

MINING (FURTHER AMENDMENT) ACT.

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 88, 1970.

An Act to provide for the orderly development of coal and shale mining; to authorise invitations to tender for permits to prospect for coal and shale and invitations to tender for leases to mine for coal and shale; for these and other purposes to amend the Mining Act, 1906; and for purposes connected therewith. [Assented to, 9th December, 1970.]

BE

Mining (Further Amendment).

No. 88, 1970

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 com-
mencement.

1. (1) This Act may be cited as the "Mining (Further Amendment) Act, 1970".

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

(3) The Mining Act, 1906, is in this Act referred to as the Principal Act.

Amendment
of Act No.
49, 1906.

2. Part I of the Principal Act is amended—

Sec. 1.
(Short
title and
division
of Act.)

(a) by inserting in subsection one of section one next after the matter relating to Part IVB the following new matter :—

PART IVC.—COAL AND SHALE EXPLORATION
PERMITS AND COAL AND SHALE LEASES OF
CROWN AND PRIVATE LANDS—ss. 83T–
83AAH.

Sec. 3.
(Interpre-
tation.)

(b) (i) by inserting in subsection one of section three next after the definition of "Notification" the following new definitions :—

"Occupier" means a person in lawful occupation of any Crown lands or private lands.

"Owner", in relation to private lands, includes—

(a) any person to whom the Crown has lawfully contracted to grant the fee simple in those lands under the Crown Lands Acts,

Mining (Further Amendment).

Acts, or to whom the Crown No. 88, 1970
has granted any lease of those
lands under those Acts; and

- (b) trustee for, or guardian in infancy of an owner, legal representative of a deceased or bankrupt owner, committee or manager appointed under Part X of the Mental Health Act, 1958, of the estate or property of a mentally ill or incapable owner, and mortgagee in possession.

“Permit” means a coal and shale exploration permit granted under Part IVc of this Act.

- (ii) by inserting in the same subsection next after the definition of “Prescribed” the following new definition :—

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

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

(1A) For the purposes of this Act, except in so far as the context or subject-matter otherwise indicates or requires,—

- (a) a tender for a permit or a lease shall be deemed to be an application for the permit or lease, as the case may be;
- (b) a tenderer for a permit or lease shall be deemed to be the applicant for the permit or lease, as the case may be; and

(c)

Mining (Further Amendment).

No. 88, 1970

- (c) the lodging of a tender for a permit or lease shall be deemed to be the making of an application for the permit or lease, as the case may be.

Further
amendment
of Act No.
49, 1906.

3. Part II of the Principal Act is amended—

Sec. 15.
(Rights of
occupation
in respect of
Crown
lands.)

- (a) (i) by inserting in paragraph (a) of subsection one of section fifteen after the word “thereon” the words “for gold and any minerals other than coal and shale”;
- (ii) by omitting from paragraph (b) of the same subsection the words “other minerals” and by inserting in lieu thereof the words “minerals other than coal and shale”;

Sec. 17.
(Authority to
prospect on
Crown
lands.)

- (b) (i) by inserting in subsection one of section seventeen after the words “specified minerals” wherever occurring the words “other than coal or shale”;
- (ii) by inserting in paragraph (a) of subsection (1A) of the same section after the word “land” the words “, or a permit or lease under Part IVc of this Act affecting that land,”;
- (iii) by inserting in the same paragraph after the word “license” where secondly and thirdly occurring the words “, permit or lease”;
- (iv) by inserting in subsection (2B) of the same section after the word “license” where firstly occurring the words “or by a permit or lease granted under Part IVc of this Act”;
- (v) by inserting in the same subsection after the word “license” where secondly occurring the words “, permit or lease, as the case may be”;

(vi)

Mining (Further Amendment).

-
- (vi) by inserting in the same subsection next after No. 88, 1970 the word "license" where thirdly occurring the words ", permit or lease";
 - (vii) by inserting in subsection (2C) of the same section after the word "license" the words ", permit or lease";
 - (viii) by inserting in subsection (2D) of the same section after the word "license" the words ", or of a permit or lease under Part IVc of this Act,";
 - (ix) by inserting in subsection nine of the same section next after the word "operations" the words "for gold and any minerals other than coal and shale".

4. Part III of the Principal Act is amended—

Further
amendment
of Act No.
49, 1906.

- (a) (i) by omitting from subparagraph (ii) of para- Sec. 23.
graph (a) of subsection one of section twenty- (Governor
three the words "the minerals" and by inserting may grant
in lieu thereof the words "such minerals leases.)
(other than coal and shale) as may be";
- (ii) by inserting in paragraph (a) of subsection
(2C) of the same section after the word
"land" where firstly occurring the words ", or
a permit or lease under Part IVc of this Act
affecting that land,";
- (iii) by inserting in the same paragraph after the
word "lease" wherever occurring the words
"under this Part";
- (iv) by inserting in the same paragraph after the
word "license" where secondly and thirdly
occurring the words ", or the permit or lease
under Part IVc of this Act,";

(b)

Mining (Further Amendment).

No. 88, 1970

Sec. 24.
(Conversion
of applica-
tions.)

- (b) (i) by omitting subsection one of section twenty-four;
- (ii) by omitting subsection two of the same section;
- (iii) by omitting from subsection three of the same section the words "the said Acts" and by inserting in lieu thereof the words "a repealed Act";
- (iv) by omitting from the same subsection the words "gold-mining lease or mineral lease" and by inserting in lieu thereof the words "gold-mining lease or a mineral lease to mine for minerals other than coal and shale";

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

- (c) (i) by inserting in subsection five of section twenty-seven after the word "license" where firstly occurring the words "or by a permit or lease under Part IVc of this Act";
- (ii) by inserting in the same subsection after the word "license" where secondly occurring the words ", permit or lease, as the case may be";
- (iii) by inserting in the same subsection after the word "lease" where secondly occurring the words "under this Part";
- (iv) by inserting in the same subsection after the word "license" where thirdly occurring the words "or the holder of the permit or lease under Part IVc of this Act";
- (v) by inserting in subsection six of the same section after the word "license" the words ", or of a permit or lease under Part IVc of this Act,";
- (vi) by inserting in subsection seven of the same section after the word "license" the words ", or of a permit or lease under Part IVc of this Act,";

(d)

Mining (Further Amendment).

-
- (d) (i) by omitting paragraph (c) of subsection one No. 88, 1970
of section thirty-five; Sec. 35.
- (ii) by inserting in paragraph (d) of the same (Area.)
subsection after the word "mineral" the words
"other than coal and shale";
- (e) by inserting in subsection one of section forty after Sec. 40.
the words "for mining" the words "for gold or any (Governor
minerals other than coal and shale"; may grant
special
leases.)
- (f) by omitting section 40A; Sec. 40A.
(Leases to
Commis-
sioner for
Railways.)
- (g) by inserting in subsection one of section forty-one Sec. 41.
after the words "for any mineral" the words "(not (Mining
being coal or shale)"; for other
minerals
under
mineral
lease.)
- (h) by omitting from subsection one of section forty- Sec. 43.
three the words "other than gold" and by inserting (Mining
in lieu thereof the words "other than coal or shale". for other
minerals
under gold-
mining
lease.)
5. Part IV of the Principal Act is amended— Further
amendment
of Act No.
49, 1906.
- (a) (i) by omitting from section forty-five the Sec. 45.
definition of "Occupier"; (Interpre-
tation.)
- (ii) by omitting from the same section the
definition of "Owner";
- (iii) by omitting from the same section the
definition of "Private lands";

(b)

Mining (Further Amendment).

No. 88, 1970

Sec. 46.
(For other
minerals.)

- (b) (i) by inserting in subsection two of section forty-six after the words "for all minerals" the words "other than coal and shale";
- (ii) by inserting in paragraph (a) of subsection four of the same section after the word "land" the words ", or a permit or lease under Part IVc of this Act affecting that land,";
- (iii) by inserting in the same paragraph after the word "license" where secondly and thirdly occurring the words ", permit or lease";
- (iv) by inserting in subsection five of the same section after the word "license" where firstly occurring the words "or by a permit or lease under Part IVc of this Act";
- (v) by inserting in the same subsection after the word "license" where secondly occurring the words ", permit or lease, as the case may be";
- (vi) by inserting in the same subsection after the word "license" where thirdly occurring the words ", permit or lease";
- (vii) by inserting in subsection six of the same section after the word "license" the words ", permit or lease";
- (viii) by inserting in subsection seven of the same section after the word "license" the words ", or of a permit or lease under Part IVc of this Act,";

Sec. 50.
(Warden
may grant
authority.)

