

MINING (FURTHER AMENDMENT) ACT.

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 88, 1967.

An Act to make provision with respect to the granting of leases under the Mining Act, 1906, as amended by subsequent Acts; for this purpose to amend that Act; and for purposes connected therewith. [Assented to, 18th 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 com-
mencement.

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

(2)

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(2) The Mining Act, 1906, as amended by subsequent Acts and by this Act, may be cited as the Mining Act, 1906–1967. No. 88, 1967

(3) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Mining Act, 1906, as amended by subsequent Acts, is amended— Amendment
of Act No.
49, 1906.

(a) by inserting next after section 108D the following new section :— New sec.
108E.

108E. (1) A reference in this section to a lease that is subject to variation is a reference to a lease that is subject to variation as is mentioned in paragraph (d) of subsection two of this section. Leases
subject to
survey.

(2) Where—

- (a) an application is made for a lease under this Act of any lands; and
- (b) the lands have not been surveyed to the satisfaction of the Governor or are not the subject of a survey that is satisfactory to the Governor,

the Governor may, in the name and on behalf of Her Majesty—

- (c) in accordance with the provisions of this Act, grant the lease if he is of the opinion that the lands in respect of which he is prepared to grant the lease are capable of being sufficiently described for the purposes of the lease; and
- (d) specify in the lease that the lease is subject to variation with respect to any one or more of the following, that is to say—
 - (i) the lands demised by the lease;
 - (ii) the rent;

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- (iii) the labour conditions; and
 (iv) any conditions described in the lease as special conditions.

(3) Where—

- (a) a lease under this Act is granted subject to variation; and
 (b) the Governor is of the opinion that, having regard to any survey or any further survey made of the lands demised by the lease or of any other lands (whether before or after the lease was granted), the lease should be varied,

the Governor may, by an instrument of variation of a lease served on the lessee, vary the lease by doing any one or more of the following, that is to say—

- (c) by varying the description of the lands demised by the lease or by substituting for that description a new description;
 (d) by varying the rent payable under the lease;
 (e) by varying the labour conditions to which the lease is subject; and
 (f) by varying or rescinding any conditions described in the lease as special conditions or by adding to those conditions any new condition.

(4) Where the area of lands demised by a lease, as varied by an instrument of variation of that lease, exceeds the maximum area for which a lease of the same kind may be granted under this Act, the Governor may by that instrument declare the lease to be a valid lease notwithstanding that it exceeds that maximum area and any such declaration has effect according to its tenor.

(5) Where an instrument of variation of a lease under subsection three of this section is served on a lessee, the lease shall, on and from the

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the date on which the instrument was served on the lessee, be deemed to be varied according to the tenor of the instrument and is thereafter not subject to variation under this section. No. 88, 1967

(6) Where—

- (a) a lease under this Act is granted subject to variation;
- (b) an instrument of variation of that lease under subsection three of this section is served on the lessee;
- (c) the lands demised by that lease, as originally granted, includes lands (in this section referred to as “additional lands”) that are not demised by that lease as varied by the instrument of variation of that lease; and
- (d) the lessee has entered upon or occupied the additional lands,

the lessee shall be liable to pay compensation—

- (e) in respect of loss caused by the occupation or interference with the user of such part of the additional lands—
 - (i) as is Crown lands—to the Crown and to any person lawfully occupying those lands; and
 - (ii) as is private lands as defined in section forty-five of this Act—to the owner and occupier, if any, of those lands; and
- (f) in respect of damage to gold or minerals contained in, or the removal of gold or minerals from, the additional lands—
 - (i) in the case of gold or minerals reserved to the Crown—to the Crown; and

(g)

(ii)

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- (ii) in the case of minerals not reserved to the Crown—to the owner of the minerals.

(7) Compensation under subsection six of this section shall be assessed by the warden.

(8) A lessee on whom an instrument of variation of the lease held by him is served may within one month after the service of that instrument on him or within such longer period as the Minister may, on an application in writing made to him by the lessee at any time before the expiration of that period of one month, allow, enter upon and remove from any additional lands any machinery, equipment or improvements placed or erected by him on the additional lands during the period during which he was the holder of the lease of those lands.

(9) An instrument of variation of a lease may be served—

- (a) by delivering it personally to the lessee; or
- (b) by sending it by post, as certified mail, addressed to the lessee at his last known address.

(10) A lessee under a lease that, when originally granted, was subject to variation holds the Crown, the Minister and every officer and employee employed in connection with the administration of this Act indemnified against all claims against the Crown, the Minister or any such officer or employee arising out of anything done pursuant to this section or by the lessee or any of his agents or employees on or in respect of any additional lands that were demised by that lease as originally granted.

(b)

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- (b) by inserting in subsection one of section one hundred and nine after the word "Act" the words "and every instrument of variation of a lease referred to in section 108E of this Act";
- No. 88, 1967
Sec. 109.
(Registra-
tion of
leases,
etc.)

- (c) (i) by inserting in paragraph (b) of subsection one of section one hundred and fifty-five after the word "shall" the words ", except where the assessment is to be made for the purposes of section 108E of this Act,";
- Sec. 155.
(How com-
pensation
assessed.)

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

(bi) shall, where the assessment is to be made for the purposes of section 108E of this Act, be—

(i) of the loss caused by the occupation or interference with the user of the additional lands referred to in that section and of the damage to those lands or to any crops, buildings and improvements thereon caused by the lessee; and

(ii) of the value of any gold or minerals damaged or removed from those lands, reduced by the amount of any royalty paid under this Act in respect of the gold or minerals;

- (iii) by inserting next before subsection two of the same section the following new subsection :—

(1B) For the purpose of subparagraph (ii) of paragraph (bi) of subsection one of this section, gold or minerals shall be deemed to have been damaged if, as a result of any operations carried on by a lessee of a lease

PROPOSED

that

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that is subject to variation as mentioned in section 108E of this Act on any additional lands referred to in that section, the subsequent recovery of the gold or minerals is rendered more difficult or more expensive.

NECROPOLIS