

# WESTERN AUSTRALIA'S MINING REHABILITATION FUND



The Western Australian State Government has introduced the *Mining Rehabilitation Fund Bill 2012* (the Bill), the purpose of which is to replace the environmental bonds system for mine rehabilitation in Western Australia.

The new Mining Rehabilitation Fund (the Fund) will require holders of tenements under the *Mining Act 1978*, and certain other authorisations relating to mining operations, to make annual contributions based on a percentage of their total closure liabilities, which will then go into a pooled government-administered fund.

The Bill provides that money standing in the Fund is to be applied to the rehabilitation of abandoned mine sites that have been the subject of mining authorisation, and any affected land relating to those sites. Investment income held in the Fund may also be applied to fund programmes or provide information relating to the rehabilitation of abandoned mine sites, as well as the payment of all costs of administering the Fund and enforcement costs.

Under the current system, mining security bonds are held as security against companies failing to adequately rehabilitate mine sites. In some cases, the bonds cover a proportion of mine rehabilitation costs and the State Government is required to contribute any further amounts needed for the rehabilitation. The purpose of the Bill is to now secure long-term funding for the State to rehabilitate abandoned mine sites in Western Australia, as well as other land affected by mining operations.

Under the proposed scheme, the Chief Executive Office of the State Department administering the new scheme (the CEO) will be granted authority to make an assessment of liability for each person liable to pay the levy. In order for the CEO to make an assessment, the holder of a mining authorisation must give the CEO prescribed information. The CEO may make an assessment on the basis of the information provided to it or on other information if dissatisfied with the information provided to it by the holder of the mining authorisation.



Key points to note are as follows:

- The amount assessed must be paid by the holder of the mining authorisation within 30 days of the assessment notice being issued.
- A levy notice may be reassessed if the CEO considers that there has been an error in the assessment or reassessment of the levy amount, or it is otherwise deemed appropriate to do so.
- There are some exceptions from liability under the Bill, including for tenements covered by State Agreements and for tenements with closure liability estimates below a threshold.

The proposed scheme will grant to the CEO the authority to declare land to be an 'abandoned mine site'. Such a declaration can be made if the CEO is satisfied that the mining operations

have been carried out in, on or under the land, and those mining operations have ceased.

Sites declared to be an 'abandoned mine site' must be gazetted. The CEO may authorise that an 'abandoned mine site' be rehabilitated. For abandoned mine sites that are on private land or on land that is the subject of a pastoral lease, a person authorised by the CEO to access the land, for rehabilitation purposes must not do so unless they have first taken reasonable steps to give the owner, occupier or holder of the lease (as the case may be) notice of the intended entry, or where the owner, occupier or holder of the lease (as the case may be) has consented to the entry.

The Bill contemplates the establishment of a Mining Rehabilitation Advisory Panel, which will provide advice to the CEO in relation to any matter relating to the

administration of the new legislation that is prescribed or as referred to it by the CEO.

It is presently anticipated that the proposed scheme will commence on 1 July 2013, subject to parliamentary processes.

It is expected that the new scheme will enhance the State's ongoing capacity to manage and rehabilitate abandoned mines, leading to better environmental and community safety outcomes.

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