- (c) by inserting in subsection one of section fifty next after the words "specified minerals" wherever occurring the words "(other than coal or shale)";

Sec. 57.
(Power to
define
boundaries.)

- (d) by inserting in subsection one of section fifty-seven after the words "any minerals" the words "other than coal and shale";

(e)

Mining (Further Amendment).

-
- (e) (i) by inserting in paragraph (a) of subsection No. 88, 1970
 six of section fifty-eight after the word "land" —
 where firstly occurring the words " , or a Sec. 58.
 permit or lease under Part IVc of this Act (Power to
 affecting that land,"; refuse, &c.).
- (ii) by inserting in the same paragraph after the
 word "lease" wherever occurring the words
 "under this Part";
- (iii) by inserting in the same paragraph after the
 word "license" where secondly and thirdly
 occurring the words "or the permit or lease
 under Part IVc of this Act,";
- (iv) by inserting in subsection seven of the same
 section after the word "license" where firstly
 occurring the words "or by a permit or lease
 under Part IVc of this Act";
- (v) by inserting in the same subsection after the
 word "license" where secondly occurring the
 words " , permit or lease, as the case may be";
- (vi) by inserting in the same subsection after the
 word "lease" where secondly occurring the
 words "under this Part";
- (vii) by inserting in the same subsection after the
 word "license" where thirdly occurring the
 words "or the holder of the permit or lease
 under Part IVc of this Act";
- (viii) by inserting in subsection eight of the same
 section after the word "license" the words
 " , or of a permit or lease under Part IVc
 of this Act,";
- (ix) by inserting in subsection nine of the same
 section after the word "license" the words
 " , or of a permit or lease under Part IVc of
 this Act,";

(f)

*Mining (Further Amendment).***No. 88, 1970**

Sec. 59A.
(Mining
for other
minerals.)

Sec. 62.
(Term of
lease.)

Sec. 62A.
(Renewal
for further
term.)

Sec. 63.
(Extent of
lease.)

Sec. 70A.
(Grant of
authority
to enter.)

Sec. 70B.
(Application
for lease.)

Subst.
sec. 70E.

Protection
of certain
collieries.

- (f) by inserting in subsection one of section 59A after the words "any mineral" the words "(not being coal or shale)";
- (g) by inserting in subsection four of section sixty-two after the word "minerals" the words "other than coal and shale";
- (h) by inserting in subsection two of section 62A after the word "minerals" the words "other than coal and shale";
- (i) (i) by omitting paragraph (c) of section sixty-three;
(ii) by inserting in paragraph (d) of the same section after the word "mineral" the words "(other than coal or shale)";
- (j) by inserting in subsection one of section 70A after the word "minerals" the words "other than coal and shale";
- (k) by inserting in subsection one of section 70B after the word "minerals" the words "(other than coal and shale)";
- (l) by omitting section 70E and by inserting in lieu thereof the following section :—

70E. An authority to enter for the purpose of prospecting, or a lease for mining, for minerals other than coal and shale on or in the freehold or leasehold lands held by the owner of a colliery situated within a colliery holding on or in which that owner has the right to mine for coal or shale or to carry out mining purposes in connection with mining for coal or shale may, subject to section 70D of this Act, be granted under this Division where, in the opinion of the Chief Inspector of Coal Mines appointed under the Coal Mines Regulation Act, 1912, prospecting or mining for that mineral or minerals may be carried on without detriment to the colliery or to the safety of the persons employed therein.

*Mining (Further Amendment).***6. Part IV_A of the Principal Act is amended—****No. 88, 1970**Further
amendment
of Act No.
49, 1906.

- (a) by omitting section 83A; Sec. 83A.
(Interpre-
tation.)
- (b) (i) by inserting in subsection one of section 83B after the word “mineral” the words “(other than coal or shale)”;
Sec. 83B.
(Exploration
licenses.)
- (ii) by omitting from paragraph (a) of the same subsection the word and letters “IV or V” and by inserting in lieu thereof the word and letters “IV, IV_B, IV_C or V”;
- (iii) by omitting from subsection seventeen of the same section the word “external”;
- (iv) by omitting from the same subsection the word and letters “IV or V” and by inserting in lieu thereof the word and letters “IV, IV_B, IV_C or V”;
- (c) by omitting from paragraph (a) of subsection one of section 83C the word and letters “IV or V” and by inserting in lieu thereof the word and letters “IV, IV_B, IV_C or V”. Sec. 83C.
(Disputes
between
holders of
licenses
and other
persons car-
rying on
operations
on land
under
license or
lease.)

7. Part IV_B of the Principal Act is amended—Further
amendment
of Act No.
49, 1906.

- (a) by omitting from section 83M the definition of “Private lands”; Sec. 83M.
(Interpre-
tation.)
- (b) by inserting in subsection one of section 83N after the words “private lands” the words “to mine for gold or any minerals other than coal and shale”. Sec. 83N.
(Special
leases of
Crown and
private
lands.)

8.

No. 88, 1970 8. Part V of the Principal Act is amended—

Further
amendment
of Act No.
49, 1906.

Sec. 84.
(Interpreta-
tion.)

- (a) by omitting from section eighty-four the definitions of “Occupier”, “Owner” and “Private lands”;

Sec. 86.
(Governor
may grant
leases for
purposes of
mining by
dredging,
&c., and of
what lands.)

- (b) by omitting from subsection one of section eighty-six the words “any other mineral” and by inserting in lieu thereof the words “any mineral other than coal or shale”;

Sec. 86A.
(Renewal of
leases for
further
term.)

- (c) by inserting in subsection two of section 86A after the word “minerals” the words “other than coal or shale”;

Sec. 86B.
(Lease of
land subject
to
exploration
license.)

- (d) (i) by inserting in paragraph (a) of subsection one of section 86B after the word “land” where firstly occurring the words “, or a permit or lease under Part IVc of this Act affecting that land,”;
- (ii) by inserting in the same paragraph after the word “lease” wherever occurring the words “under this Part”;
- (iii) by inserting in the same paragraph after the word “license” where secondly and thirdly occurring the words “or the permit or lease under Part IVc of this Act,”;
- (iv) by inserting in subsection two of the same section after the word “license” where firstly occurring the words “or by a permit or lease under Part IVc of this Act”;
- (v) by inserting in the same subsection after the word “lease” where secondly occurring the words “under this Part”;

(vi)

Mining (Further Amendment).

-
- (vi) by inserting in the same subsection after the word "license" where secondly occurring the words "or the holder of the permit or lease under Part IVc of this Act"; **No. 88, 1970**
- (vii) by inserting in subsection three of the same section after the word "license" the words ", or of a permit or lease under Part IVc of this Act,";
- (viii) by inserting in subsection four of the same section after the words "exploration license" the words ", or of a permit or lease under Part IVc of this Act,";
- (e) by inserting in subsection four of section ninety-nine after the word "mineral" the words "(not being coal or shale)"; **Sec. 99.**
(No obligation to grant lease.)
- (f) by inserting in subsection one of section one hundred and two after the word "thereon" the words "for gold and any mineral other than coal or shale". **Sec. 102.**
(Special condition enabling warden to grant authority to holder of miner's right to mine.)
- 9. Part VI of the Principal Act is amended—** **Further amendment of Act No. 49, 1906.**
- (a) by inserting in subsection one of section 124A after the word "Act" where firstly occurring the words ", Part IVc excepted,"; **Sec. 124A.**
(Complaint as to non-compliance with labour conditions.)
- (b) by inserting in subsection one of section one hundred and twenty-five after the word "enter" where firstly occurring the word ", permit". **Sec. 125.**
(Machinery, &c., on forfeited area.)

*Mining (Further Amendment).***No. 88, 1970** **10.** Part VII of the Principal Act is amended—

Further
amendment
of Act No.
49, 1906.

Sec. 133.
(Subjects
within
jurisdiction
of court.)

- (a) by inserting in paragraph (a) of subsection one of section one hundred and thirty-three after the words “business license,” the words “exploration license, permit,”;

Sec. 136.
(Suitor
to hold
miner's
right or
lease.)

