

**MINING (RENEWAL OF LEASES) AMENDMENT
ACT.**

Act No. 59, 1961.

Elizabeth II, An Act to make further provisions with respect to the renewal of leases granted under the Mining Act, 1906, as amended by subsequent Acts, and the Petroleum Act, 1955; for this and other purposes to amend the Mining Act, 1906, as so amended, and the Petroleum Act, 1955; to validate certain matters; to make provision with respect to damages that may be payable by Associated Minerals Pty. Limited in respect of mining operations carried on by that company on certain land owned by N.S.W. Rutile Mining Company Pty. Limited; and for purposes connected therewith. [Assented to, 11th December, 1961.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title
and
citation.

1. (1) This Act may be cited as the "Mining (Renewal of Leases) Amendment Act, 1961".
- (2) The Mining Act, 1906, as amended by subsequent Acts and by this Act, may be cited as the Mining Act, 1906-1961.
- (3) The Mining Act, 1906, as amended by subsequent Acts, is in this Act referred to as the Principal Act.
- (4) The Petroleum Act, 1955, as amended by this Act, may be cited as the Petroleum Act, 1955-1961.

2.

2. The Principal Act is amended by inserting next after No. 59, 1961 section one hundred and seven the following short heading and new section :—

Amendment
of Act No.
49, 1906.
New
sec. 107A.

Renewals of Leases.

107A. (1) Where in accordance with any regulations in that behalf an application is made for the renewal or further renewal of a lease granted under any of the provisions of this Act or of any Act repealed by this Act and the application has not been granted or refused before the expiry thereof, the lease shall, subject to this section, continue in full force and effect until the application is granted or refused, and the Governor may grant or refuse such application notwithstanding that the term for which the lease, or any renewal thereof, was granted has expired.

(2) At any time before the grant or refusal of the application the Minister may by notice served upon the applicant for such renewal or further renewal vary any of the provisions of such lease (not being a provision relating to the rent or royalty payable thereunder) and the lease shall continue in full force and effect as aforesaid subject to any such variations.

(3) Upon the grant or refusal of the application the Governor may vary the amount of the rent and royalty payable by the holder of the lease during the period the lease was continued in full force and effect by this section.

If the rent or royalty paid by the holder in respect of that period—

- (a) was less than the rent or royalty, as the case may be, as varied by the Governor as aforesaid, the applicant for such renewal or further renewal shall be liable to pay the difference on demand; or
- (b) was greater than the rent or royalty, as the case may be, as varied by the Governor as aforesaid, the difference shall be refunded to the applicant for such renewal or further renewal.

No. 59, 1961Amendment
of Act No.
28, 1955.Sec. 18.
(Term of
petroleum
exploration
license and
renewal.)Sec. 24.
(Term of
petroleum
prospecting
license and
renewal.)New
sec. 30A.Operation of
lease during
pendency of
application
for renewal.**3. The Petroleum Act, 1955, is amended—**

- (a) by inserting in subsection two of section eighteen after the words "renewal thereof," the words "and not later than one month before the expiry of such license or renewal,";
- (b) by inserting in subsection two of section twenty-four after the words "renewal thereof," the words "and not later than one month before the expiry of such license or renewal,";
- (c) by inserting next after section thirty the following new section :—

30A. (1) Where in accordance with any regulations in that behalf an application is made for the renewal or further renewal of a lease granted under any of the provisions of this Act and the application has not been granted or refused before the expiry thereof the lease shall, subject to this section, continue in full force and effect until the application is granted or refused, and the Governor may grant or refuse such application notwithstanding that the term for which the lease, or any renewal thereof, was granted has expired.

(2) At any time before the grant or refusal of the application the Minister may by notice served upon the applicant for such renewal or further renewal vary any of the provisions of such lease (not being a provision relating to the rent or royalty payable thereunder) and the lease shall continue in full force and effect as aforesaid subject to any such variations.

(3) Upon the grant or refusal of the application the Governor may vary the amount of the rent and royalty payable by the holder of the lease during the period the lease was continued in full force and effect by this section.

If

If the rent or royalty paid by the holder in respect No. 59, 1961 of that period—

- (a) was less than the rent or royalty, as the case may be, as varied by the Governor as aforesaid, the applicant for such renewal or further renewal shall be liable to pay the difference on demand; or
- (b) was greater than the rent or royalty, as the case may be, as varied by the Governor as aforesaid, the difference shall be refunded to the applicant for such renewal or further renewal.

