

COAL MINING (AMENDMENT) ACT, 1983, No. 154

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 154, 1983.

An Act to amend the Coal Mining Act, 1973, to make further provision
with respect to prospecting for and mining coal; and for other purposes.
[Assented to, 31st December, 1983.]

See also Petroleum (Coal Mining) Amendment Act, 1983.

Coal Mining (Amendment).

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.

1. This Act may be cited as the "Coal Mining (Amendment) Act, 1983".

Commencement.

2. (1) Except as provided by subsections (2) and (3), this Act shall commence on the date of assent to this Act.

(2) Section 5 shall, in its application to a provision of Schedules 1–15, commence on the day on which that provision commences.

(3) The several provisions of Schedules 1–15 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal Act.

3. The Coal Mining Act, 1973, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO PART I OF THE PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO PART II OF THE PRINCIPAL ACT.

SCHEDULE 3.—AMENDMENTS TO PART III OF THE PRINCIPAL ACT.

SCHEDULE 4.—AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

Coal Mining (Amendment).

SCHEDULE 5.—INSERTION OF PART IVA INTO THE PRINCIPAL ACT.

SCHEDULE 6.—AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

SCHEDULE 7.—AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

SCHEDULE 8.—AMENDMENTS TO PART VII OF THE PRINCIPAL ACT.

SCHEDULE 9.—AMENDMENTS TO PART VIII OF THE PRINCIPAL
ACT.

SCHEDULE 10.—AMENDMENTS TO PART IX OF THE PRINCIPAL ACT.

SCHEDULE 11.—AMENDMENTS TO PART X OF THE PRINCIPAL ACT.

SCHEDULE 12.—AMENDMENTS TO PART XI OF THE PRINCIPAL ACT.

SCHEDULE 13.—AMENDMENTS TO PART XII OF THE PRINCIPAL
ACT.

SCHEDULE 14.—AMENDMENT TO THE SECOND SCHEDULE TO THE
PRINCIPAL ACT.

SCHEDULE 15.—AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF
STATUTE LAW REVISION.

SCHEDULE 16.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Amendment of Act No. 81, 1973.

5. The Principal Act is amended in the manner set forth in Schedules 1–15.

Savings, transitional and other provisions.

6. Schedule 16 has effect.

Coal Mining (Amendment).

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO PART I OF THE PRINCIPAL ACT.

(1) (a) Section 2—

Omit the matter relating to Division 3 of Part IV, insert instead:—

DIVISION 3.—*Renewal and Cancellation of a Concession—*
ss. 50–59.

DIVISION 3A.—*Suspension and Amendment of Conditions of*
*a Concession—*ss. 60–60B.

(b) Section 2—

After the matter relating to Part IV, insert:—

PART IVA.—CONSOLIDATION OF LEASES—ss. 82A–82T.

(c) Section 2—

From the matter relating to Part X, omit “112”, insert instead “112A”.

(2) (a) Section 6 (1), definition of “block”—

Omit “section 7”, insert instead “section 7 (1)”.

(b) Section 6 (1), definition of “coal lease”—

After “section 41”, insert “, and includes a consolidated coal lease”.

(c) Section 6 (1), definition of “consolidated coal lease”—

After the definition of “conditions”, insert:—

“consolidated coal lease” means a lease granted under Part
IVA;

Coal Mining (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

- (d) Section 6 (1), definitions of “pastoral lease”, “petroleum”—

After the definition of “owner”, insert:—

“pastoral lease” means—

- (a) a Crown lease for pastoral purposes;
- (b) a special lease for pastoral purposes; and
- (c) a Western Lands lease for pastoral purposes;

“petroleum” has the meaning ascribed to that expression in section 3 (1) of the Petroleum Act, 1955;

- (e) Section 6 (1), definition of “unit”—

Before the definition of “warden’s court”, insert:—

“unit” means a unit constituted as provided by section 7 (2) or, where the Minister so directs in a particular case, part of such a unit;

- (f) Section 6 (1), definition of “warden’s court”—

Omit “1973.”, insert instead “1973;”.

- (g) Section 6 (1), definition of “Western Lands lease for pastoral purposes”—

After the definition of “warden’s court”, insert:—

“Western Lands lease for pastoral purposes” means—

- (a) a lease, under the Western Lands Act, 1901, of land, not being a lease referred to in paragraph (b), which contains a condition restricting the use of the land comprised therein to grazing or grazing and the giving of access to water; or

Coal Mining (Amendment).