- (b) by inserting in section one hundred and thirty-six after the word “authority,” the words “exploration license, permit,”;

Sec. 147.
(Warden
may grant
injunctions.)

- (c) by inserting in subsection one of section one hundred and forty-seven after the word “lease,” the words “exploration license, authority, permit,”;

Sec. 155.
(How com-
pensation
assessed.)

- (d) (i) by inserting in subsection one of section one hundred and fifty-five after the word “authority” wherever occurring the word “, permit”;
- (ii) by inserting in subsection two of the same section after the word “authority” the word “, permit”;
- (iii) by inserting in subsection four of the same section after the word “license” the word “, permit”;

Sec. 157A.
(Compensation.)

- (e) by inserting in section 157A after the word “authority” the word “, permit”.

Further
amendment
of Act No.
49, 1906.

Sec. 184.
(Purposes
for which
regulations
may be
made.)

11. Part X of the Principal Act is amended—

- (a) by omitting from paragraph (xix) of section one hundred and eighty-four the words “and authorities” and by inserting in lieu thereof the words “, authorities, exploration licenses and permits”;

(b)

Mining (Further Amendment).

- (b) by inserting in the same paragraph after the words "issue of leases" the words ", authorities, exploration licenses and permits". No. 88, 1970

12. Part XI of the Principal Act is amended—

Further
amendment
of Act No.
49, 1906.

- (a) by omitting from section one hundred and ninety-four the word "license" wherever occurring and by inserting in lieu thereof the words "exploration license, permit"; Sec. 194.
(Forgery of documents.)
- (b) (i) by omitting from section one hundred and ninety-five the words "Parts IV and V of"; Sec. 195.
(Wrongful obstruction on private lands.)
- (ii) by inserting in paragraph (a) of the same section after the word "enter" the words ", or permit";
- (iii) by omitting from the same paragraph the words "the said Parts respectively" and by inserting in lieu thereof the words "this Act";
- (c) by omitting from section one hundred and ninety-six the words "Part IV or V of". Sec. 196.
(Wrongful mining on private lands.)

13. The Principal Act is further amended by inserting next after Part IVB the following new Part :—

Further
amendment
of Act No.
49, 1906.

PART IV_C.**COAL AND SHALE EXPLORATION PERMITS AND COAL AND SHALE LEASES OF CROWN AND PRIVATE LANDS.**

83T. (1) In this Part, except to the extent that the context or subject-matter otherwise indicates or requires— Interpreta-
tion.

"Block" means a graticular section referred to in section 83U of this Act or, where the Minister so directs in a particular case, part of such a graticular section.

"Coal

No. 88, 1970

“Coal and shale lease” means a lease under this Part.

(2) Nothing in this Part affects the operation of the State Coal Mines Act, 1912.

Graticulation of the Earth's surface.

83U. For the purposes of this Part, the surface of the Earth shall be deemed to be divided—

- (a) by the meridian of Greenwich and by the meridians that are at a distance from that meridian of one minute, or a multiple of one minute, of longitude; and
- (b) by the equator and by parallels of latitude that are at a distance from the equator of one minute, or a multiple of one minute, of latitude,

in graticular sections, each of which is bounded—

- (c) by portions of two of those meridians that are at a distance from each other of one minute of longitude; and
- (d) by portions of two of those parallels of latitude that are at a distance from each other of one minute of latitude.

Points, etc., to be ascertained by reference to Australian Geodetic Datum.

83v. (1) Where, for the purposes of this Part or the regulations, or for the purposes of an order, instrument or notification under this Part or the regulations, it is necessary to determine the position on the surface of the Earth of a point, line or area, that position shall be determined by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6,378,160 metres and a flattening of $\frac{100}{29825}$ and by reference to the position of the Johnston Geodetic Station in the Northern Territory of Australia.

(2)

Mining (Further Amendment).

(2) That station shall be taken to be situated at 133 degrees, 12 minutes and 30.0771 seconds of East Longitude and at 25 degrees, 56 minutes and 54.5515 seconds of South Latitude and to have a ground level of 571.2 metres above the spheroid referred to in subsection one of this section.

No. 88, 1970

83w. (1) On and after the commencement of this Part—

Refusal of certain applications.

- (a) a person shall not prospect or mine for coal or shale by virtue of a tenement held under Part II of this Act;
- (b) the Minister may direct the warden to refuse an application for an authority to enter to search for coal or shale made under Part IV of this Act before the commencement of this Part.

(2) The warden shall comply with a direction given to him by the Minister under paragraph (b) of subsection one of this section.

(3) An application made after the commencement of this Part for—

- (a) an authority to prospect for coal or shale under Part II of this Act;
- (b) an authority to enter to search for coal and shale under Part IV of this Act;
- (c) an exploration license to explore for coal and shale under Part IVA of this Act; and
- (d) a lease to mine for coal or shale under Part III, Part IV, Part IVB or Part V of this Act,

shall be deemed to have been refused.

83x.

Mining (Further Amendment).

No. 88, 1970

With certain
exceptions,
prospecting
or mining
for coal
or shale
prohibited.

83x. (1) On and after the commencement of this Part, a person shall not prospect or search for coal or shale unless—

- (a) he prospects or searches for the coal or shale pursuant to an authority or license granted under Part II, Part IV or Part IVA of this Act as in force when the authority or license was granted;
- (b) he prospects for the coal or shale pursuant to a permit under this Part; or
- (c) he prospects for the coal or shale with the authority of the Minister under section 83y or 83AB of this Act.

(2) On and after the commencement of this Part, a person shall not commence or continue to mine for coal or shale unless—

- (a) the coal or shale is not reserved to the Crown and is within the boundaries, as defined immediately before that commencement, of a colliery holding required to be registered under section 35A of the Coal Mines Regulation Act, 1912, and that person—
 - (i) is the owner of the coal or shale and is the owner of the colliery holding; or
 - (ii) mines for the coal or shale with the concurrence of the owner thereof and is the owner of the colliery holding;
- (b) that person mines for the coal or shale pursuant to an authority to mine under section twenty-eight of the Mining Act 1874;
- (c) that person mines for the coal or shale pursuant to a lease granted under Part III, Part IV or Part IVB of this Act as in force when the lease was granted;

(d)

Mining (Further Amendment).

-
- (d) that person mines for the coal or shale pursuant to a provision of this or any other Act, being a provision in force before the commencement of this Part authorising mining by that person during the pendency of an application for a lease;
 - (e) that person mines for the coal or shale by virtue of section 83AU of this Act or pursuant to a lease under this Part; or
 - (f) mining for the coal or shale is authorised by the Minister under section 83Y of this Act.

(3) The provisions of this and any other relevant Act, and of the regulations, as in force immediately before the commencement of this Part apply to and in respect of—

- (a) a person prospecting or searching for coal or shale pursuant to paragraph (a) of subsection one of this section, the authority or license pursuant to which he is prospecting or searching and the renewal or extension of that authority or license;
- (b) a valid application—
 - (i) made before the commencement of this Part for a lease under Part III, Part IV, Part IVB or Part V of this Act to mine for coal or shale; and
 - (ii) subsisting at that commencement, and any consent or lease granted pursuant to that application;
- (c) an application for a lease by a person mining coal or shale pursuant to paragraph (b) of subsection two of this section;

(d)

*Mining (Further Amendment).***No. 88, 1970**

(d) mining for coal or shale pursuant to paragraph (b) or (c) of subsection two of this section, any lease or authority pursuant to which that mining is being carried on and the renewal of any such lease or authority; and

(e) mining referred to in paragraph (d) of subsection two of this section,

as if the Mining (Further Amendment) Act, 1970, had not been enacted.

(4) The provisions of this Part (this section and section 83AV excepted) do not apply to or in respect of any person, authority, license, lease, renewal or extension referred to in subsection three of this section or any mining or prospecting so referred to.

Minister
may
authorise
certain
persons to
mine coal
or shale.

83Y. (1) This section applies to and in respect of land other than—

(a) land that is the subject of a lease, authority, exploration license or permit granted under, or any holding registered under, this Act, or a repealed Act, before or after the commencement of this Part;

(b) land the subject of a subsisting and valid application for a lease made under this Act, or a repealed Act, before or after that commencement; and

(c) land in respect of which tenders have been called for the grant of a permit or lease under this Part.

