

MINING (AMENDMENT) ACT.

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 67, 1967.

An Act to amend the law relating to mining; to validate certain matters; for this and other purposes to amend the Mining Act, 1906, and certain other Acts; and for purposes connected therewith. [Assented to, 7th December, 1967.]

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,
citation and
commence-
ment.

1. (1) This Act may be cited as the "Mining (Amendment) Act, 1967".

(2)

Mining (Amendment).

(2) The Mining Act, 1906, as amended by subsequent No. 67, 1967 Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Mining Act, 1906–1967.

(4) Subject to subsections five and six of this section, this Act shall commence upon such day or days as may be appointed in respect thereof and notified by proclamation published in the Gazette.

(5) Section ten of this Act shall commence upon the day upon which the assent of Her Majesty to this Act is signified.

(6) The amendments made by—

- (a) subparagraphs (i) and (ii) of paragraph (i) of section five of this Act shall be deemed to have commenced on the day upon which the Mining (Amendment) Act, 1952, commenced; and
- (b) subparagraphs (iii) and (iv) of that paragraph shall be deemed to have commenced on the day upon which subsection six of section 70c of the Principal Act commenced.

2. Part I of the Principal Act is amended—

Amendment
of Act No.
49, 1906.

(Part I—
Prelimi-
nary.)

- (a) (i) by omitting from the definition of “Adjoining” in subsection one of section three the words “or stream” and by inserting in lieu thereof the words “, stream or railway”;
- (ii) by omitting from the definition of “Mining surveyor” in the same subsection the words “Surveyors Act, 1929–1946, and who is specially appointed to carry out surveys under this Act” and by inserting in lieu thereof the words “Surveyors Act, 1929, as amended by subsequent Acts”;

Sec. 3.
(Interpre-
tation.)

(iii)

Mining (Amendment).

No. 67, 1967

- (iii) by inserting at the end of the same subsection the following new definition :—

“Value, f.o.b.”, in relation to a mineral, means such amount as is determined by the Minister as being the value, f.o.b., of the mineral at such port in Australia as the Minister determines.

- (iv) by omitting from subsection two of the same section the words “that is contiguous to the State of New South Wales and is outside the land beneath the territorial waters of that State” and by inserting in lieu thereof the words “(within the meaning of the Convention entitled ‘Convention on the Continental Shelf’ signed at Geneva on the twenty-ninth day of April, one thousand nine hundred and fifty-eight and to which Australia is a party) that is adjacent to the State of New South Wales”;

Sec. 6.
(Governor
may appoint
officers.)

- (b) by omitting from subsection one of section six the words “mining surveyors,”;

Sec. 7.
(Minister
or officer
not to be
interested
in any min-
ing venture.)

- (c) by omitting from section seven the word “surveyor,”.

Further
amendment
of Act No.
49, 1906.
(Part II—
Miners’
rights and
business
licenses.)

3. Part II of the Principal Act is amended—

Sec. 14.
(Certain
exemp-
tions.)

- (a) by inserting in paragraph (e) of subsection one of section fourteen after the words “authority to prospect” wherever occurring the words “or exploration license”;

(b)

Mining (Amendment).

- (b) (i) by inserting in subsection one of section No. 67, 1967
seventeen after the word "Act" where secondly occurring the words "(not being an exploration license held by the applicant)"; Sec. 17.
(Authority to prospect on Crown lands.)
- (ii) by inserting in the same subsection after the word "license" where secondly occurring the words "or of an application for a lease of Crown lands under this Act";
- (iii) by omitting from the same subsection the words "or for such exploration license";
- (iv) by inserting next after subsection two of the same section the following new subsection :—

(2A) (a) If more than one application is made for an authority to prospect on the same lands the application of the person who has first taken possession shall be first considered and dealt with, and so on, according to priority of possession.

(b) For the purposes of this subsection "possession" means the act of erecting a datum post, and forthwith taking possession in the manner prescribed by the regulations: Provided that where, under the regulations, a datum post is not required to be erected, the time of taking possession shall be deemed to be the time at which the application is lodged.

- (v) by inserting next after subsection six of the same section the following new subsection :—

(6A) Without limiting the generality of subsection six of this section, the Minister may refuse to grant an authority to prospect for gold or any mineral on any Crown lands if those lands are the subject of a pending application for an authority to prospect made by a person who, when he made the application, was the holder of an exploration license over those lands.

(vi)

Mining (Amendment).

No. 67, 1967

- (vi) by omitting from paragraph (b) of subsection seven of the same section the words “, with the consent in writing of the applicant,”;
- (vii) by inserting next after subsection eight of the same section the following new subsections :—

(8A) Where an application is made for the renewal or further renewal of an authority to prospect and the application has not been granted or refused before the date on which the period of the authority to prospect or renewed authority to prospect would, but for this subsection, expire (which date is in this subsection referred to as the date of expiry), the period of the authority to prospect or renewed authority to prospect shall be deemed to be extended until the application is granted or refused and the Minister may grant or refuse the application after the date of the expiry of the authority to prospect or renewed authority to prospect.

During the period that the authority to prospect or renewed authority to prospect is deemed to be extended under this subsection, the provisions of this Act applicable to authorities to prospect and the holders thereof shall apply to and in respect of the authority to prospect or renewed authority to prospect, and to the holder thereof.