*SCHEDULE 1—continued.**AMENDMENTS TO PART I OF THE PRINCIPAL ACT—continued.*

- (b) a lease, under the Western Lands Act, 1901, of land set apart for disposal by way of lease for grazing, whether or not the whole or any part of the land comprised in the lease may, under the lease, be used for agricultural purposes.
 - (h) Section 6 (3)—
 - Before “a concession”, insert “an authorisation or”.
 - (i) Section 6 (3)—
 - Before “concession” where secondly occurring, insert “authorisation or”.
 - (j) Section 6 (5)—
 - After “this Act”, insert “and the Mining Act, 1973,”.
- (3) (a) Section 7—
- Omit “one minute” wherever occurring, insert instead “5 minutes”.
- (b) Section 7 (2)—
- At the end of section 7, insert:—
 - (2) For the purposes of this Act, each graticular section referred to in subsection (1) shall be deemed to be divided into 25 units, each of which is bounded—
 - (a) by portions of 2 meridians (being the meridian of Greenwich or the meridians that are at a distance from that meridian of 1 minute, or a multiple of 1 minute, of longitude) that are at a distance from each other of 1 minute of longitude; and

Coal Mining (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

- (b) by portions of 2 parallels of latitude (being the equator or parallels of latitude that are at a distance from the equator of 1 minute, or a multiple of 1 minute, of latitude) that are at a distance from each other of 1 minute of latitude.

(4) Section 10 (3)—

After section 10 (2), insert:—

(3) The regulations may provide that an application or tender required by this Act to be lodged with any person may be so lodged by delivering or posting the application or tender to another specified person.

(5) Section 11A—

After section 11, insert:—

Withdrawal of objections.

11A. (1) An objection made under this Act may be withdrawn by the objector's lodging with the Secretary a notice of withdrawal.

(2) The withdrawal of an objection pursuant to subsection (1) is irrevocable.

(6) Section 12—

Omit the section, insert instead:—

Form of authorisations and concessions.

12. An authorisation or a concession shall be in such form as the Minister may determine in respect of it.

Coal Mining (Amendment).

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO PART II OF THE PRINCIPAL ACT.

(1) Section 16 (1A)—

After section 16 (1), insert:—

(1A) A reference in this section (except subsection (5)) to a function under this Act includes a reference to a function under a condition of an authorisation or a concession.

(2) Section 16 (5)—

After “a function” where firstly occurring, insert “under this Act”.

SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO PART III OF THE PRINCIPAL ACT.

(1) (a) Section 20 (3A)—

After section 20 (3), insert:—

(3A) The Minister may, by instrument in writing, specify the cash payment subject to which the Minister would be prepared to grant an authorisation to an applicant under this section.

(b) Section 20 (6)—

Omit the subsection, insert instead:—

(6) The Governor may, in an order made under subsection (5) setting aside land, stipulate that the land set aside shall extend only—

(a) to a specified depth below the surface of any specified land;

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(b) below a specified depth below the surface of any specified land; or

(c) between 2 specified depths below the surface of any specified land,

and if the Governor does so, the extent of the land set aside shall be so limited.

(2) (a) Section 21A (1) (d)—

Omit “or”.

(b) Section 21A (1) (e)—

Omit “the mine.”, insert instead “the mine; or”.

(c) Section 21A (1) (f)—

After section 21A (1) (e), insert:—

(f) the registered holder of an authorisation under section 20—over the land overlying the land the subject of the authorisation.

(3) (a) Section 22 (2)—

Omit “manner”, insert instead “amount”.

(b) Section 22 (2A)—

After section 22 (2), insert:—

(2A) Where the Minister proposes to grant an authorisation to a person on the condition that the person gives security for the fulfilment of the person's obligations under the authorisation, the Minister may cause to be served on the person an instrument in writing requiring the person to lodge the security with the Minister within such time as is specified in the instrument.

Coal Mining (Amendment).

*SCHEDULE 3—continued.**AMENDMENTS TO PART III OF THE PRINCIPAL ACT—continued.*

(4) Section 23 (7)—

After section 23 (6), insert:—

(7) Notwithstanding subsections (2) and (5), an authorisation may be granted over land that is subject to a pending application under the Mining Act, 1973, for an authority or that is subject to a claim or an authority if the applicant for the authority or the registered holder of the claim or authority, as the case may be, consents to the application for the grant of the authorisation.

(5) (a) Section 25 (2B) (a)—

Omit “or” where lastly occurring.

(b) Section 25 (2B) (b)—

Omit “holding.”, insert instead “holding; or”.

(c) Section 25 (2B) (c)—

After section 25 (2B) (b), insert:—

(c) the authorisation under section 20,

(d) Section 25 (2B)—

After “authorisation” where lastly occurring, insert “under section 21A”.

(e) Section 25 (8)—

Omit “(not being an authorisation granted under section 21A)”.

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(f) Section 25 (8A)—

After section 25 (8), insert:—

(8A) The Minister may, by instrument in writing, specify the cash payment subject to which the Minister would be prepared to renew an authorisation granted under section 20.