(2) The Minister may authorise the owner of coal or shale that is not reserved to the Crown and is in land to which this section applies, or some person with

the

Mining (Further Amendment).

the concurrence of that owner, to prospect or mine for coal or shale upon such terms and conditions as the Minister specifies in the authority. **No. 88, 1970**

83z. (1) Where a person prospecting or searching for coal or shale pursuant to paragraph (a) of subsection one of section 83x of this Act applies in the prescribed form and manner to the Under Secretary, Department of Mines, for a lease under this Part of the land to which his authority or license to prospect or search for coal or shale relates, the Governor may grant such a lease to mine for coal or shale in or on that land, or a part thereof, or may refuse the application. Lease may be granted to certain applicants.

(2) For the purposes of subsection one of this section, the prescribed form and manner is the form and manner prescribed immediately before the commencement of this Part for the lodging of an application for a lease by the holder of an authority or license to prospect or search for coal or shale.

83AA. (1) Subject to this Part the Minister may grant a coal and shale exploration permit entitling the holder thereof to prospect for coal and shale, and the Governor may grant a coal and shale lease entitling the holder thereof to mine for coal and shale, on any lands within the State, whether Crown lands or private lands or partly Crown lands and partly private lands, and whether or not the coal or shale in or on those lands is reserved to the Crown, other than lands which are— Grant of permits and leases under this Part.

- (a) lands the subject of a permit or a lease under this Part;
- (b) Crown lands set apart under section two, or private lands exempted under section ten, of the State Coal Mines Act, 1912;

(c)

Mining (Further Amendment).

No. 88, 1970

- (c) lands subject to a lease, authority or license validly granted under Part I, Part II, Part III, Part IV, Part IVA, Part IVB or Part V of this Act before the commencement of this Part, or under a repealed Act, entitling the holder of the lease, authority or license to prospect or mine for coal and shale in or on the lands, unless the holder is the applicant for a lease under this Part; or
- (d) private lands the subject of an agreement to mine for coal and shale therein under section sixty-nine of this Act except where the parties to the agreement have concurred in the granting of a lease under this Part.

(2) Notwithstanding the provisions of subsection one of this section, a permit or a lease shall not be granted under this Part over—

- (a) the freehold or leasehold lands held by the owner of a colliery within the colliery holding;
- (b) any other lands within a colliery holding in which the owner of the colliery has the right to mine for coal or shale or to carry out mining purposes in connection with mining for coal or shale,

unless the owner of the colliery consents.

(3) The provisions of subsection two of this section do not apply in respect of a colliery holding where—

- (a) the time (including any extension thereof) for furnishing a plan or description and particulars of the colliery holding to the Under Secretary for Mines, in accordance with the provisions of the Coal Mines Regulation Act, 1912, has expired; and
- (b) such a plan or description and particulars were not so furnished before the expiration of that time (including any extension thereof).

(4)

Mining (Further Amendment).

(4) Subsection two of this section does not extend to an abandoned colliery holding in respect of which the requirements of section thirty-seven and of subsection one of section thirty-nine of the Coal Mines Regulation Act, 1912, have been complied with, unless the Minister in any particular case, otherwise directs.

(5) Upon complaint in writing being made to the Minister that mining operations have been abandoned in or on the freehold and leasehold and other lands comprised within a colliery holding, or that bona fide mining operations are not being carried on therein or thereon, the Minister may, after inquiry and report by the warden, direct by order published in the Gazette, that the provisions of subsection two of this section shall cease to extend to those freehold and leasehold and other lands or such part thereof as he may specify in the order, and any such order shall, upon publication, have effect according to its tenor.

(6) Subject to this section, a permit or a lease granted under this Part shall be deemed not to extend to the surface of any land—

- (a) within fifty yards of land that, at the prescribed time, was bona fide in use as a garden or orchard;
- (b) within two hundred yards of a building that, at the prescribed time, was the principal residence of its occupier, whether or not the building is on the land to which the permit or lease relates;
- (c) on which, at the prescribed time, there was a substantial building, dam, reservoir or other valuable improvement other than an improvement effected for mining purposes and not bona fide used for any other purpose; or
- (d) that is, at the prescribed time, under cultivation, without the consent of the owner of the surface.

(7)

Mining (Further Amendment).

No. 88, 1970

(7) Subject to this section—

- (a) operations pursuant to a permit granted under this Part shall not, without the consent of the owner of the surface, be conducted below the surface of land to which the permit does not, by virtue of subsection six of this section extend; and
- (b) unless the Minister otherwise directs, a lease under this Part shall not be granted of land below the surface of land to which the lease does not, by virtue of subsection six of this section, extend.

(8) Notwithstanding subsection six of this section a coal and shale lease may be granted of such portion of the surface of land referred to in paragraph (d) of that subsection as the Minister after full inquiry considers is necessary for giving access to the coal and shale therein, subject to the amount of compensation being first agreed to or assessed as provided by section 83AZ of this Act.

(9) Where the leasing of the surface of any land is prohibited by paragraph (c) of subsection six of this section, the Minister may prohibit mining operations in or on a defined area that adjoins that land and is—

- (a) wholly within that land;
- (b) wholly within other land;
- (c) partly within that land and partly within other land.

(10) Where the Minister gives a direction referred to in paragraph (b) of subsection seven of this section, the lease to which the direction relates shall be granted only at such depths and upon such conditions as are determined by the Minister after full inquiry.

(11)

Mining (Further Amendment).

(11) Without the specific consent of the Minister, a permit does not authorise surveys or drilling or other prospecting operations upon the surface of Crown land exempted from occupation under section fourteen of this Act. No. 88, 1970

(12) The Minister—

- (a) may refuse to give a consent for the purposes of subsection eleven of this section; or
- (b) may, for those purposes, give his consent unconditionally or subject to such conditions as he thinks fit,

but he shall not, in the case of land within a national park, state park or historic site under the National Parks and Wildlife Act, 1967, give his consent for those purposes without the approval of the Minister administering that Act.

(13) For the purposes of this section—

(a) the prescribed time is—

- (i) in relation to a permit—the time when tenders for the permit were invited;
- (ii) in relation to a coal and shale lease granted to a person who, when he applied for the lease, was the holder of a permit affecting the land leased—the time when tenders for the permit were invited;
- (iii) in relation to a coal and shale lease applied for by a person who, at the time he made the application, was the holder of an authority to enter—the time when the application for the authority to enter was made; and

(iv)

Mining (Further Amendment).

No. 88, 1970

- (iv) in relation to a coal and shale lease other than a coal and shale lease referred to in subparagraph (ii) or (iii) of this paragraph—the time when application was made for the lease;
- (b) cultivation for the growth and spread of pasture grasses shall be deemed not to be cultivation within the meaning of paragraph (d) of subsection six of this section unless, in a particular case, the Minister is of the opinion that the circumstances so warrant; and
- (c) the opinion of the Minister as to whether—
 - (i) an improvement referred to in paragraph (c) of subsection six of this section is substantial or valuable; and
 - (ii) whether or not land is under cultivation within the meaning of paragraph (d) of that subsection,

shall, in relation to any matter arising under that subsection, be final and conclusive.

Minister
may author-
ise certain
prospecting
operations.

83AB. (1) In this section—

“prescribed authority” means—

- (a) the Department of Mines;
- (b) a body that, for the purposes of an Act, is a statutory body representing the Crown or a body that is declared by the Governor, by order published in the Gazette, to be such a body for the purposes of this Part; or
- (c) a person nominated by the Minister;

“prescribed land” means land set apart under subsection two of this section.

(2)

Mining (Further Amendment).

(2) The Governor may, by order published **No. 88, 1970** in the Gazette, set apart land that in his opinion contains coal and shale that should be retained for the purposes of the steel industry or power generation, or for special purposes.

(3) Where the Minister considers it is in the public interest to do so, he may authorise the carrying out by or on behalf of a prescribed authority of surveys and drilling and other prospecting operations in respect of coal or shale in or on prescribed land or, in the case of the Department of Mines, land that is not prescribed land.

(4) Where the Minister authorises surveys or drilling or other prospecting operations under this section, the authority does not extend to surveys or drilling or other prospecting operations that would not be authorised—

- (a) if the authority were a permit; and
- (b) if the prescribed time referred to in section 83AA of this Act were the time the authority is given.

(5) Surveys and drilling and other prospecting operations that, but for this section, would be unlawful are lawful if—

- (a) they are authorised pursuant to subsections three and four of this section; and
- (b) they are carried out in accordance with conditions imposed by the Minister under subsection six of this section.

