a rehabilitation authority has been conferred (whether or not an authority under section 41 has previously been conferred on the person).
- (2) There is no limit on the number of times a person or persons may apply under subsection (1).

When application may be made

- (3) Subject to subsections (4) and (5), an application under subsection (1) may be made at any time.
- (4) If:
- (a) an authority under section 41 is in force immediately before the commencement of this subsection; and

(b) a person on whom the authority has been conferred does not apply for a rehabilitation authority under subsection (1) of this section before the following time (the ***last application time***):

- (i) unless subparagraph (ii) of this paragraph applies—the end of the period of 18 months beginning on the day that this subsection commences;
- (ii) such later time (if any) as is determined by the Minister under subsection (6) of this section;

then the person cannot apply for a rehabilitation authority under subsection (1) of this section after the last application time.

Note: If an authority under section 41 is in force immediately before the commencement of this subsection, there are restrictions on when the authority may be varied before the last application time: see subsections 41CO(1) and (2).

(5) If:

- (a) a rehabilitation authority specifies that the authority is to be in force for a particular period (the ***rehabilitation period***); and
- (b) a person on whom the authority has been conferred does not apply for a further rehabilitation authority under subsection (1) within the period (the ***application period***) that starts at the beginning of the rehabilitation period and ends:
 - (i) unless subparagraph (ii) of this paragraph applies—12 months before the end of the rehabilitation period; or
 - (ii) at such later time (if any) as is determined by the Minister under subsection (6);

then the person cannot apply for a further rehabilitation authority under subsection (1) after the end of the application period.

Note: There are restrictions on when, and how, a rehabilitation authority may be varied before the end of the application period: see subsections 41CO(3) and (4).

- (6) The Minister may, in writing, determine a time for the purposes of subparagraph (4)(b)(ii) or (5)(b)(ii).
- (7) A determination under subsection (6) is not a legislative instrument.

41CC Powers under rehabilitation authority

- (1) If a rehabilitation authority is in force in relation to an area of land, the person or persons on whom the authority has been conferred may (subject to any conditions or restrictions specified in the authority and any requirements imposed by the authority):
 - (a) carry on, upon or under that land, any operations authorized by the authority; and
 - (b) do a thing referred to in paragraph 41(2)(a), (b), (e), (ea) or (f) in relation to that land; and
 - (c) for the purposes of operations authorized by the authority, do a thing referred to in subparagraph 41(2)(d)(i), (ii), (iii) or (iv) in relation to that land; and
 - (d) do anything necessary or convenient for the effectual exercise of a power referred to in paragraph (a), (b) or (c) of this subsection.
- (2) To avoid doubt, conditions or restrictions specified in the authority, or requirements imposed by the authority, may have the effect of prohibiting the person or persons from doing a thing referred to in a paragraph in subsection (1).

41CD Rehabilitation authority may impose conditions, restrictions and requirements

- (1) A rehabilitation authority may specify conditions or restrictions to which the authority is subject.
- (2) A rehabilitation authority may impose requirements on the person or persons on whom the authority has been conferred.

41CE Rehabilitation authority must impose rehabilitation requirements

- (1) If a rehabilitation authority is conferred under section 41CA then the Minister must ensure that, at the time when the authority comes into force:
 - (a) the authority imposes, on the person or persons on whom the authority has been conferred, rehabilitation requirements in relation to the Ranger Project Area; and

- (b) those rehabilitation requirements are substantially similar to the environmental requirements that were, immediately before the commencement of this section, imposed by the historic section 41 authority on the person or persons on whom the historic section 41 authority was conferred.

Note: For *historic section 41 authority*, see subsection 5(1).

- (2) In this section:

environmental requirements means the requirements set out in Appendix A to the Schedule to the historic section 41 authority, as those requirements apply under that authority.

41CF Termination of previous Part III authorities

If:

- (a) a rehabilitation authority (the *new authority*) is conferred under this Part; and
 - (b) a Part III authority (the *previous authority*) is in force immediately before the new authority comes into force; and
 - (c) the person or persons on whom the previous authority has been conferred agree in writing to the previous authority terminating when the new authority comes into force;
- then the previous authority terminates when the new authority comes into force.

41CG Assignment of interests in rehabilitation authority

Section 41B applies in relation to a rehabilitation authority in a corresponding way to the way in which it applies in relation to an authority under section 41.