(8B) Every authority to prospect granted after the commencement of this subsection shall be deemed to be granted subject to the condition that the person to whom it is granted shall execute it within a period of one month after his being notified in writing by the Under Secretary of the grant of the authority to prospect or within such further period as the

Under

Mining (Amendment).

Under Secretary may allow either before or after the expiration of that period of one month. No. 67, 1967

(8C) Where the application for an authority to prospect is made after the commencement of this subsection by two or more persons, and one or more of those persons fails or fail to execute the authority to prospect in compliance with the condition referred to in subsection (8B) of this section, the Minister may, if he thinks fit, cause the authority to prospect to be issued to such of the applicants as have executed it, and in that case the authority to prospect shall be valid and effectual in favour of those applicants.

4. Part III of the Principal Act is amended—

Further
amendment
of Act No.
49, 1906.
(Part III—
Leases of
Crown
lands.)

- (a) by omitting paragraph (bi) of subsection two of section twenty-three and by inserting in lieu thereof the following paragraph :— Sec. 23.
(Governor
may grant
leases.)

- (bi) Crown lands held under an authority to prospect or an exploration license, or the subject of an application for an authority to prospect or an exploration license, shall not be leased to any person other than the holder of the authority to prospect or exploration license or the applicant for the authority or license, except with the written consent of the holder of, or the applicant for, the authority or license, as the case may be, if, in the case of an application for an authority

*Mining (Amendment).***No. 67, 1967**

authority to prospect or exploration license, the application was made before the marking out of the land the subject of an application for a lease under this Part.

Sec. 27.
(Irregular
application
may be
granted.)

- (b) by inserting next after subsection three of section twenty-seven the following new subsection :—

(3A) Without limiting the generality of subsection three of this section, the Governor may refuse to grant to a person a lease of Crown lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an authority to prospect on, or an exploration license over, those lands.

Sec. 30.
(When
application
pending.)

- (c) (i) by inserting in subsection four of section thirty after the word "applicant" the words "or his nominee";
- (ii) by inserting in the same subsection after the word "shall" the words ", subject to any conditions imposed by the Minister under paragraph (a) of section twenty-eight of this Act,";
- (iii) by omitting from the same subsection the words "lease granted after the commencement of the Mining (Amendment) Act, 1952" and by inserting in lieu thereof the words "lease under this Part (not being a special lease or a renewal of a lease) granted at the time the gold or mineral was won";
- (iv) by inserting at the end of the same section the following new subsections :—

(5) Where, at the commencement of section ten of the Mining (Amendment) Act, 1967, an applicant for a lease under this Part, or his nominee, is entitled under subsection two of section four of the Mining (Amendment) Act, 1963, to mine during the pendency of the application he shall, on and from that commencement,

Mining (Amendment).

commencement, pay royalty at the prescribed rate on any gold or mineral won by him from the land the subject of the application. No. 67, 1967

(6) In subsection five of this section, the "prescribed rate" means—

(a) in the case of rutile or zircon, the rate of two per centum of the value, f.o.b., or such other rate as may from time to time be fixed by the Minister instead of the firstmentioned rate and specified in a notification published in the Gazette;

(b) in the case of gold or any other mineral, such rate as may from time to time be fixed by the Minister and specified in a notification published in the Gazette.

- (d) (i) by inserting in paragraph (a) of subsection (2D) of section thirty-six after the words "royalty shall" the words "subject to section 108c of this Act,"; Sec. 36.
(Gold and mineral leases—rent and royalty.)
- (ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of leases of Crown lands, authorising mining for minerals reserved to the Crown, granted at the time when that lease is granted";
- (iii) by omitting from paragraph (b) of the same subsection the words "one and one-half" and by inserting in lieu thereof the word "two";
- (iv) by inserting at the end of the same section the following new subsection :—

(7) The provisions of subsection five of this section apply to the payment of royalties in respect of gold or minerals won by an applicant for a lease under this Part, or his nominee, carrying on mining operations during the

Mining (Amendment).

No. 67, 1967

the pendency of the application as if the payment were due in respect of gold or minerals won under such a lease granted at the time the gold or minerals were won.

Sec. 39D.
(Application
for lease.)

(e) (i) by omitting from paragraph (a) of subsection four of section 39D the word "shall" and by inserting in lieu thereof the words "in respect of leases under this Division at the time when that lease is granted shall, subject to section 108c of this Act,";

(ii) by omitting from paragraph (b) of the same subsection the words "one and three-quarters" and by inserting in lieu thereof the word "two";

(iii) by inserting next after paragraph (d) of the same subsection the following new paragraph :—

(di) In respect of any lease granted, or application for a lease made, on or after the day upon which this paragraph commences, the provisions of paragraph (d) of this subsection shall be deemed to be amended by omitting the word "one-seventh" and by inserting in lieu thereof the word "one-eighth".