(6)

Mining (Further Amendment).

No. 88, 1970

(6) In giving his authority under subsection three of this section, the Minister—

(a) shall, in relation to private land, impose conditions for and with respect to—

(i) notifying the owner of the land, and any occupier of the land who is not the owner, of the intentions of the authorised prescribed authority with respect to the surveys and the drilling and other prospecting operations to which the authority relates; and

(ii) agreement as to compensation and, upon a failure to reach agreement, the assessment of compensation; and

(b) may, in relation to Crown land and private land, impose such conditions, or such other conditions, as he thinks fit.

(7) A condition imposed pursuant to subparagraph (ii) of paragraph (a) of subsection six of this section shall, in so far as the warden is, pursuant thereto, required to assess compensation, be deemed to be a direction under this Act for the assessment by the warden of the compensation referred to in the condition.

Minister
may invite
tenders for
permits.

83AC. (1) The Minister may, by order published in the Gazette describing not more than one hundred blocks—

(a) invite tenders for the grant of a permit in respect of the block or blocks described in the order; and

(b) specify a period within which those tenders may be lodged.

(2)

Mining (Further Amendment).

(2) Forthwith after an order has been published in the Gazette pursuant to subsection one of this section, the Minister shall, by advertisement published in a newspaper circulating in the district where the block or blocks described in that order is or are situated, give notice of the publication in the Gazette of that order and the details of the order. No. 88, 1970

83AD. (1) A tender for a permit shall not be considered for acceptance unless it specifies the amount tendered and— Tenders
for
permits.

- (a) it is in the prescribed form and is lodged in the prescribed manner with the Under Secretary, Department of Mines, before the expiration of the period specified in the order inviting the tender as the period within which tenders might be lodged;
- (b) it is a tender for all the blocks specified in the order inviting the tender;
- (c) it is accompanied by—
 - (i) a fee of one thousand dollars;
 - (ii) evidence of the financial standing of the tenderer;
 - (iii) evidence of the technical qualifications of the tenderer or his technical advisers;
- (d) it includes details of a proposed scheme for the exploration of the blocks to which the tender relates, being a scheme—
 - (i) that provides for a geological or other survey of the blocks to which the tender relates to be carried out to the satisfaction of the Minister by or under the direction of a person approved by the Minister;
 - (ii)

No. 88, 1970

- (ii) that specifies particulars of the geological or other survey proposed and the other operations proposed to be carried out by the tenderer, and the period during which the tenderer proposes to carry out the survey and those operations;
- (iii) that provides for systematic tunnelling, drilling or shaft sinking within the blocks to which the tender relates; and
- (e) it is accompanied by a deposit of an amount equal to ten per centum of the amount tendered.

(2) If a tender for a permit is not accepted, an amount of nine hundred dollars shall be refunded to the tenderer together with the amount deposited pursuant to paragraph (e) of subsection one of this section.

Grant of permit.

83AE. (1) Subject to this Part—

- (a) the Minister may grant a permit to a tenderer therefor in respect of an area advertised pursuant to section 83AC of this Act subject to such conditions, provisions and stipulations as he thinks fit to impose; or
- (b) he may refuse to grant such a permit to such a tenderer.

(2) Nothing in this Part shall be construed as operating to prevent the Minister from granting a permit to a tenderer notwithstanding that the tenderer may not have complied in all respects with the provisions of the regulations.

(3) The Minister shall notify in the Gazette the grant of a permit.

(4)

Mining (Further Amendment).

(4) A permit, while it remains in force, ^{No. 88, 1970} authorises the holder thereof to explore in the area to which the permit relates for coal and shale, and to carry out such operations and works in that area as are necessary for that purpose, subject to—

- (a) the provisions of this Act and the regulations; and
- (b) the conditions, provisions and stipulations imposed by the Minister in relation to the permit,

that are from time to time in force.

(5) The Minister shall not grant a permit to a tenderer unless, within thirty days after requisition by the Minister, the tenderer—

- (a) pays the balance of the tender price; and
- (b) gives security to the satisfaction of the Minister for the due compliance by the tenderer with—
 - (i) the conditions, provisions and stipulations imposed by the Minister in relation to the permit; and
 - (ii) in so far as they affect the permit, the provisions of this Act and the regulations.

83AF. (1) A permit expires on such day as is specified therein, being a day that is not later than two years after the execution of the permit by the Minister. ^{Term, execution and renewal of permit.}

(2) It is a condition of a permit, deemed to have been imposed by the Minister, that the holder will execute the permit within one month after being notified in writing by the Under Secretary, Department of Mines, of the grant thereof or within such further period as, pursuant to an application made before the expiration of that period of one month, the Under Secretary, Department of Mines, may allow before or after the expiration of that period of one month.

(3)

Mining (Further Amendment).

No. 88, 1970

(3) Where a person is a joint tenderer for a permit and fails to comply with the condition referred to in subsection two of this section, the Minister may, if he thinks fit, cancel the permit in so far as it relates to that person and the permit shall, in the event of such a cancellation, have effect as if it had been granted to the person or persons who complied with that condition.

(4) Subject to this section, where—

- (a) application is made not later than one month before the expiration of a permit or renewed permit for renewal of the permit or renewed permit; and
- (b) the Minister is satisfied that further time within which to complete exploration of the area to which the permit relates is necessary,

the Minister may grant a renewal of the permit for a period not exceeding twelve months subject to such conditions, provisions and stipulations as he thinks fit including, if he thinks fit, conditions, provisions and stipulations limiting the area of land in respect of which the permit is to continue in force.

(5) Where an application is made for the renewal or further renewal of a permit and the renewal or further renewal is not granted or refused before the day on which the permit or renewal would, but for this subsection, expire—

- (a) the period of the permit shall be deemed to have been extended until the application is granted or refused;
- (b) the Minister may grant or refuse the application after the day on which the permit would, but for this subsection expire; and

(c)

Mining (Further Amendment).

- (c) the provisions of this Act applicable to permits No. 88, 1970 and the holders thereof shall apply to and in respect of a permit and the holder thereof during any period for which it is deemed by paragraph (a) of this subsection to be extended.

83AG. The Minister may—

Powers of
the
Minister.

- (a) suspend, or postpone compliance with, a condition, provision or stipulation imposed by him in relation to a permit subject to any such suspension or postponement being, on any one occasion, for a period not exceeding three months;
- (b) at the request of the holder of a permit—
 - (i) vary a condition, provision or stipulation imposed by him in relation to the permit; or
 - (ii) cancel the permit;
- (c) cancel a permit upon a failure to comply with a condition, provision or stipulation imposed by him in relation to the permit or upon a failure to comply with a provision of this Act or the regulations in so far as they affect the permit;
- (d) without payment of compensation, withdraw from the land to which a permit relates an area of that land required for a public purpose and cancel the permit in so far as it relates to the land withdrawn; or
- (e) if he is of the opinion, after investigation and report by the Chief Inspector of Coal Mines appointed under the Coal Mines Regulation Act, 1912, that the cancellation of a permit as to part of the land to which the permit relates will not detrimentally affect the operations, or proposed operations, of the holder of the permit—cancel the permit, in so far as it relates to that part of that land, without payment of compensation.

83AH.

No. 88, 1970

Disposal
of tender
moneys.

83AH. (1) The Minister shall cause to be paid to an account within the Special Deposits Account at the Treasury moneys received in connection with tenders for a permit and any moneys paid under subparagraph (v) of paragraph (b) of subsection one of section 83AI of this Act by the holder of that permit.

(2) From the moneys referred to in subsection one of this section that have been paid in connection with a permit to the account so referred to the Minister, with the concurrence of the Treasurer, shall cause to be paid—

- (a) to unsuccessful tenderers for the permit—the fees and deposits refundable to them under subsection two of section 83AD of this Act;
- (b) moneys directed by the Minister to be paid under subsection five of section 83AI of this Act in relation to any lease granted to the holder of the permit; and
- (c) to the Consolidated Revenue Fund—
 - (i) all fees paid by tenderers for the permit that are not refundable under subsection two of section 83AD of this Act;
 - (ii) any fee paid under subparagraph (v) of paragraph (b) of subsection one of section 83AI of this Act by the holder of the permit; and
 - (iii) all moneys received in connection with the permit that are not paid out under paragraph (a) or (b) of this subsection.

