

**DIAMOND (ARGYLE DIAMOND MINES JOINT
VENTURE) AMENDMENT BILL 2001**

COMMITTEE

CLAUSE BY CLAUSE NOTES

**DIAMOND (ARGYLE DIAMOND MINES JOINT VENTURE)
AGREEMENT AMENDMENT BILL 2001**

CONTENTS

Bill Clauses

- General Outline
- 1. Short title
- 2. Commencement
- 3. Principal Act amended
- 4(1) Deletes Definitions in Section 2
- 4(2) Supplementary Agreement amended
- 5. Part II Heading amendment
- 6. Section 3A repealed and amended
- 7. Fourth Schedule added

Agreement Clauses

- 1. Definition interpretation
- 2. Ratification of the Agreement
- 3. Commencement
- 4. Sale Date Definition
- 5(A) Principal Agreement Amendments
- 5(B) Ellendale Mining Lease Amendments
- 6. Ellendale Mining Lease to continue under the Mining Act 1978
- 7. Variation Agreement has no effect if transfer of Ellendale Mining Lease is not completed by 31 December 2002

DIAMOND (ARGYLE DIAMOND MINES JOINT VENTURE) AGREEMENT AMENDMENT BILL 2001

GENERAL OUTLINE

The purpose of this Bill is to obtain Parliamentary ratification of the Agreement entered into on 15 October 2001 between the State and the Argyle Diamond Mines Joint Venture participants to vary the provisions of the Diamond (Argyle Diamond Mines Joint Venture) Agreement Act 1981 – 1983 (“Argyle Agreement Act”) to excise the Ellendale mining area from the Argyle Agreement Act; and to amend the Ellendale Mining Lease 275SA to remove its association with the Argyle Agreement Act simultaneously with its transfer to Kimberley Diamond Company NL.

BILL CLAUSE 1

Contains the Short Title of the Amendment Bill.

BILL CLAUSE 2

Provides for the Bill to come into operation as an Act on the 28th day after the day on which it receives the Royal Assent. (Allowing 28 days for the Amendment of the Mining Regulations 1978 to provide for a profit-base royalty for the Ellendale Mining area).

BILL CLAUSE 3

Explains that the amendments in this Act are amendments to the Principal Act, the Diamond (Argyle Diamond Mines Joint Venture) Agreement Act 1981.

BILL CLAUSE 4 (1)

Deletes the definitions of “Schedule”, “section” and “subsection” in Section 2 as the interpretation Act defines those terms.

BILL CLAUSE 4 (2)

Replaces “the Supplementary Agreement” with “the first supplementary agreement” and “the second supplementary agreement”. (The first supplementary agreement being the 1983 Variation Agreement and the second supplementary agreement being the 2001 Variation Agreement, the subject of the current Amendment Bill).

BILL CLAUSE 5

Amends the Part II Heading. A Part Heading is part of the Law under the Interpretation Act and should accurately describe the subject matter of the Part. In this case the Part Heading will now refer to all Supplementary Agreements as well as the original Agreement.

BILL CLAUSE 6

Is the repeal of Section 3A and the insertion of a new section 3A and section 3B to refer to the now named first supplementary agreement (1983 Variation Agreement) and to provide for the approval and ratification of the second supplementary agreement (the 2001 Variation Agreement the subject of the current Amendment Bill).

BILL CLAUSE 7

Is the addition of Fourth Schedule to the Principal Act (the 2001 Variation Agreement the subject of the current Amendment Bill).

SCHEDULE 4 AGREEMENT

CLAUSE 1

Defines the terms to be used in the Variation Agreement to have the same meaning respectively as they have in the Principal Agreement.

CLAUSE 2

Requires the State to introduce and sponsor a Bill into Parliament to ratify the Variation Agreement prior to 30 June 2002 or such later date as may be agreed.

CLAUSE 3

Subclause (1) provides for the first three clauses of the Variation Agreement to operate from execution of the Agreement. Remaining provisions will not operate unless the Bill to ratify the Agreement is passed as an Act.

Subclause (2) allows the Variation Agreement to lapse should the Bill not come into operation before 30 June 2002 or such later date as agreed by the parties.

Subclause (3) describes how the Variation Agreement is to operate and take effect notwithstanding the provisions of any Act or law.

CLAUSE 4

In subclauses (a) and (b) defines the “**Sale Date**” as being the date on which the Ellendale Mining Lease is transferred by the Argyle Joint Venturers to Kimberley Diamond Company NL or any other party with the consent of the Minister for State Development.