(iv) by inserting in paragraph (e) of the same subsection after the words "(d) of this subsection" wherever occurring the words ", or of that paragraph, as deemed to be amended by paragraph (di) of this subsection,";

(v) by inserting next after paragraph (f) of the same subsection the following new paragraph :—

(g) The provisions of paragraph (f) of this subsection apply to the payment of royalties in respect of coal or shale not reserved to the Crown won by an applicant for a lease under
this

Mining (Amendment).

this Part, or his nominee, carrying on mining operations during the pendency of the application as if the payment were due in respect of coal or shale not reserved to the Crown won under such a lease granted at the time the coal or shale was won. **No. 67, 1967**

5. Part IV of the Principal Act is amended—

Further
amendment
of Act No.
49, 1906.
(Part IV—
Mining on
private
lands.)

- (a) by omitting from section forty-five the definition of “Private lands” and by inserting in lieu thereof the following definition :— **Sec. 45.**
(Interpretation.)

“Private lands” means lands other than Crown lands but does not include lands held under a lease granted under Part III, Part V or this Part of this Act.

- (b) (i) by omitting subsection (2c) of section forty-six; **Sec. 46.**
(For gold and other metals.)
- (ii) by inserting in subsection three of the same section after the word “mineral” where firstly occurring the words “or to carry on operations under an exploration license”;
- (iii) by inserting in the same subsection after the word “repealed” where firstly occurring the words “, or in respect of land the subject of an application for an exploration license made before the time of the making of the application for the authority to enter”;

(c)

*Mining (Amendment).***No. 67, 1967****Sec. 50.**
(Warden
may grant
authority.)

- (c) (i) by inserting next after paragraph (a) of subsection two of section fifty the following new paragraph :—

(ai) if the land applied for is the subject of an authority to enter in force or of an application for a lease under this Part;

- (ii) by inserting at the end of the same subsection the following new paragraph :—

(e) if the land is the subject of another pending application for an authority to enter made by a person who, when he made the application, was the holder of an exploration license over that land.

Sec. 52.
(Duration
and extension
of authority.)

- (d) (i) by omitting from subsection one of section fifty-two the words "while it is in force and";
(ii) by inserting next after the same subsection the following new subsection :—

(1A) Where an application is made for the extension or further extension of an authority to enter and the application has not been granted or refused before the date on which the period of the authority to enter or extension would but for this subsection expire (which date is in this subsection referred to as the date of expiry), the period of the authority to enter or extension shall be deemed to be extended until the application is granted or refused and the warden may grant or refuse the application after the date of the expiry of the authority or extension.

During the time that the authority to enter or extension is deemed to be extended under this subsection, the provisions of this Act applicable to authorities to enter and the holders thereof shall apply to and in respect of the authority to enter or extension, as so extended, and to the holder thereof.

(iii)

Mining (Amendment).

-
- (iii) by omitting from subsection two of the same **No. 67, 1967** section the word "duplicate" and by inserting in lieu thereof the words "the prescribed manner";
- (e) (i) by inserting in subsection (5B) of section fifty- **Sec. 57.** seven after the word "applicant" the words "or (Power to his nominee"; **define boundaries.)**
- (ii) by inserting in the same subsection after the word "shall" the words ", subject to any conditions imposed by the Minister under subsection five of this section,";
- (iii) by omitting subsection six of the same section and by inserting in lieu thereof the following subsections :—

(6) Except in the prescribed circumstances, every application for a lease shall be accompanied by the prescribed survey fee.

(7) Where the Minister is of opinion that a survey is unnecessary for the purposes of any such application, or that the cost of the survey is less than the prescribed survey fee lodged by the applicant for the lease, he may refund to such applicant the whole, or such part as he thinks fit, of any prescribed survey fee paid by such applicant.

(8) Where, at the commencement of section ten of the Mining (Amendment) Act, 1967, an applicant for a lease under this Part, or his nominee, is entitled under subsection two of section five of the Mining (Amendment) Act, 1963, to mine during the pendency of the application he shall, on and from that commencement, pay, in respect of any gold or mineral won by him from the land the subject of the application, royalty on the gold or mineral at the prescribed rate.

(9)

No. 67, 1967

(9) In subsection eight of this section, the "prescribed rate" means—

- (a) in the case of rutile or zircon the rate of two per centum of the value, f.o.b., or such other rate as may from time to time be fixed by the Minister instead of the firstmentioned rate and specified in a notification published in the Gazette;
- (b) in the case of gold or any other mineral such rate as may from time to time be fixed by the Minister and specified in a notification published in the Gazette.

Sec. 58.
(Power to
refuse, &c.)

(f) by inserting at the end of section fifty-eight the following new subsection :—

(4) Without limiting the generality of this section, the Governor may refuse to grant to a person a lease of private lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an exploration license over those lands.

Sec. 68.
(Prospecting
by owner or
occupier.)

(g) by inserting in subsection one of section sixty-eight after the word "Part" where firstly occurring the words "or not held under, or the subject of an application for, an exploration license";

Sec. 70BA.
(Application
for lease by
owner of
land and
minerals.)

(h) by inserting in subsection one of section 70BA after the word "Act," the words "or are not held under, or the subject of an application for, an exploration license";

Sec. 70c.
(Royalty
payable.)

(i) (i) by inserting in subparagraph (i) of paragraph (a) of subsection five of section 70c after the words "per centum" where firstly occurring the words "of the gross value";

(ii)

Mining (Amendment).