Grant of
lease to
holder of
permit.

83AI. (1) Subject to this section, where—

- (a) an application for a lease under this Part is made in the prescribed form and manner;
- (b) the application—
 - (i) is made by the holder of a permit while the permit is in force;

(ii)

Mining (Further Amendment).

- (ii) is in respect of an area to which the **No. 88, 1970** permit relates, comprising not more than twelve blocks and not less than six blocks which together form a rectangle of which one side comprises three adjoining blocks;
 - (iii) specifies particulars of the blocks applied for;
 - (iv) specifies the proposals of the applicant for the development of the area applied for;
 - (v) is accompanied by a fee of two hundred dollars; and
- (c) the applicant and the Minister have agreed as to a rate of royalty, if any, to be paid in excess of the prescribed rate,

the Governor may grant a lease under this Part of the area in respect of which the application is made.

(2) The Governor may—

- (a) refuse an application for a lease under subsection one of this section where the applicant has failed to comply with the conditions, provisions and stipulations relating to the permit by virtue of which application for the lease was made;
- (b) refuse such an application where the applicant and the Minister have failed, within a time specified in a notice in writing given by the Minister to the applicant, to reach agreement for the purposes of paragraph (c) of subsection one of this section; or
- (c) defer the granting of a lease under subsection one of this section until such time as the Minister is satisfied that the applicant has complied with the conditions, provisions and stipulations relating to the permit by virtue of which the application for the lease was made.

(3)

Mining (Further Amendment).

No. 88, 1970

(3) Where a lease is granted under subsection one of this section and the permit by virtue of which the lease was applied for was in force immediately before the grant, the permit and any renewal thereof shall be deemed, on the grant of the lease, to have ceased to have any force or effect.

(4) For the purposes of this section, a block adjoins another block if the graticular section that constitutes or includes that block, and the graticular section that constitutes or includes the other block, have a side in common.

(5) Where a lease is granted under subsection one of this section, the Minister may, with the concurrence of the Treasurer, direct that all or any part of the moneys received from tenderers for the permit by virtue of which the lease was granted (not being moneys refunded or refundable under subsection two of section 83AD of this Act) be paid at such times, and in such proportions as the Minister thinks fit, to the owners of coal and shale not reserved to the Crown in the land leased.

Minister
may call
for
tenders
for leases.

83AJ. (1) Where—

- (a) a permit expires or is cancelled or otherwise determined as to a block or blocks and that block is not, or those blocks are not, the subject of an application for a lease under this Part; or
- (b) the Minister is of the opinion that the granting of a permit as to a block or blocks, not previously the subject of a permit, is unnecessary by reason of previous testing by way of drilling, tunnelling, shaft sinking or otherwise of the land comprised in that block or blocks or for any other reason he may deem sufficient,

the Minister may, by order published in the Gazette, invite tenders for the grant of a lease under this Part in respect of not more than twelve of those blocks and specify a period within which tenders may be lodged.

(2)

Mining (Further Amendment).

(2) Forthwith after an order has been published in the Gazette pursuant to subsection one of this section, the Minister shall, by advertisement published in a newspaper circulating in the district where the block or blocks described in that order is or are situated, give notice of the publication in the Gazette of that order and the details of the order. No. 88, 1970

83AK. (1) A tender in response to an invitation under section 83AJ of this Act shall not be considered for acceptance unless— Tenders
for leases.

- (a) it is in the prescribed form and is lodged in the prescribed manner with the Under Secretary, Department of Mines, before the expiration of the period that was specified in the order inviting the tender as the period within which tenders might be lodged;
- (b) it complies with section 83AL of this Act;
- (c) it is a tender for all the blocks specified in the order inviting the tender;
- (d) it is accompanied by—
 - (i) a fee of one thousand dollars;
 - (ii) evidence of the financial standing of the tenderer;
 - (iii) evidence of the technical qualifications of the tenderer or his technical advisers;
 - (iv) particulars of the proposals of the tenderer for the development of the area tendered for; and
- (e) where the tender provides for the payment of cash (not being a payment by way of royalty) it is accompanied by a deposit of an amount equal to ten per centum of the amount of that cash payment.

(2)

Mining (Further Amendment).

No. 88, 1970

(2) If a tender under subsection one of this section is not accepted, an amount of nine hundred dollars shall be refunded to the tenderer together with the amount deposited pursuant to paragraph (e) of subsection one of this section.

Tender
required
to specify
considera-
tion for
grant of
lease.

83AL. (1) A tender in response to an invitation under section 83AJ of this Act complies with this section—

(a) if, where the order inviting the tender does not specify a cash reserve price, the tender specifies—

(i) an amount that the tenderer will pay in consideration of the grant of a lease of the block or blocks to which the tender relates;

(ii) a rate of royalty in excess of the prescribed rate that the tenderer will pay in consideration of the grant of such a lease, whether or not the coal or shale in the block or blocks to which the tender relates is reserved to the Crown and whether or not any of that coal or shale not so reserved is owned by the tenderer;

or

(iii) such an amount and such a rate; or

(b) if, where the order inviting the tender specifies a cash reserve price, the tender specifies that, in consideration of the grant of a lease of the block or blocks to which the tender relates the tenderer will pay, in addition to the amount of the cash reserve price—

(i) a specified amount; or

(ii) a specified rate of royalty in excess of the prescribed rate, whether or not the coal or shale in the block or blocks to which the tender relates is reserved to the Crown and whether or not any of that coal or shale not so reserved is owned by the tenderer.

(2)

Mining (Further Amendment).

(2) A tender in response to an invitation under section 83AJ of this Act does not comply with this section unless it specifies—

- (a) whether or not the amount offered to be paid otherwise than by way of royalty (including the amount of any cash reserve price) will be paid by instalments; and
- (b) if that amount is to be paid by instalments, the period, not exceeding five years, during which the instalments will be paid.

83AM. (1) The Governor may refuse to accept a tender lodged in response to an invitation under section 83AJ of this Act. ^{Governor may grant lease.}

(2) Where—

- (a) a tender lodged in response to an invitation under section 83AJ of this Act is not refused under subsection one of this section; and
- (b) the tenderer within thirty days after requisition by the Minister, pays an amount equal to so much of the balance of his tender price as is not payable under an agreement pursuant to section 83AN of this Act or payable by way of royalty,

the Governor may, subject to subsection three of this section, grant to the tenderer a lease of the block or blocks to which the tender relates.

(3) A lease granted pursuant to subsection two of this section may be granted subject to specified conditions, provisions and stipulations including stipulations for the payment of the tender price (including royalty).

83AN.

No. 88, 1970

Payment
for grant of
lease may
be made by
instalments.

83AN. (1) The Minister and a person who successfully tenders in response to an invitation under section 83AJ of this Act or who applies for a lease under section 83AO of this Act may enter into an agreement in writing for or in relation to the payment, by instalments, of the amount to be paid in respect of the grant of a lease otherwise than by way of royalty, together with interest at such rate as the Minister may, with the concurrence of the Treasurer, determine on so much of that amount as from time to time remains unpaid.

(2) The period specified in an agreement under this section as the period within which an amount payable by instalments is to be paid shall not exceed five years.

(3) An instalment or interest that is due under an agreement under this section and has not been paid is payable by the registered holder of the lease to which the agreement relates and is recoverable in any court of competent jurisdiction as a debt due to the Crown.

(4) Where an instalment or interest due and payable under an agreement under subsection one of this section is outstanding for more than thirty days the Governor may cancel the lease to which the agreement relates.

Governor
may grant
leases in
certain
circum-
stances.

83AO. (1) Notwithstanding any other provision of this Part, the Minister may, where he is satisfied it is necessary or desirable in the public interest to do so, either for additions to existing colliery holdings or for the purpose of opening new mines, invite any person to make application, in the form and manner prescribed, for a coal and shale lease of a block or blocks specified in the invitation.

(2)

Mining (Further Amendment).

(2) The invitation referred to in subsection No. 88, 1970 one of this section shall specify the rent, royalty, cash payment or instalments or other conditions or stipulations subject to which the Minister would be prepared to recommend the grant of a lease.

(3) The Governor may grant a lease for which application has been made pursuant to this section and impose in connection with the grant any conditions, provisions and stipulations (including stipulations as to the cash payments or instalments to be paid, or the rate of royalty in excess of the prescribed rate to be paid on each ton of coal and shale won) or he may refuse any such application.