4. (1) The provisions of—

- (a) section 107A of the Principal Act, as amended by this Act, shall apply and be deemed always to have applied to and in respect of any application made before the commencement of this Act for the renewal or further renewal of any lease granted under any of the provisions of the Principal Act or of any Act repealed by that Act, and to and in respect of the lease the subject of the application;
- (b) section 30A of the Petroleum Act, 1955, as amended by this Act, shall apply and be deemed always to have applied to and in respect of any application made before the commencement of this Act for the renewal or further renewal of any lease granted under the provisions of that Act, as so amended, and to and in respect of the lease the subject of the application,

Validation
of certain
mining
operations
and renewals
of leases.

whether or not such application was, or purported to be, granted or refused before such commencement.

(2) The Governor and the Minister shall be deemed to be and always to have been empowered to exercise in relation to the application for any such renewal or further renewal or to any such lease or the holder of any such lease the powers conferred upon them respectively by the said section 107A or 30A, as the case may be.

(3)

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(3) Notwithstanding the terms of any renewal or further renewal, purporting to have been granted before the commencement of this Act, of a lease the term or renewed term of which had expired, such renewal or further renewal shall be deemed to have commenced and taken effect upon the date of execution thereof by the Governor and shall be deemed to have been, or shall be, as the case may be, in force until the expiration of the period for which the renewal or further renewal is expressed to have been granted.

Exclusion
of certain
mining
operations
from
validating
provisions.

5. (1) Nothing in section four of this Act shall apply or be deemed ever to have applied to or in respect of the applications made by Associated Minerals Pty. Limited for the renewal of the leases granted to it by the Governor pursuant to the provisions of the Principal Act—

- (a) on the eighth day of September, one thousand nine hundred and fifty-eight, of the land described as portion PML 11 in the plan catalogued M.21561 in the Department of Mines; and
- (b) on the tenth day of July, one thousand nine hundred and fifty-nine, of the land described as portion PML 12 in the plan catalogued M.21562 in the Department of Mines,

in so far as the application for the renewal of either such lease related to land which during the period from the expiration of the lease concerned until the twenty-first day of June, one thousand nine hundred and sixty, was owned by, or in which any minerals were during that period owned by, N.S.W. Rutile Mining Company Pty. Limited.

(2) For the purposes of sections four and five of this Act the lease granted to Associated Minerals Pty. Limited by the Governor pursuant to the provisions of the Principal Act—

- (a) on the eighth day of September, one thousand nine hundred and fifty-eight, shall be deemed to be and always to have been two separate leases containing the same terms and conditions as the lease so granted,—
 - (i) one of such leases being of such part of the land described as portion PML 11 in the plan catalogued M.21561 in the Department

Department of Mines as was during the No. 59, 1961 term of the lease so granted owned by, or as during that term contained any minerals owned by, N.S.W. Rutile Mining Company Pty. Limited; and

- (ii) the other of such leases being of the residue of the land so described; and
- (b) on the tenth day of July, one thousand nine hundred and fifty-nine, shall be deemed to be and always to have been two separate leases containing the same terms and conditions as the lease so granted,—
 - (i) one of such leases being of such part of the land described as portion PML 12 in the plan catalogued M.21562 in the Department of Mines as was during the term of the lease so granted owned by, or as during that term contained any minerals owned by, N.S.W. Rutile Mining Company Pty. Limited; and
 - (ii) the other of such leases being of the residue of the land so described,

and the said Associated Minerals Pty. Limited shall be deemed to have made separate applications for the renewal of each such separate lease upon the day upon which it applied for the renewal of the lease of the said portion PML 11 or the said portion PML 12, as the case may be.

Nothing in this subsection shall affect the operation of section four of this Act in relation to the separate application deemed to have been made for the renewal of the separate leases referred to in subparagraph (ii) of paragraph (a) or (b) of this subsection.

6. (1) Any extension or further extension, purporting to have been granted by the Minister before the commencement of this Act, of an authority to prospect granted under section seventeen of the Principal Act shall, notwithstanding that it was or purported to be granted after the expiry of the authority or of the authority as previously extended, as the case may be, be deemed to be and always to have been as valid and effectual as it would have been had it been granted immediately before such expiry to take effect on and from such expiry.

(2) Validations of extensions of authorities to prospect, and renewals of petroleum exploration licenses and petroleum prospecting licenses.