Division 3—Close-out of Part III authorities

41CH When rehabilitation requirements are taken to be satisfied in relation to an area of land

- (1) If a Part III authority imposes a rehabilitation requirement on the person or persons on whom the authority has been conferred, the authority may also specify conditions under which that requirement

is taken to be satisfied in relation to the whole, or a part, of the land in the Ranger Project Area.

- (2) Without limiting subsection (1), a Part III authority may specify conditions under which a rehabilitation requirement is taken to be satisfied, as mentioned in that subsection, by doing any of the following:
- (a) specifying a procedure for determining when the requirement is taken to be satisfied;
 - (b) conferring on a person or body a function of determining, or a power to determine, when the requirement is taken to be satisfied.

41CI When authority is no longer in force in relation to an area of land

Declaration by Minister

- (1) The Minister may declare in writing that, on and after a specified time, a Part III authority, or specified provisions of a Part III authority, are no longer in force in relation to the whole, or a specified part, of the land in the Ranger Project Area.

Note: If the Minister makes such a declaration in relation to an area of land, it may be that:

- (a) if the declaration relates only to specified provisions of the authority—other provisions of the authority remain in force in relation to that area of land; and
 - (b) the whole of the authority remains in force in relation to other areas of land.
- (2) However, the Minister may only make a declaration under subsection (1) if:
- (a) the rehabilitation requirements imposed by the Part III authority in relation to the whole or that part (as applicable) of the land in the Ranger Project Area have been satisfied or are taken to have been satisfied; and
 - (b) before the Minister makes the declaration, the person or persons on whom the authority has been conferred agree in writing to the Minister making the declaration; and

- (c) before the Minister makes the declaration, the Minister consults on the proposed declaration with the Land Council for each area of land to which the declaration relates.

Note: Paragraph (a): a rehabilitation authority may specify conditions under which a rehabilitation requirement imposed by the authority is taken to be satisfied (see section 41CH).

- (3) A declaration under subsection (1) has effect for the purposes of this Act.

Declaration may have effect of terminating authority

- (4) If a declaration or declarations under subsection (1) have the effect that, on and after a certain time, no provisions of the Part III authority are in force in relation to any part of the land in the Ranger Project Area, then the Part III authority terminates at that time.

Copies of the declaration

- (5) If the Minister makes a declaration under subsection (1), the Minister must give a copy of the declaration to each of the following:
- (a) the person or persons on whom the Part III authority has been conferred;
 - (b) the Land Council for each area of land to which the declaration relates;
 - (c) the Minister who administers the *Environment Protection and Biodiversity Conservation Act 1999*;
 - (d) the Northern Territory Mining Minister.

Declaration not a legislative instrument

- (6) A declaration under subsection (1) is not a legislative instrument.

Division 4—Variation and revocation of Part III authorities

41CJ Variation of Part III authorities—overview

A Part III authority may only be varied under the following provisions:

- (a) section 41CK;
- (b) a provision of the authority (if any) that provides for the authority to be varied.

Note: Interests in a Part III authority may be assigned under section 41B (which applies in relation to a rehabilitation authority in a corresponding way to the way in which it applies in relation to an authority under section 41: see section 41CG).

41CK Minister may vary Part III authority

Variation in response to failure to comply with authority

- (1) The Minister may, in writing, vary a Part III authority if:
 - (a) a person on whom the authority has been conferred has failed to comply with a condition or restriction to which the authority is subject, or with a requirement imposed by the authority; and
 - (b) the Minister considers that the variation is an appropriate response to that failure.

Variation to extend period for which authority is in force

- (2) The Minister may, in writing, vary a Part III authority by extending the period for which the authority is in force.

Variation to ensure continued effective operation of authority

- (3) The Minister may, in writing, vary a Part III authority if the Minister considers that doing so is necessary to ensure the continued effective operation of the authority.

Variation to specify close-out conditions

- (4) The Minister may, in writing, vary a Part III authority by specifying in the authority conditions under which a rehabilitation requirement imposed by the authority is taken to be satisfied in relation to the whole, or a part, of the land in the Ranger Project Area.

Note: Subsection 41CH(1) permits a Part III authority to specify conditions of this kind. Subsection 41CH(2) mentions some ways in which a Part III authority may specify conditions of this kind.