- (ii) by omitting from the same subparagraph the words "such rate per centum as may be prescribed" and by inserting in lieu thereof the words "an amount calculated at such rate as may be prescribed in respect";
- (iii) by inserting in paragraph (a) of subsection six of the same section after the word "subsection" where firstly occurring the words "and before the commencement of section 70CA of this Act";
- (iv) by inserting in subparagraph (i) of paragraph (a) of the same subsection after the words "per centum" the words "of the gross value";
- (v) by inserting in the same subparagraph after the word "prescribed" the words "in respect";
- (vi) by inserting at the end of the same section the following new subsection :—

(8) The provisions of subsections two and four of this section or of those subsections, as amended by subsection five or six of this section, as the case may require, apply, in respect of minerals won before the commencement of section 70CA of this Act, to royalties paid, and to the payment of royalties, by an applicant for a lease under this Division, or his nominee, carrying on mining operations during the pendency of the application as if the royalties were paid or the payment were due in respect of minerals won under such a lease granted at the time the minerals were won.

- (j) by inserting next after section 70c the following new section :—

70CA. (1) In respect of any authority or lease granted under this Division after the commencement of this section, the holder of the authority or the lessee, as the case may be, shall at the times and in the manner prescribed pay to the Minister

New sec.
70CA.

Royalty payable on authorities and leases granted after commencement of this section.

on

No. 67, 1967

on behalf of the owner of the minerals included in the authority or lease a sum calculated at such rate, in respect of all minerals won from the land, as may be prescribed in respect of leases of private lands, authorising mining for minerals not reserved to the Crown, granted at the time when that authority or lease is granted :

Provided that upon any renewal of a lease under this Division the Governor may in respect of such renewal vary the amount payable by way of royalty under this subsection in such manner as he may determine.

(2) The Minister shall at the times and in the manner prescribed pay to the owner of the minerals the sum paid as aforesaid less one-eighth of that sum, which he is hereby authorised to deduct from that sum ; and the amounts so deducted shall be paid by the Minister to the Treasurer and carried to the Consolidated Revenue Fund.

(3) The holder or lessee shall also pay to the Crown in respect of gold or any minerals reserved to the Crown won from the land a royalty in accordance with section eighty-two of this Act.

(4) The lessee may deduct from the sum payable under subsection one of this section in any one year to the Minister on behalf of the owner of the minerals a sum equal to the amount paid by him to such owner in accordance with the provisions of subsection three of section 70BC of this Act as rent for that year.

(5) The regulations may prescribe rates for the purposes of subsection one of this section according to percentage of the value of the mineral won, or an amount per ton on all mineral won, or an amount per cubic foot, cubic yard, gallon or other appropriate standard of measurement or otherwise howsoever.

Different

Mining (Amendment).

Different rates may be prescribed in respect of different minerals. In the case of rates according to the percentage of the value of the mineral won such rates shall not exceed two per centum of such value. In the case of rates according to an amount per ton on all mineral (other than coal or shale) won such rates shall not exceed twenty cents per ton. No. 67, 1967

The rate prescribed in respect of coal or shale shall not exceed ten cents per ton.

(6) The provisions of subsections two and four of this section apply, in respect of minerals won on or after the commencement of this section, to royalties paid, and to the payment of royalties, by an applicant for a lease under this Division, or his nominee, carrying on mining operations during the pendency of the application as if the royalties were paid or the payment were due in respect of minerals won under such a lease granted at the time the minerals were won.

- (k) (i) by omitting from subsection four of section 70F the words "The Minister shall at the times and in the manner prescribed pay to the owner of such minerals the sum paid under paragraph (b) of this subsection less one-seventh of such sum which he is hereby authorised to deduct from such sum; and the amounts so deducted shall be paid by the Minister into the Treasury and carried to the Consolidated Revenue Fund." Sec. 70F.
(Governor may grant special leases of private lands.)

Where any private land the subject of a lease under this section and the minerals for which the lessee is pursuant to such lease entitled to mine in or upon such land are privately owned and in the same ownership, and the royalty payable in respect of such minerals by the lessee during any one year exceeds

No. 67, 1967

exceeds the rent paid for such year in respect of such land, the amount paid as rent as aforesaid may be deducted from such sum payable as royalty; but if the royalty in any one year amounts to less than the rent paid for such year, the lessee shall not for such year be required to pay royalty."

- (ii) by inserting next after the same subsection the following new subsections :—

(4A) Where royalty is paid under subsection four of this section in respect of minerals, not reserved to the Crown, that have been won from lands so leased the Minister shall at the times and in the manner prescribed—

- (a) pay, where the lease was granted before the commencement of this subsection, to the owner of the minerals the sum paid under paragraph (b) of subsection four of this section, less one-seventh of that sum (which the Minister is hereby authorised to deduct from that sum) ;
- (b) pay, where the lease was granted on or after the commencement of this subsection, to the owner of the minerals the sum paid under paragraph (b) of subsection four of this section, less one-eighth of that sum (which the Minister is hereby authorised to deduct from that sum) ; and
- (c) pay the amounts deducted by him under paragraph (a) or (b) of this subsection to the Treasury to be carried to the Consolidated Revenue Fund.