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(2) Any renewal or further renewal, purporting to have been granted by the Minister before the commencement of this Act, of any petroleum exploration license or petroleum prospecting license granted under the Petroleum Act, 1955, shall, notwithstanding that it was or purported to be granted after the expiry of the license of which it purported to be a renewal or of such license as previously renewed, as the case may be, be deemed to be and always to have been as valid and effectual as it would have been had it been granted immediately before such expiry to take effect on and from such expiry.

Rents and royalties payable in respect of mining operations on certain land owned by N.S.W. Rutile Mining Company Pty. Limited.

7. (1) Associated Minerals Pty. Limited shall be liable to pay in accordance with the provisions, relating to the payment of rents and royalties, of Part V of the Principal Act—

(a) in respect of—

- (i) the land described as portion PML 11 in the plan catalogued M.21561 in the Department of Mines which during the period from the eighth day of September, one thousand nine hundred and fifty-eight, to the twentieth day of June, one thousand nine hundred and sixty, was owned by, or in which any minerals were during that period owned by, N.S.W. Rutile Mining Company Pty. Limited rent for that period at the rate of ten shillings per annum per acre of such land;
- (ii) that part of the land described as portion PML 12 in the plan catalogued M.21562 in the Department of Mines which during the period from the tenth day of July, one thousand nine hundred and fifty-nine, to the twenty-first day of June, one thousand nine hundred and sixty, was owned by, or in which any minerals were during that period owned by, N.S.W. Rutile Mining Company Pty. Limited and on which any mining operations or works incidental thereto were carried on by the said Associated Minerals Pty.

Pty. Limited at any time during that period, No. 59, 1961
rent for that period at the rate of ten
shillings per annum per acre of such land;

(b) in respect of rutile and zircon won—

- (i) during the period from the eighth day of September, one thousand nine hundred and fifty-eight, to the twenty-first day of June, one thousand nine hundred and sixty, from the land described as portion PML 11 in the plan catalogued M.21561 in the Department of Mines, royalties in the total sum of eleven thousand and thirteen pounds thirteen shillings and threepence;
- (ii) during the period from the tenth day of July, one thousand nine hundred and fifty-nine, to the twenty-first day of June, one thousand nine hundred and sixty, from such part of the land described as portion PML 12 in the plan catalogued M.21562 in the Department of Mines on which any mining operations or works incidental thereto were carried on by the said Associated Minerals Pty. Limited at any time during that period, royalties in the total sum of two thousand eight hundred and twenty-eight pounds one shilling and threepence;

less any amount already paid by such company in respect of such rents and royalties, and such rents and royalties shall be dealt with and paid out in accordance with the provisions of sections ninety-seven and ninety-eight of the Principal Act.

(2) For the purpose of dealing with and paying out such royalties the quantity of rutile and zircon won—

- (a) during the period from the eighth day of September, one thousand nine hundred and fifty-eight, to the twenty-first day of June, one thousand nine hundred and sixty, from the land described as portion PML 11 in the plan catalogued M.21561 in the Department of Mines, shall be deemed to be the aggregate of

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of the quantities shown in the returns dated the fourth day of March, one thousand nine hundred and fifty-nine, the twentieth day of January, one thousand nine hundred and sixty, and the sixteenth day of January, one thousand nine hundred and sixty-one, and furnished in respect of such land by Associated Minerals Pty. Limited to the Minister, and shall be deemed to have been won in uniform quantities from every part of such land;

- (b) during the period from the tenth day of July, one thousand nine hundred and fifty-nine, to the twenty-first day of June, one thousand nine hundred and sixty, from that part of the land described as portion PML 12 in the plan catalogued M.21562 in the Department of Mines on which any mining operations or works incidental thereto were carried on by the said Associated Minerals Pty. Limited at any time during that period, shall be deemed to be the quantities shown in the return dated the sixteenth day of January, one thousand nine hundred and sixty-one, and furnished in respect of such land by the said Associated Minerals Pty. Limited to the Minister, and shall be deemed to have been won in uniform quantities from every part of such land.

Associated
Minerals
Pty. Limited
not to be
liable for
exemplary
damages in
respect of
certain
mining
operations.

8. In assessing any damages for which Associated Minerals Pty. Limited, or any director, officer or servant of that company, may be liable by reason of anything done or omitted to be done (including, but without limiting the generality of the foregoing, the extraction and removal of any minerals) on or in respect of—

- (a) the land referred to in subparagraph (i) of paragraph (a) of section seven of this Act during the period referred to in that subparagraph; or
- (b) the land referred to in subparagraph (ii) of the said paragraph during the period referred to in that subparagraph,

no amount shall be awarded by way of exemplary damages.

MOTOR