- (5) However, if a Part III authority already specifies conditions (the **existing conditions**) of that kind, then a variation of the authority under subsection (4) must not:
- (a) vary the existing conditions (other than in minor or technical ways) or remove the existing conditions; or
 - (b) specify conditions that are inconsistent with the existing conditions.

Powers of variation under this section are independent

- (6) A power to vary a Part III authority under a subsection in this section is in addition to, and does not limit, a power to vary a Part III authority under any other subsection in this section.

41CL Variation of Part III authorities—agreement with Land Council must be in force

The Minister must not vary a Part III authority under section 41CK unless, at the time when the instrument of variation is made, the following conditions are satisfied in relation to each area of land to which the authority as varied will relate:

- (a) an agreement between the Commonwealth and the Land Council for the area of land, of the kind referred to in subsection 44(2) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (as that Act applies in relation to the Ranger Project Area), is in force;
- (b) that agreement relates to:
 - (i) the area of land; and
 - (ii) the whole of the remaining period for which the authority as varied is to be in force in relation to the area

of land (as that period is to be specified in the authority immediately after the variation takes effect).

Note: The version of subsection 44(2) of the *Aboriginal Land Rights (Northern Territory) Act 1976* that applies in relation to the Ranger Project Area is the version in force immediately before the commencement of the *Aboriginal Land Rights (Northern Territory) Amendment Act (No. 3) 1987*: see section 8 of that amendment Act.

41CM Variation of Part III authorities—consultation

The Minister must not vary a Part III authority under section 41CK unless, before varying the authority, the Minister consults on the proposed variation with all of the following:

- (a) the person or persons on whom the authority has been conferred;
- (b) the Land Council for each area of land to which the authority relates;
- (c) the Minister who administers the *Environment Protection and Biodiversity Conservation Act 1999*.

41CN Variation of Part III authorities—notice etc.

Notice before variation

- (1) The Minister must not vary a Part III authority under section 41CK unless, before varying the authority, the Minister:
 - (a) gives the person or persons on whom the authority has been conferred written notice of the details of the proposed variation; and
 - (b) gives that person or persons a reasonable opportunity, after receiving the notice, to make representations to the Minister in relation to the proposed variation.

Notice after variation

- (2) The Minister must, after varying a Part III authority under section 41CK, give written notice of the variation to the person or persons on whom the authority has been conferred.

Copies of the variation

- (3) If the Minister varies a Part III authority under section 41CK, the Minister must give a copy of the instrument of variation, and of the Part III authority as varied, to each of the following:
- (a) the person or persons on whom the authority has been conferred;
 - (b) the Land Council for each area of land to which the authority relates;
 - (c) the Minister who administers the *Environment Protection and Biodiversity Conservation Act 1999*;
 - (d) the Northern Territory Mining Minister.

41CO Variation of Part III authorities—timing

Variation of authority under section 41

- (1) If an authority under section 41 (the **relevant section 41 authority**) satisfies the condition in paragraph 41CB(4)(a), then the authority must not be varied under section 41CK until after the last application time (within the meaning of paragraph 41CB(4)(b)).

Exception to subsection (1)

- (2) Despite subsection (1), if:
- (a) a person on whom the relevant section 41 authority has been conferred applies for a rehabilitation authority; and
 - (b) the Minister gives the person notice under paragraph 41CA(4)(a) of the proposed terms of the rehabilitation authority; and
 - (c) the person does not agree to those proposed terms under paragraph 41CA(4)(b) within a reasonable period after that notice is given;
- then the Minister may vary the relevant section 41 authority under section 41CK after the end of that reasonable period.

Variation of rehabilitation authority to extend period for which authority is in force

- (3) A rehabilitation authority must not be varied under section 41CK to extend the period for which the authority is in force until after the end of the application period (within the meaning of paragraph 41CB(5)(b)) that applies under subsection 41CB(5) in relation to a person on whom the authority has been conferred.

Exception to subsection (3)

- (4) Despite subsection (3), if:
- (a) a person on whom a rehabilitation authority (the **existing rehabilitation authority**) has been conferred applies for a further rehabilitation authority (the **new rehabilitation authority**); and
 - (b) the Minister gives the person notice under paragraph 41CA(4)(a) of the proposed terms of the new rehabilitation authority; and
 - (c) the person does not agree to those proposed terms under paragraph 41CA(4)(b) within a reasonable period after that notice is given;

then the Minister may, after the end of that reasonable period, vary the existing rehabilitation authority under section 41CK to extend the period for which the authority is force.