(4B)

Mining (Amendment).

(4B) The provisions of subsection (4A) of No. 67, 1967 this section apply, in respect of minerals won on or after the commencement of this section, to royalties paid by an applicant for a special lease under this Division, or his nominee, carrying on operations during the pendency of the application as if the royalties were paid in respect of minerals won under such a lease granted at the time the minerals were won.

- (1) (i) by inserting in paragraph (a) of subsection (2A) of section eighty-two after the word "shall" the words "Sec. 82. (Amount.)", subject to section 108c of this Act,";
- (ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of leases of private lands, authorising mining for minerals reserved to the Crown, granted at the time when that authority or lease, as the case may be, was granted".

6. Part IVA of the Principal Act is amended—

Further
amendment
of Act No.
49, 1906.
(Part IVA—
Exploration
licenses.)

- (a) (i) by inserting at the end of paragraph (a) of subsection one of section 83B the word "or"; Sec. 83B. (Exploration licenses.)
- (ii) by omitting paragraph (c) of the same subsection;
- (iii) by inserting next after the same subsection the following new subsections :—

(1A) An exploration license for the purpose of prospecting in or on land included in an existing exploration license shall not be granted to a person other than the holder of the existing exploration license except on the recommendation of the prospecting board.

(1B)

Mining (Amendment).

No. 67, 1967

-
- (1B) An exploration license for the purpose of prospecting in or on land—
- (a) for gold (whether alone or together with minerals) shall not be granted if there is in force an existing exploration license for the purpose of prospecting for gold (whether alone or together with minerals) in or on that land; or
 - (b) for any mineral (whether alone or together with any other mineral) shall not be granted if there is in force an existing exploration license for the purpose of prospecting for that first-mentioned mineral (whether alone or together with any other mineral).
- (iv) by omitting from paragraph (a) of subsection three of the same section the words “twenty cents” and by inserting in lieu thereof the words “fifty cents”;
- (v) by omitting from paragraph (a) of subsection ten of the same section the words “, with the consent in writing of the applicant therefor,”;
- (vi) by inserting at the end of the same subsection the following new paragraph :—
- (g) if he is of opinion, after investigation and report by the Chief Inspector of Mines appointed under the Mines Inspection Act, 1901, as amended by subsequent Acts, or by the Chief Inspector of Coal Mines appointed under the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, that the cancellation of an exploration license as to part of the land included in the license will not detrimentally affect the operations, or proposed operations,

Mining (Amendment).

operations, of the holder of the exploration license, cancel the exploration license as to that part. No. 67, 1967

- (vii) by inserting at the end of subsection seventeen of the same section the following new proviso :—

Provided that where the holder of any such authority applies during the term of the authority for a lease of any lands included in the area that is the subject of the authority this subsection shall not apply to that area unless and until the application is refused.

- (b) by inserting next after section 83B the following new section :— New sec.
83BA.

83BA. (1) Where the holder of an exploration license applies during the currency of the license for an authority to enter, an authority to prospect or a lease in respect of any lands over which the license is in force, and there is in force in respect of those lands one or more other exploration licenses, the Minister shall cause notice of the application to be served on the holder of that other exploration license or the holders of those other exploration licenses, as the case may be. Lands held
under two
or more
exploration
licenses.

(2) The holder of an exploration license on whom a notice has been served under subsection one of this section may, within the prescribed period after the service on him of the notice, by instrument in writing served on the Minister and setting out the grounds of his objection, object to the grant of the application referred to in the notice.

(3) Where the holder of an exploration license objects, in accordance with subsection two of this section, to the grant of the application referred to in the notice served on him, the Minister shall refer the application and objection to the warden for inquiry and report.

(4)

Mining (Amendment).

No. 67, 1967

(4) The Minister may, after considering the report of the warden and such other information as he thinks relevant—

- (a) in the case of an application for an authority to enter, direct the warden to grant or refuse the application or direct the warden to grant the application subject to such conditions as the Minister specifies in the direction;
- (b) in the case of an application for an authority to prospect, grant or refuse the application or grant the application subject to such conditions as he thinks fit; or
- (c) in the case of an application for a lease, recommend to the Governor that the application be granted or refused or that the application be granted subject to such conditions as may be specified in the recommendation.

(5) The warden shall comply with any direction given to him under paragraph (a) of subsection four of this section.

(6) A lease shall not be granted on an application referred to in subsection one of this section otherwise than in accordance with any recommendation with respect to that application made by the Minister under paragraph (c) of subsection four of this section.

(7) Where an authority to enter, an authority to prospect or a lease in respect of any lands is granted on an application made under subsection one of this section, the Minister shall, upon that grant being made, cancel any exploration license to the extent that it is in force over those lands.

(8)

Mining (Amendment).

(8) A notice referred to in subsection one No. 67, 1967
of this section may be served—

- (a) by delivering it to the person to whom it is directed; or
- (b) by sending it by certified mail to the person to whom it is addressed at his last known place of abode or business,

and, where it is served in accordance with paragraph (b) of this subsection, shall be deemed to be served when it would have been delivered to the person to whom it is addressed in the ordinary course of post.