CLAUSE 5A

Subclause (1) (a) deletes the definition of “**Ellendale mining area**”.

Subclause (1) (b) (i) amends the definition of “**mining leases**” to be a definition of “**mining lease**” – the Ellendale Mining Lease having been excised from the Principal Agreement.

Subclause (1) (b) (ii) deletes “**or mining leases**” from the definition of “**mining leases**” – with only the Argyle Mining Lease now being involved in the Principal Agreement.

Subclause (1) (b) (iii) deletes Clause 18 from the definition of mining leases as it is the Principal Agreement Clause specifically referring to the Mining Lease for the Ellendale Mining Area.

Subclause (1) (c) deletes “**leases**” and substitutes “**lease**” in the definition of “**ore**” – the Ellendale Mining Lease having been excised from the Principal Agreement.

Subclause (1) (d) deletes the words “**and the Ellendale mining area respectively**” and the words “**in either case**” from the definition of “**relevant town**”.

Subclause (2) deletes Clause 9 the Further Proposals Clause dealing with the Ellendale Mining Area.

Subclause (3) deletes Clause 18 as it is the Principal Agreement Clause specifically referring to the Mining Lease for the Ellendale Mining Area.

Subclause (4) deletes Clause 19 of the Principal Agreement as it refers to Mineral Claims in the Ellendale Mining Area.

Subclause (5) deletes the words “**or the Ellendale mining area**” from Clause 20, the Principal Agreement Clause dealing with the right to remove stone, sand, clay and gravel.

Subclause (6) (i) deletes Subclause 21 (2) from the Principal Agreement as it deals with electricity to the Ellendale mining area and any relevant town constructed for the Joint Venturers’ operations at the Ellendale Mining Area.

Subclause (6) (ii) deletes the words “**subclauses (1) and (2)**” and substitutes “**subclause 1)**” as subclause (2) is being deleted in Subclause 6 (i) of the Variation Agreement directly above.

Subclause (7) deletes Clause 23 of the Principal Agreement dealing with Ellendale water.

Subclause (8) (i) deletes from Clause 24A of the Principal Agreement the words “**and the Ellendale mining area respectively**”.

Subclause 8 (ii) deletes from Clause 24A of the Principal Agreement the word “**relevant**” in both cases where it occurs in paragraph (a) as it has reference to the Ellendale mining area.

Subclause (9) substitutes “**lease**” for “**leases**” in the Zoning Clause 32 as there is now only one Mining Lease in the Principal Agreement.

Subclause (10) substitutes “**lease**” for “**leases**” in Clause 37 (1) (a) of the Principal Agreement dealing with Assignment as there is now only one Mining Lease.

Subclause (11) substitutes “**lease**” for “**leases**” in Clause 37 (2) of the Principal Agreement dealing with Assignment as there is now only one Mining Lease.

Subclause (12) substitutes “**lease**” for “**leases**” in Clause 37 (3) (a) of the Principal Agreement dealing with Assignment as there is now only one Mining Lease.

Subclause (13) substitutes “**lease**” for “**leases**” in Clause 41 (1) (a) (i) of the Principal Agreement dealing with Determination of the Agreement as there is now only one Mining Lease.

Subclause (14) substitutes “**lease**” for “**leases**” in Clause 42 (1) (a) and 42 (2) of the Principal Agreement dealing with the Effect of Cessation or Determination of the Agreement as there is now only one Mining Lease.

CLAUSE 5 (B)

Amends the Ellendale Mining Lease by severing its association with the Argyle Agreement so that the Mining Lease can be transferred, and following the transfer, can become a Mining Lease under the Mining Act 1978. The boundary of this new Mining Lease is also defined in subclause (4) of this Clause. The royalty provisions of the Mining Act 1978 will apply and for this an amendment to the Mining Act 1978 Regulations is being made to provide an “**above zero profit**” royalty for diamonds produced from the Ellendale deposits.

This will be consistent with the royalties payable for diamonds produced from Argyle under the Diamond (Argyle Diamond Mines Joint Venture) Agreement Act. **(A marked up copy of the original Ellendale Mining Lease showing the amendments is included in these papers).**

CLAUSE 6

Authorises the Ellendale Mining Lease, as amended by the Variation Agreement, to continue under the Mining Act 1978 under a new number and not subject to the Argyle Agreement Act.

CLAUSE 7

Ties the amendments in with the transfer of the Ellendale Mining Lease and provides that the Variation has no effect if the transfer is not completed by 31 December 2002.