No effect on other variations

- (5) To avoid doubt, subsections (3) and (4) do not have any effect on when a variation of a rehabilitation authority may be made if the variation is not a variation under section 41CK to extend the period for which the authority is in force.

41CP Variation of Part III authorities—other matters

When variation takes effect

- (1) A variation under section 41CK takes effect on the later of the following:
- (a) the day (if any) specified in the instrument of variation as the day the variation takes effect;

- (b) the day after the day when notice of the variation is given in accordance with subsection 41CN(2).

Variation not a legislative instrument

- (2) An instrument of variation under section 41CK is not a legislative instrument.

41CQ Revocation of Part III authorities—overview

A Part III authority may only be revoked under the following provisions:

- (a) if the authority is an authority under section 41—section 41C or 41CR;
- (b) in any case—a provision of the authority (if any) that provides for the authority to be revoked.

41CR Minister may revoke authority under section 41

Minister may revoke authority if satisfied of certain matters

- (1) The Minister may, in writing, revoke an authority under section 41 if:
 - (a) the Minister has received an application under subsection (2) for the authority to be revoked; and
 - (b) the Minister is satisfied that the person or persons on whom the authority has been conferred have complied with any conditions or restrictions to which the authority is subject, and any requirements imposed by the authority, that relate to the protection, rehabilitation, remediation or monitoring of land in the Ranger Project Area.
- (2) The person or persons on whom an authority under section 41 has been conferred may apply in writing to the Minister for the authority to be revoked under subsection (1) of this section.

Consultation with Land Council

- (3) The Minister must not revoke an authority under subsection (1) unless, before revoking the authority, the Minister consults on the

proposed revocation with the Land Council for each area of land to which the authority relates.

When revocation takes effect

- (4) A revocation of an authority under subsection (1) takes effect on the later of the following:
- (a) the day (if any) specified in the instrument of revocation as the day the revocation takes effect;
 - (b) the day after the day when a copy of the instrument of revocation is given to the person or persons on whom the authority has been conferred, in accordance with paragraph (5)(a).

Copies of the revocation

- (5) If the Minister revokes an authority under subsection (1), the Minister must give a copy of the instrument of revocation to each of the following:
- (a) the person or persons on whom the authority has been conferred;
 - (b) the Land Council for each area of land to which the authority relates;
 - (c) the Minister who administers the *Environment Protection and Biodiversity Conservation Act 1999*;
 - (d) the Northern Territory Mining Minister.

Revocation not a legislative instrument

- (6) An instrument of revocation under subsection (1) is not a legislative instrument.

41CS Variation and revocation must be consistent with Commonwealth obligations

- (1) The Minister's power to vary or revoke a Part III authority (whether under section 41CK or 41CR or otherwise) must not be exercised in a manner that is inconsistent with the obligations of the Commonwealth under an agreement specified in subsection (2) of this section, as that agreement is in force at the time of the exercise of the power.

- (2) For the purposes of subsection (1), an agreement entered into by the Commonwealth under section 44 or 46 of the *Aboriginal Land Rights (Northern Territory) Act 1976* (as that Act applies in relation to the Ranger Project Area) is specified.

Note: The versions of sections 44 and 46 of the *Aboriginal Land Rights (Northern Territory) Act 1976* that apply in relation to the Ranger Project Area are the versions in force immediately before the commencement of the *Aboriginal Land Rights (Northern Territory) Amendment Act (No. 3) 1987*: see section 8 of that amendment Act.

Division 5—Other matters relating to Part III authorities

41CT Conferral of functions and powers

A Part III authority may confer functions and powers on a person or body in relation to any matter arising under, or in connection with, the authority.

41CU Incorporation of matters in other instruments

Despite subsection 46AA(2) of the *Acts Interpretation Act 1901*, a Part III authority may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.

41CV Part III authority not a legislative instrument

A Part III authority is not a legislative instrument.

41CW Exemption from Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999*

- (1) Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999* does not apply to:
- (a) actions authorized by the historic section 41 authority or by a rehabilitation authority; or
 - (b) actions that a person has the power to perform under section 41 or 41CC of this Act because such an authority is in force.

Note: For *historic section 41 authority*, see subsection 5(1).

- (2) Subsection (1) only applies to actions that are taken in accordance with any conditions or restrictions specified in, or any requirements imposed by, the historic section 41 authority or the rehabilitation authority.