83AP. (1) The Minister shall cause to be paid to an account within the Special Deposits Account at the Treasury— Disposal of certain moneys.

- (a) moneys received in connection with tenders in response to an invitation under section 83AJ of this Act (including any cash reserve price but not including royalties) whether paid by instalments or otherwise;
- (b) moneys paid in consideration of the grant of a lease under section 83AO of this Act, not being royalties; and
- (c) interest paid pursuant to an agreement under section 83AN of this Act.

(2) From the moneys referred to in subsection one of this section that have been paid to the account so referred to, the Minister shall, with the concurrence of the Treasurer, cause to be paid—

- (a) to unsuccessful tenderers in response to an invitation under section 83AJ of this Act, the fees and deposits refundable to them under section 83AK of this Act;

Mining (Further Amendment).

No. 88, 1970

(b) to the Consolidated Revenue Fund—

- (i) fees paid by tenderers in response to an invitation under section 83AJ of this Act that are not refundable under section 83AK of this Act;
- (ii) moneys payable or apportioned to the Crown under subsection three of this section; and
- (c) moneys apportioned under subsection three of this section to owners of coal and shale not reserved to the Crown.

(3) Moneys received in connection with a lease under section 83AM or 83AO of this Act that are not payable under paragraph (a), or subparagraph (i) of paragraph (b), of subsection two of this section—

- (a) shall, where the lease is a lease of coal and shale reserved to the Crown, be paid to the Crown;
- (b) shall, where the lease is a lease of coal and shale not reserved to the Crown, be apportioned between all the owners of the coal and shale in the proportions in which the Minister calculates or estimates the coal and shale is owned by each of them; and
- (c) shall, where the lease is a lease of coal and shale of which part is, and part is not, reserved to the Crown, be apportioned between the Crown and all the owners of the coal and shale in the proportions in which the Minister estimates the coal and shale is reserved to the Crown and is owned by each owner of the coal and shale.

Powers of Governor in relation to grant of leases.

83AQ. (1) A coal and shale lease shall be granted in the name and on behalf of Her Majesty and the Governor may grant such a lease, notwithstanding that the applicant for the lease has not in every respect complied with the regulations.

(2)

Mining (Further Amendment).

(2) The Governor may, subject to the provisions of this Act, grant an application for a coal and shale lease in a modified or amended form. No. 88, 1970

(3) The Governor may refuse an application for a coal and shale lease notwithstanding that the applicant has complied in every respect with the provisions of this Part and of the regulations, and the refusal shall take effect from the time of publication of notice thereof in the Gazette.

(4) A coal and shale lease may, at the request in writing of the applicant, be granted to a person named by him.

83AR. (1) A coal and shale lease may be granted for any term not exceeding twenty years. Term and renewal of lease.

(2) Subject to this Act, a coal and shale lease may, with the consent of the Governor, be successively renewed from time to time for any further term not exceeding twenty years from the expiry of the lease or the last renewal thereof, as the case may be :

Provided that application for such a renewal shall be made during the last five years of the term of the lease or last renewal thereof, as the case may be, or where the term of the lease or the last renewal thereof does not exceed five years, during the last year of that term.

(3) The renewal shall be subject to such rents, royalties, and other covenants and conditions as the Governor may approve, and may authorise the carrying on of such mining purposes as the Governor may approve.

83AS. A lease of one or more of the following may be granted under this Part : — Extent of lease.

(a) the surface and the subjacent soil;

(b)

*Mining (Further Amendment).*No. 88, 1970

- (b) the soil below a specified depth from the surface only;
- (c) the surface and of the soil to a specified depth below the surface;
- (d) the soil below the surface between specified depths.

Rent.

83AT. (1) Subject to this section, a coal and shale lease that extends to the whole or any portion of the surface of the land to which the lease relates shall, in respect of that surface or portion thereof, reserve an annual rent—

- (a) in the case of Crown lands, of one dollar; and
- (b) in the case of private land (not being private land owned by the holder of the lease) of four dollars,

for each acre or portion of an acre.

(2) Where an agreement in writing between the applicant for a lease and the owner of private land to which the application for the lease relates is lodged with the Under Secretary, Department of Mines, and provides for the payment of rental for the surface of the land at a rate other than that specified in paragraph (b) of subsection one of this section, the rent reserved by the lease in respect of the surface to which the agreement relates shall be that specified in the agreement.

(3) In addition to any rent that may be reserved in accordance with subsection one or two of this section, every lease under this Part which is wholly or partly of lands which contain coal or shale not reserved to the Crown shall reserve in favour of the owner of the coal or shale an annual rent of fifty cents for each acre or portion of an acre of the lands which contain the coal and shale.

(4)

Mining (Further Amendment).

(4) Rent referred to in this section shall be No. 88, 1970
paid—

- (a) in the case of rent in respect of Crown lands, to the Crown;
- (b) in the case of rent in respect of private land, to the owner of the land; and
- (c) in the case of rent in respect of coal and shale not reserved to the Crown, to the owner of the coal and shale,

at the times, and in the manner, prescribed.

83AU. (1) Where—

- (a) an application for a lease has been made under this Part otherwise than by way of a tender; or
- (b) a tender for a lease has been accepted under this Part,

Mining
during
pendency
of applica-
tion.

the applicant or the successful tenderer, as the case may be, his nominee or legal representative or the committee or manager of his estate or property may, until the lease is granted or refused and subject to the consent of the Minister and to any conditions (including conditions as to the payment of rent and royalty and such compensation as may be agreed upon or determined by the warden) or restrictions imposed by the Minister, occupy for mining purposes the land applied for and mine thereon and therein and construct and use thereon and therein works for mining purposes and carry out such other purposes as are necessary for the efficient mining of the land leased.

(2) The Minister may, by notice in writing to an applicant or a successful tenderer, as the case may be, his nominee or legal representative or the committee or manager of his estate or property, revoke any consent referred to in subsection one of this section or may, in like manner, vary any such consent as he may think fit.

(3)

No. 88, 1970

(3) A consent referred to in subsection one of this section shall not be granted in respect of land within a national park, state park or historic site under the National Parks and Wildlife Act, 1967, unless and until notice of the application for a lease has been laid before both Houses of Parliament as required by subsection two of section twenty-four of that Act, and unless either—

- (a) no notice of a resolution disallowing the application has been given within the time specified in that subsection; or
- (b) where notice has been so given no such resolution has been passed.

Royalties.

83AV. (1) A person entitled to mine for coal or shale under a lease or consent granted pursuant to an application made, or a tender invited, after the twentieth day of November, one thousand nine hundred and seventy under this or any other Part of this Act shall, at the times and in the manner prescribed, pay to the Minister in respect of coal and shale reserved to or owned by the Crown won from the lands so leased, and to the Minister on behalf of the owner of coal and shale not so reserved won from the lands so leased, such royalty as may be prescribed in addition to royalty which the lessee has agreed to pay at a rate in excess of the prescribed rate.

(2) Upon any renewal of a lease referred to in subsection one of this section the Governor may, in respect of the renewal, vary the amount payable by way of royalty (excluding royalty that the lessee has agreed to pay at a rate in excess of the prescribed rate) and the amount so determined by the Governor in respect of any such renewal shall, in relation to the lease, be deemed to be the amount prescribed.

(3) Where royalty is paid by a person to the Minister on behalf of the owner of coal and shale not reserved to the Crown that has been won from lands leased

Mining (Further Amendment).

leased to that person, or is recovered under subsection No. 88, 1970 four of this section, the Minister shall, at the times and in the manner prescribed pay to the owner of the coal and shale the amount so paid or recovered, less one-eighth of that amount (which the Minister is hereby authorised to deduct from that amount) and pay the amount so deducted to the Consolidated Revenue Fund.

(4) Royalty payable under subsection one of this section may be recovered in a court of competent jurisdiction as a debt due to the Crown.

(5) Section 108c of this Act applies to and in respect of royalty payable under subsection one of this section other than royalty which the lessee has agreed to pay at a rate in excess of the prescribed rate.

(6) The regulations may prescribe—

- (a) rates of royalty according to amount per ton on all coal or shale won; and
- (b) the manner in which the amount of coal or shale won shall be determined.