- (c) by inserting in subsection one of section 83I after Sec. 83I.
the word “operations” where secondly occurring the (Compensa-
words “notify the owner and occupier, if any, of tion before
the private lands of his intention to carry out the commence-
surveys or operations and”. ment of
operations
on private
lands
covered by
exploration
license.)

7. Part V of the Principal Act is amended—

Further
amendment
of Act No.
49, 1906.
(Part V—
Dredging
leases.)

- (a) by omitting from subsection one of section eighty- Sec. 86.
six the words “held under or by virtue of any Act (Governor
relating to mining, or land in or upon which any may grant
bona fide mining operations are being carried on leases for
by or with the concurrence of the owner” and by purposes of
inserting in lieu thereof the words “in or upon which mining by
any bona fide mining operations are being carried dredging,
on by or with the concurrence of the owner or land &c., and
held under or by virtue of any Act relating to of what
mining, other than land comprised in an exploration lands.)
license held by the applicant”;

(b)

*Mining (Amendment).***No. 67, 1967**

Sec. 90.
(Applica-
tions for
leases to be
made to
warden and
forwarded to
Minister.)

(b) (i) by inserting in subsection three of section ninety after the word "applicant" the words "or his nominee";

(ii) by inserting in the same subsection after the word "shall" the words ", subject to any conditions imposed by the Minister under section one hundred and one of this Act,";

Sec. 98.
(Rent and
royalty.)

(c) (i) by inserting in paragraph (b) of subsection two of section ninety-eight after the word "shall" the words ", subject to section 108c of this Act,";

(ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of dredging leases granted at the time when that lease was granted";

(iii) by omitting from paragraph (c) of the same subsection the words "The provisions" where secondly occurring and by inserting in lieu thereof the words "In respect of a dredging lease granted before the commencement of subparagraph (iii) of paragraph (c) of section seven of the Mining (Amendment) Act, 1967, the provisions";

(iv) by inserting at the end of the same paragraph the following new paragraph :—

In respect of a dredging lease granted on or after the commencement of subparagraph (iv) of paragraph (c) of section seven of the Mining (Amendment) Act, 1967, the provisions of subsection five of section 70CA shall apply to and in respect of regulations prescribing rates of royalty payable under this subsection in respect of minerals not reserved to the Crown.

(v)

Mining (Amendment).

-
- (v) by omitting paragraph (b) of subsection three No. 67, 1967 of the same section and by inserting in lieu thereof the following paragraph :—

(b) The Minister shall at the times and in the manner prescribed pay to the owner of the minerals the sum so paid as royalty in respect of the minerals less—

- (i) where the royalty is paid in respect of minerals won from lands held under a lease granted before the commencement of this paragraph—one-seventh of the sum so paid (which the Minister is hereby authorised to deduct from that sum) ; or
- (ii) where the royalty is paid in respect of minerals won from lands held under a lease granted on or after that commencement—one-eighth of the sum so paid (which the Minister is hereby authorised to deduct from that sum),

and shall pay the amounts deducted by him under this paragraph to the Treasury to be carried to the Consolidated Revenue Fund.

- (vi) by inserting at the end of the same section the following new subsection :—

(4) The provisions of paragraph (e) of subsection two and paragraph (b) of subsection three of this section apply to the payment of royalties, and royalties paid, in respect of gold or minerals by an applicant for a dredging lease, or his nominee, carrying on mining operations during the pendency of the application as if the payment were due or the royalties were paid in respect of gold or minerals won under such a lease granted at the time the gold or minerals were won.

(d)

*Mining (Amendment).***No. 67, 1967**

Sec. 99.

(No obligation to grant lease.)

- (d) by inserting next after subsection (2A) of section ninety-nine the following new subsection :—

(2B) Without limiting the generality of the preceding provisions of this section, the Governor may refuse to grant to a person a lease of lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an exploration license over those lands.

Further amendment of Act No. 49, 1906.

(Part VI—Tenements and leases generally.)

Sec. 108B.

(Royalty on leases comprising land previously leased.)

New secs. 108c, 108d.

Review of royalties.

8. Part VI of the Principal Act is amended—

- (a) by inserting in subsection one of section 108B after the word “Act” where thirdly occurring the words “(other than section 108c of this Act)”;
- (b) by inserting next after section 108B the following new sections :—

108c. (1) Notwithstanding any other provision of this Act, where a lease is granted on and after the commencement of this section for a period exceeding ten years, the Governor may, at any time after the expiration of a period of ten years from the date on which the lease was granted, review the rate of royalty payable by the lessee in respect of gold or minerals won under the lease and may vary the rate so payable.

(2) The lessee shall pay the royalty at the rate as so varied and the variation shall take effect upon notice of the variation, signed by the Under Secretary of the Department of Mines, or an officer of that Department acting on his behalf, being sent by certified mail to the lessee at his last known place of abode or business.

(3)

Mining (Amendment).

(3) Royalty payable under subsection No. 67, 1967
one of this section shall be paid at the times and in
the manner prescribed.

(4) Not more than one review of the
rate of royalty payable by a lessee in respect of gold
or minerals won under the lease shall be made
under subsection one of this section during the term
of the lease.

108D. (1) In this section—

“Appropriate amount”, in relation to a royalty
period, means—

Exemption
from
royalty in
certain
cases.

