




CERTIFICATE

I hereby certify that the *Mining (Amendment) Bill 2020* (Draft of 04/06/2020) is in accordance with the National Executive Council Decision No. 180 /2020, and the drafting instructions (Draft Bill).


JOHNNY BOGOMBARI
LLB (UPNG), LLM (West Indies)
Acting First Legislative Counsel

04th June, 2020.



No. of 2020.

Mining (Amendment) Bill 2020,

ARRANGEMENT OF CLAUSES.

1. Interpretation (Amendment of Section 2).
2. Consultation (Amendment of Section 3).
3. New Section 5A

"5A REPOSITORY OF ALL MINERAL AND GEOLOGICAL DATA."

4. Reservation by the Minister (Amendment of Section 7).
5. New Part VA.

"PART VA. – TRANSFER OF TENEMENTS."



No. of 2020.

A Bill

for

AN ACT

entitled

Mining (Amendment) Bill 2020,

Being an Act to amend the *Mining Act 1992*,

Made by the National Parliament.

1. INTERPRETATION (AMENDMENT OF SECTION 2).

Section 2 of the Principal Act is amended by inserting the following definition in its correct alphabetical order:

““State Applicant” means Kumul Minerals Holdings Limited or any other company wholly or majority owned by the State;”.

2. CONSULTATION (AMENDMENT OF SECTION 3)

Section 3 of the Principal Act is amended by inserting a new subsection after Subsection (3) as follows:

“(4) Notwithstanding subsection (1), a development forum may be convened by the Minister following the grant of a special mining lease to a State Applicant under Part VA.”.

3. NEW SECTION 5A.

The Principal Act is amended by inserting a new section after Section 5 as follows:

“5A. REPOSITORY FOR ALL MINERAL AND GEOLOGICAL DATA.

(1) The State shall establish and maintain a repository for all mineral and geological data with the Mineral Resources Authority (“the Authority”).

(2) Subject to Subsection (5), the holder of a tenement or any other person in possession of mineral and geological data or information, inclusive of research activities, shall submit all data and information relating to the minerals and geology of the State to the Authority.

Mining (Amendment)

(3) The State shall establish a central monitoring hub with the Authority, and every operating mine in Papua New Guinea shall transmit their live data on mineral production and extraction, and sale data to the Authority.

(4) Failure to comply with this section constitutes an offence.

Penalty: A fine not exceeding K1,000,000.00 or imprisonment for a term not exceeding 4 years or both.

Default penalty: A fine of K100,000.00 for every day the offence continues.

4. RESERVATION BY THE MINISTER (AMENDMENT OF SECTION 7).

Section 7 of the Principal Act is amended by inserting a new section after Subsection (5) as follows:

“(6) Where an application for the grant of tenement has been made by a State Applicant under Paragraph (5), such an application shall be considered as priority by the Registrar.”.

4. NEW PART VA.

The Principal Act is amended by inserting a new part after Part V as follows:

“PART VA. - APPLICATION FOR A TENEMENT BY A STATE APPLICANT.

95A. APPLICATION OF THIS PART.

The provisions of this part apply to the State Applicant and are applicable notwithstanding any other provision in this Act, or any other laws.

95B. INTERPRETATION.

For the purposes of this part -

“reserved land” means land that is the subject of an expired, cancelled, surrendered, or relinquished tenement that has been reserved under Section 95C.

95C. RESERVATION OF LAND THE SUBJECT OF AN EXPIRED, CANCELLED, SURRENDERED OR RELINQUISHED TENEMENT.

(1) Reserved land shall be dealt with under Section 7 of this Act.

(2) Subject to this Act, the State shall have the right to do exploration and mining through a State nominee or a subsidiary duly established for the purposes so intended.

95D. APPLICATION BY STATE APPLICANT.

(1) A State Applicant may apply for a tenement in relation to the reserved land referred to under Section 95C.

Mining (Amendment)

(2) An application for a tenement under this section shall be in the prescribed form.

(3) No fees shall be imposed on applications under this part.

95E. GRANT OF TENEMENT TO A STATE APPLICANT.

(1) The Head of State, acting on the advice of the Minister, consistent with the recommendation of the Mining Advisory Council shall, on the application by a State Applicant and after considering a recommendation by the Council, grant the tenement under this section.

(2) The tenement -

- (a) shall be in the prescribed form; and
- (b) shall require that as a condition, the State Applicant complies with the approved proposals; and
- (c) may include such other conditions as may be determined by the Minister, acting on advice of the Mining Advisory Council.

(3) The State Applicant may enter into a Mining Development Contract or other agreement with respect to the tenement granted.

95F. PERMITS OR OTHER AUTHORISATIONS.

Following the grant of a tenement under Section 95E, the State Applicant may apply, under the relevant laws, for permits, licences, authorisations, or other enabling instruments granted by the State in relation to a reserved land or any operations upon the area associated with that reserved land.

95G. CONSULTATION.

- (1) The State Applicant shall take active steps to consult with -
- (a) the landholders of the land the subject of the tenement; and
 - (b) the relevant provincial government; and
 - (c) the National Government,

on the tenement and matters pertinent to the mining operations.

(2) Notwithstanding Section 3, a development forum may be convened by the Minister.

95H. PRIOR ENCUMBRANCES.

The State Applicant shall not be liable for any encumbrances related to the expired, cancelled, surrendered, relinquished or terminated tenement.

95I. ARBITRATION.

Any dispute arising out of any matter under this part must be settled in Papua new Guinea under Papua New Guinea laws."