(7) A provision of this Act (a provision of this Part and sections one hundred and eighty-four and one hundred and eighty-six of this Act excepted) that relates to regulations prescribing rates of royalty in respect of coal or shale does not apply to or in respect of coal or shale won pursuant to a lease or consent granted pursuant to an application made, or a tender invited, after the twentieth day of November, one thousand nine hundred and seventy under this or any other Part of this Act.

83AW. (1) A coal and shale lease shall include among the covenants by the lessee a covenant to the effect that he will not—

- (a) without the authority of the Governor given under subsection two of this section; or
- (b)

Certain
mining
operations
not to be
carried on
without
authority.

Mining (Further Amendment).

No. 88, 1970

(b) in breach of a condition imposed by the Governor in granting such an authority, mine in or on the land leased for a mineral other than coal or shale.

(2) Where the lessee under a coal and shale lease applies to the Minister for authority to mine in or on the land leased for a mineral other than coal or shale, the Governor may, subject to conditions or otherwise, by order authorise the applicant so to do.

(3) The Governor may cancel a coal and shale lease for breach of the covenant referred to in subsection one of this section.

Incidental
powers of
lessee.

83AX. A coal and shale lease, in so far as it does not provide to the contrary, confers a right of generally doing such acts or things in respect thereof as are necessary for efficiently mining the land leased and of carrying out any mining purpose.

Labour
conditions.

83AY. A coal and shale lease shall contain such labour conditions as are prescribed.

Compensa-
tion.

83AZ. (1) Where, in respect of land that is, or includes, private land—

- (a) an application for a lease under this Part has been made or a tender for such a lease has been accepted and the Minister has, in respect of the application or tender, given a consent under section 83AU of this Act;
- (b) the Governor has granted a lease under this Part;
or
- (c) the Minister has granted a permit,

and

Mining (Further Amendment).

and the applicant or tenderer for, or the holder of, the lease or permit determines, or is required, to carry out mining or prospecting operations in or on any part of that private land he shall, before commencing those operations, notify the owner, and any occupier, of that part of that land of his intention to carry out those operations. No. 88, 1970

(2) An applicant or tenderer or holder referred to in subsection one of this section may treat and agree with any person who suffers, or is likely to suffer, loss or damage caused by the operations so referred to as to the compensation to be paid for the loss or damage.

(3) An agreement made under subsection two of this section shall not be valid unless it is in writing and signed by the parties thereto or their agents and lodged with the Under Secretary, Department of Mines.

(4) Where, at the expiration of the prescribed period, parties entitled to enter into an agreement under subsection two of this section have not, as provided by subsection three of this section, entered into a valid agreement, any such party may apply to the warden who shall assess the compensation referred to in subsection two of this section and determine the persons entitled thereto.

83AAA. (1) Where, in respect of any part of land to which a permit or a coal and shale lease relates a person is authorised to prospect or mine for gold or any mineral other than coal or shale, by virtue of— Settlement of certain disputes.

(a) any lease, authority, license or other holding under Part I, Part II, Part III, Part IV, Part IVA, Part IVB or Part V of this Act or a valid application for any such lease; or

(b) any agreement under section sixty-nine of this Act; or

(c)

No. 88, 1970

(c) his ownership of that mineral; or

(d) an agreement with the owner of that mineral,

and any dispute arises between the holder of the permit or lease and the person so authorised with respect to the operations carried out or proposed to be carried out by that holder or that person, either or both of them may refer the matter for determination to the Minister who shall thereupon refer the matter to the warden for an inquiry and report.

(2) Upon receipt of the warden's report following a reference under subsection one of this section the Minister may make such order and give such directions to the persons in dispute or either of them as in the public interest and in the circumstances of the case may seem to him to be just and equitable and by the order may direct the payment by either or both of those persons of any costs and expenses incidental to the conduct of the inquiry.

Rights of
applicant
or success-
ful tenderer
for lease.

83AAB. Where an application for a coal and shale lease has been duly made or where a tender for such a lease has been accepted, the applicant or the successful tenderer, as the case may be, his nominee or legal representative or the committee or manager of his estate or property may, in respect of so much of the area applied or tendered for as is Crown lands, by virtue of the application or tender until in the case of the applicant, his application is granted or refused or, in the case of the successful tenderer, his lease is granted—

(a) proceed in the warden's court for trespass against any person entering upon, occupying, or interfering with that land, not having a lawful title thereto originating prior to the application or publication of the invitation to tender;

(b) proceed in the warden's court against any person claiming to have an interest in that land under a miner's right or a business license, for the purpose of having the claim declared invalid;

(c)

Mining (Further Amendment).

- (c) apply to the warden for an injunction under this Act against any person claiming to be legally or equitably interested in the land. No. 88, 1970

83AAC. (1) In any proceedings for trespass brought in pursuance of paragraph (a) of section 83AAB of this Act, the complainant may claim damages for the trespass and for the recovery of any mineral taken by the defendant from the land, or the value thereof. Damages,
etc., for
trespass.

(2) If, in proceedings referred to in subsection one of this section, the warden decides in favour of the complainant, he shall, unless the application in respect of which the proceedings were brought has already been determined, order the defendant to lodge with the warden any sum awarded as damages, and any mineral he may adjudge the complainant entitled to, or the value thereof.

(3) If the application in respect of which proceedings referred to in subsection one of this section are brought is granted the warden shall order that the said sum and the said mineral, or the value thereof, be delivered or paid to the complainant, and if the application is refused, he shall order delivery or payment to the person entitled thereto.

83AAD. (1) A lease granted under this Part, so far as it extends to the surface of any private lands shall not, unless the land contained in the lease has been and is kept securely fenced, give the holder of the lease the right— Fencing
of leased
land.

- (a) to impound any sheep, cattle, horses or other animals belonging to or in the custody or control of the owner or occupier of those private lands;

(b)

Mining (Further Amendment).

No. 88, 1970

- (b) to disturb or molest any such animals in any way whatsoever, or to prevent them from depasturing on those private lands; or
- (c) to sue in trespass or otherwise in respect of those private lands.

(2) The holder of a lease under this Part of land which extends to the surface of any private lands, shall, if required in writing so to do by the owner or occupier of the private lands, cause without delay a secure fence to be erected and maintained in good repair around any shaft, machinery or other works used in connection with mining under the lease not already so protected.

Restrictions
on rights
of lessee.

83AAE. A lease granted under this Part, so far as it extends to the surface of any private lands, shall not give the holder of the lease the right—

- (a) to use water artificially conserved by the owner or occupier of the private lands;
- (b) to fell trees, strip bark or cut timber on the private lands, except with the approval of the warden, and subject to payment to the owner of the trees, bark or timber, of compensation to be assessed by the warden in accordance with the provisions of this Act;
- (c) unless it has been and is kept securely fenced, to depasture horses thereon, or to keep or permit to be kept any dog, unless the dog is chained up or kept under proper control; or
- (d) except in connection with mining operations, or other operations authorised by section 83AX of this Act, to remove earth or rock from the private lands without the consent of the owner and any occupier.

83AAF.

Mining (Further Amendment).

83AAF. The provisions of this Act relating to appli- **No. 88, 1970**
 cants for, or holders of, leases under this Part, including
 provisions imposing a liability to pay royalty, apply ^{Application}
 to and in respect of an applicant for, or holder of, such ^{of certain}
 a lease of private land of which he is the owner or ^{provisions.}
 occupier, unless the provisions—

- (a) relate to the assessment or payment of rent or compensation; or
- (b) would have no effective operation by reason of his ownership or occupancy of that land.

83AAG. Where a tenderer for, or holder of, a ^{Death, etc.,}
 permit or a coal and shale lease, or an applicant for a ^{of applicant.}
 coal and shale lease, dies or becomes bankrupt or, with-
 in the meaning of the Mental Health Act, 1958, becomes
 a protected person or an incapable person and his legal
 representative or, as the case may be, the committee or
 manager of his estate or property, so requests—

- (a) the tender or application may be dealt with under this Part;
- (b) in the case of death or bankruptcy, a lease tendered or applied for may be granted to the legal representative of the tenderer or applicant for the benefit of the estate of the deceased or the bankrupt; and
- (c) a permit or lease held shall subsist for the benefit of the estate of the holder.

83AAH. The Minister may, from funds appropriated ^{Purchase}
 by Parliament, purchase on behalf of Her Majesty seams ^{of coal or}
 of coal or shale not reserved to the Crown. ^{shale not}
^{reserved to}
^{the Crown.}

MOTOR