- (a) where the royalty period is twelve
months—two thousand dollars; and
- (b) where the royalty period is less than
twelve months—such amount as
bears to two thousand dollars the
same proportion as the number of
days in the royalty period bears to
three hundred and sixty-five.

“Mining operations” means mining operations
carried on—

- (a) on a parcel of land the subject of or
comprised in a mining title held by
a person who does not hold any
other mining title; or
- (b) on two or more parcels of land the
subject of mining titles held by the
same person, each of which parcels
adjoins the other or another of those
parcels.

“Mining title” means an authority to prospect,
authority to enter, lease or right to mine
during the pendency of an application for a
lease.

“Royalty

Mining (Amendment).

No. 67, 1967

"Royalty period", in relation to royalty payable under this Act in respect of gold or minerals won by a person under a mining title, means—

- (a) the period commencing on the day on which that person first became entitled, pursuant to the mining title, to mine for gold or the minerals in respect of which the royalty is payable and ending on the last day of the first period in respect of which that person is required by or under this Act to pay royalty in respect of the gold or minerals;
- (b) the period commencing on the day after the last day of any period in respect of which that person is required by or under this Act to pay royalty in respect of the gold or minerals and ending on the last day of the next subsequent such period; and
- (c) where, during a period referred to in paragraph (b) of this definition, that person ceases to be entitled to mine for gold or minerals on the whole of the land the subject of the mining title—the period commencing on the day after the last day of the previous royalty period and ending on the day on which that person so ceased to be entitled.

(2) Where the Minister is satisfied, on an application in writing made by the holder of a mining title, that the value of minerals reserved to the Crown won as a result of mining operations carried on during a royalty period was less than the appropriate amount, no royalty shall be payable under this Act in respect of those minerals.

(c)

Mining (Amendment).

- (c) by inserting at the end of section one hundred and nine the following new subsection :—

Sec. 109.
(Registra-
tion of
leases, etc.)

(9) The functions of the Registrar under this section may be performed by the Deputy Registrar, Department of Mines, Sydney.

- (d) (i) by inserting in the heading to section one hundred and thirteen after the word "*conditions*" the words "*or mining operations*";

Sec. 113.
(Holders of
claims, etc.,
may apply.)

- (ii) by omitting from subsection one of the same section the words "mining operations" and by inserting in lieu thereof the words "labour conditions or mining operations or both labour conditions and mining operations";

- (iii) by omitting from subsection two of the same section the words "posted on the claim or on the land leased, and also outside the warden's office or the mining registrar's office nearest to the land in respect of which suspension is applied for," and by inserting in lieu thereof the following words :—

"posted—

- (a) by the applicant or applicants on the claim or on the land leased;
and

- (b) by the warden's clerk or the mining registrar whose office is nearest to the land in respect of which suspension is applied for, outside the office of that warden's clerk or that mining registrar,";

- (iv) by inserting in the same subsection after the word "leases" the words "by the applicant or applicants";

(v)

Mining (Amendment).

No. 67, 1967

- (v) by omitting from subsection five of the same section the words "of labour conditions" and by inserting in lieu thereof the words "under this section";

Sec. 124A.
(Complaint
as to non-
compliance
with labour
conditions.)

- (e) (i) by inserting next after subsection two of section 124A the following new subsection :—

(2A) The Minister may—

- (a) pay to the lessee, out of the sum so deposited, any costs recommended by the warden, under paragraph (a) of subsection five of this section, to be paid to the lessee; and

- (b) refund to the complainant any balance after the payment of any such costs.

- (ii) by omitting subsection five of the same section and by inserting in lieu thereof the following subsection :—

(5) (a) Where the lessee has entered an appearance, the warden may recommend that costs, not exceeding the amount deposited by the complainant, be allowed to the lessee.

(b) The warden shall announce in open court his finding on the complaint and the purport of his recommendation to the Minister.

Further
amendment
of Act No.
49, 1906.
(Part VII—
Wardens'
courts.)
Sec. 155.
(How com-
pensation
assessed.)

9. Part VII of the Principal Act is amended by inserting next after subsection one of section one hundred and fifty-five the following new subsection :—

(1A) Notwithstanding the provisions of paragraph (a) of subsection one of this section, where the compensation to be assessed is not in respect of the entry upon or occupation of, or proposed entry upon or occupation of, the surface of any land and there are
ten

Mining (Amendment).

ten or more persons who appear to the warden to be interested in the assessment of the compensation, the warden, instead of giving notice to any such person as required by that paragraph, may, by advertisement published in a newspaper circulating in the district where the land is situated, give notice of the time and place fixed for the assessment of the compensation and, where notice of any such assessment of compensation is so advertised, notice under that paragraph shall be deemed to have been given to every person appearing to the warden to be interested in the assessment. No. 67, 1967

10. (1) Where—**Validation.**

- (a) an applicant for a lease, under the Principal Act, of or including Crown lands, or his nominee, carried on mining operations during the pendency of the application for the lease and before the commencement of the Mining (Amendment) Act, 1952; or
- (b) an applicant for a lease, under the Principal Act, of or including private lands, or his nominee, carried on mining operations during the pendency of the application for the lease and before the commencement of subsection (5B) of section fifty-seven of the Principal Act,

the applicant or his nominee, as the case may be, shall, subject to subsections two and three of this section, be and be deemed always to have been liable to pay royalty on any gold or mineral won during that pendency and—

- (c) in the case of mining operations carried on on Crown lands, before the commencement of the Mining (Amendment) Act, 1952; or
- (d) in the case of mining operations carried on on private lands, before the commencement of subsection (5B) of section fifty-seven of the Principal Act,

at

No. 67, 1967 at the rate that would have been payable on the gold or mineral had the gold or mineral been won from land the subject of an appropriate lease (not being a special lease) granted under the Principal Act at the time the gold or mineral was won.