41CX Restrictions under the *Aboriginal Land Rights (Northern Territory) Act 1976* on entry onto land etc.

To avoid doubt, a reference to “the *Atomic Energy Act 1953* or any other Act authorizing mining for minerals” in Part IV of the *Aboriginal Land Rights (Northern Territory) Act 1976* (as that Act applies in relation to the Ranger Project Area) includes a reference to this Act:

- (a) whether or not a Part III authority is in force under this Act; and
- (b) if a Part III authority is in force under this Act—whether or not the authority authorizes the carrying on of mining-related operations in relation to the whole, or a part, of the land in the Ranger Project Area.

Note: The version of Part IV of the *Aboriginal Land Rights (Northern Territory) Act 1976* that applies in relation to the Ranger Project Area is the version in force immediately before the commencement of the *Aboriginal Land Rights (Northern Territory) Amendment Act (No. 3) 1987*: see section 8 of that amendment Act.

41CY Concurrent operation of State and Territory laws

Except as provided by the regulations, nothing in this Part is intended to exclude or limit the operation of any provision of a law of a State or Territory that is capable of operating concurrently with this Part.

19 Before section 41D

Insert:

Division 6—Offences and compensation

20 Subsection 41D(1)

Repeal the subsection (not including the penalty), substitute:

- (1) A person on whom a Part III authority has been conferred must not refuse to comply with:
 - (a) a condition or restriction to which the authority is subject; or
 - (b) a requirement imposed on the person by the authority.

21 Subsection 41D(2)

Repeal the subsection (not including the penalty), substitute:

- (2) A person on whom a Part III authority has been conferred must not fail to comply with:
 - (a) a condition or restriction to which the authority is subject; or
 - (b) a requirement imposed on the person by the authority.

22 Section 42 (heading)

Repeal the heading, substitute:

42 Compensation for certain matters

23 Paragraph 42(b)

After “section 41”, insert “or 41CA”.

24 At the end of Part III

Add:

43 Compensation for acquisition of property

- (1) If, apart from this section, and taking into account the operation of section 42, the operation of this Part would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph), the Commonwealth is liable to pay a reasonable amount of compensation to the person.

- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia or the Supreme Court of a State or Territory for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

Part 2—Application provisions

25 Application—Part III authorities

Authorities under section 41

- (1) The amendments of section 41 of the *Atomic Energy Act 1953* made by this Schedule apply in relation to an authority under that section whether the authority came into force before, on or after the commencement of this item.

Termination of previous Part III authorities

- (2) Section 41CF of the *Atomic Energy Act 1953*, as inserted by this Schedule, applies in relation to the termination of a Part III authority mentioned in paragraph (b) of that section whether the authority came into force before, on or after the commencement of this item.

Close-out of Part III authorities

- (3) Division 3 of Part III of the *Atomic Energy Act 1953*, as inserted by this Schedule, applies in relation to a Part III authority whether the authority came into force before, on or after the commencement of this item.

Variation and revocation of Part III authorities

- (4) Division 4 of Part III of the *Atomic Energy Act 1953*, as inserted by this Schedule, applies in relation to a variation or revocation of a Part III authority that occurs on or after the commencement of this item, whether the authority came into force before, on or after that commencement.

Conferral of functions and powers

- (5) Section 41CT of the *Atomic Energy Act 1953*, as inserted by this Schedule, applies in relation to a Part III authority whether the authority came into force before, on or after the commencement of this item.

Incorporation of matters in other instruments

- (6) Section 41CU of the *Atomic Energy Act 1953*, as inserted by this Schedule, applies in relation to a Part III authority whether the authority came into force before, on or after the commencement of this item.

Exemption from Part 3 of the Environment Protection and Biodiversity Conservation Act 1999

- (7) Section 41CW of the *Atomic Energy Act 1953*, as inserted by this Schedule, applies in relation to actions mentioned in that section that are taken on or after the commencement of this item.

26 Application—offences

Subsections 41D(1) and (2) of the *Atomic Energy Act 1953*, as amended by this Schedule, apply in relation to:

- (a) acts and omissions that occur on or after the commencement of this item; and
- (b) Part III authorities that came into force before, on or after that commencement.

[*Minister's second reading speech made in—
House of Representatives on 8 September 2022
Senate on 21 November 2022*]

(76/22)