(2) Where an applicant for a lease, under the Principal Act, of or including Crown lands, or his nominee, carried on mining operations, under which he won rutile, zircon or ilmenite, during the pendency of the application for the lease on or after the eighth day of April, one thousand nine hundred and forty-nine and before the commencement of this section, he shall be and be deemed always to have been liable, in respect of the rutile, zircon and ilmenite won by him from the Crown lands, to pay, instead of any other royalty, royalty at the rates specified in the following table :—

TABLE.

Where the mineral was won during the period commencing on 8th April, 1949, and ending on 31st May, 1955, the rate is—

- (a) in the case of rutile, ten shillings per ton;
- (b) in the case of zircon, two shillings and sixpence per ton; and
- (c) in the case of ilmenite, one shilling per ton.

Where the mineral was won during the period commencing on 1st June, 1955, and ending on 30th June, 1956, the rate is—

- (a) in the case of rutile, fifteen shillings per ton;
- (b) in the case of zircon, two shillings and sixpence per ton; and
- (c) in the case of ilmenite, one shilling per ton.

Where the mineral was won during the period commencing on 1st July, 1956, and ending on 30th June, 1959, the rate is—

- (a) in the case of rutile, one pound ten shillings per ton;

(b)

Mining (Amendment).

-
- (b) in the case of zircon, two shillings and sixpence per ton; and
 - (c) in the case of ilmenite, one and one-half per centum of the value of the ilmenite, as determined by the Minister.

Where the mineral was won during the period commencing on 1st July, 1959, and ending on 30th June, 1966, the rate is—

- (a) in the case of rutile and zircon, one and one-half per centum of the value, f.o.b., of the rutile or zircon; and
- (b) in the case of ilmenite, one and one-half per centum of the value of the ilmenite, as determined by the Minister.

Where the mineral was won during the period commencing on 1st July, 1966, and ending on the day before this section commences, the rate is—

- (a) in the case of rutile and zircon, two per centum of the value, f.o.b., of the rutile or zircon; and
- (b) in the case of ilmenite, two per centum of the value of the ilmenite, as determined by the Minister.

(3) Where an applicant for a lease, under the Principal Act, of or including private lands, or his nominee, carried on mining operations, under which he won rutile or zircon, during the pendency of the application for the lease on or after the first day of July, one thousand nine hundred and sixty-six, and before the commencement of this section, he shall be and be deemed always to have been liable to pay, instead of any other royalty, royalty on the rutile or zircon won by him from the private lands at the rate of two per centum of the value, f.o.b., of the rutile or zircon.

(4)

No. 67, 1967

(4) Any payments—

- (a) made out of royalties, referred to in subsection one of this section, in respect of mining operations for minerals (other than minerals reserved to the Crown) carried on on private lands; or
- (b) made out of royalties paid under subsection five or (5B) of section fifty-seven of the Principal Act as applied by section 70BC of the Principal Act to applications for leases under Division 4A of Part IV of the Principal Act or under subsection three of section ninety or section one hundred and one of the Principal Act, in respect of mining operations for minerals carried on by an applicant for a lease or dredging lease, as the case may be, or his nominee, under a consent granted before the commencement of this section,

and any deductions made from any such royalties (being payments or deductions that were made before the commencement of this section and that would have been valid had the royalties being paid in respect of minerals won under a lease granted under this Act at the time the mineral was won) are hereby validated and authorised.

Variation
of consents

11. (1) Where at the commencement of section ten of this Act an applicant for a lease under the Principal Act or his nominee is entitled with the consent of the Minister to mine for rutile or zircon, the consent shall as on and from that commencement be deemed to be varied so as to require the applicant or his nominee to pay, in respect of the rutile or zircon won by him from the land the subject of the application, royalty at the rate of two per centum of the value, f.o.b., of the rutile or zircon.

(2) Nothing in subsection one of this section prevents the Minister from exercising his powers under the Principal Act to revoke any consent referred to in that subsection and, in granting any further consent to the applicant or his nominee, to impose conditions for the payment of royalty at a rate different from the rate specified in that subsection.

12.

Mining (Amendment).

12. Where, at the commencement of the amendment **No. 67, 1967** made by paragraph (a) of section five of this Act, there is pending any application for an authority to enter or for a lease that would have been valid had the amendment made by that paragraph been in force when the application was made, that application may be dealt with and completed, and an authority to enter or a lease, as the case may be, may be granted pursuant thereto as if the lands the subject of the application had been private lands at the date of the application.

PETROLEUM