SCHEDULE 4.

(Sec. 5.)

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

(1) Section 27 (1)—

Omit “(not exceeding one hundred)”.

(2) (a) Section 28 (3)—

Omit “shall”, insert instead “may”.

(b) Section 28 (3)—

After “all”, insert “or some”.

(3) Sections 29 (1), 29 (2), 30 (2) (c), 50 (7), 50 (8), 69 (2), 71 (2) (b), 72 (5), 73 (1), 74 (1), 74A (6) (b)—

Omit “Crown lease for pastoral purposes or a special lease for pastoral purposes” wherever occurring, insert instead “pastoral lease”.

Coal Mining (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(4) (a) Section 30 (2) (c)—

Omit “private lands or”, insert instead “the surface of any private lands or the surface of any”.

(b) Section 30 (2) (e)—

Omit “blocks” wherever occurring, insert instead “units”.

(c) Section 30 (7)—

Omit the subsection, insert instead:—

(7) For the purposes of subsection (2) (e), a unit adjoins another unit if they have a side in common.

(5) Sections 31 (1), 32 (1), 32 (3) (a), 32 (3) (b), 33 (2) (c), 33 (3), 33 (4) (a), 34 (1)—

Omit “block or blocks” wherever occurring, insert instead “unit or units”.

(6) Section 34 (2)—

Omit “recommend the grant of a ”, insert instead “grant a coal”.

(7) Section 38 (2)—

After “section 35”, insert “unless the Minister approves of the nomination of the person concerned”.

Coal Mining (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(8) (a) Section 39 (1) (a), (b)—

After “section 28” wherever occurring, insert “in respect of any particular land”.

(b) Section 39 (1A)—

After section 39 (1), insert:—

(1A) For the purposes of subsection (1), only one tender is lodged under section 28 in respect of any particular land if no other tender is lodged under that section in respect of that land or any part of that land.

(9) Section 40 (5), (6)—

After section 40 (4), insert:—

(5) Land that is excluded from the area of land over which an exploration permit is granted because, when the exploration permit is granted, it is subject to a pending application—

(a) under this Act for an authorisation or a concession; or

(b) under the Mining Act, 1973, for an authority,

becomes subject to the exploration permit—

(c) if the application is subsequently withdrawn or refused; and

(d) when it is so withdrawn or refused, the land is not subject to a pending application under the Mining Act, 1973, for a prospecting licence, a mining lease or a mining purposes lease, or to a pending application under this Act for a coal lease, or, if the land is then subject to such a pending application, the application is withdrawn or refused.

(6) A reference in this section to the withdrawal or refusal of a pending application under this Act includes a reference to the publication of a notification under section 17 (1) (b) in relation to the pending application.

Coal Mining (Amendment).

*SCHEDULE 4—continued.**AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—continued.*

- (10) Sections 41 (1), 41 (1A), 41 (1B), 41 (2), 41 (5), 42 (2), 42 (3), 59 (7), 60A (1), 65 (1) (b), 75 (4), 77 (2)–(6)—

Omit “Governor” wherever occurring, insert instead “Minister”.

- (11) (a) Section 41 (4)—

After section 41 (3), insert:—

(4) The conditions referred to in section 34 (2) and in subsections (1) (a), (1A) (a), (2) (a) and (2) (b) may include a condition connected or associated with, or incidental to—

- (a) mining or mining operations;
- (b) the transporting of coal or of any other thing for the purpose of mining;
- (c) the treatment or preparation for sale of coal;
- (d) the disposal or retention of material discarded from mining operations or from the treatment or preparation for sale of coal; or
- (e) the use to which coal may be put,

whether or not the condition relates to a matter to be carried out on or in, or in the vicinity of, land subject to a coal lease.

- (b) Section 41 (5)—

Omit “manner”, insert instead “amount”.

- (c) Section 41 (5A)—

After section 41 (5), insert:—

(5A) Where the Minister proposes to grant a coal lease to a person on the condition that the person gives security for the fulfilment of the person’s obligations under the lease, the

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SCHEDULE 4—*continued.*AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

Minister may cause to be served on the person an instrument in writing requiring the person to lodge the security with the Minister within such time as is specified in the instrument.

(12) (a) Section 44 (1)—

Omit “the Governor or”.

(b) Section 44 (2)—

Omit “an exploration permit and the Governor may refuse an application for a coal lease”, insert instead “a concession”.

(c) Section 44 (3)—

Omit “an exploration permit and the Governor may refuse a tender for a coal lease”, insert instead “a concession”.

(d) Section 44 (4)—

Omit “the Governor to grant”.

(e) Section 44 (5)–(7)—

Omit section 44 (5), insert instead:—

(5) Subject to subsection (6), the Minister may grant a concession notwithstanding that the applicant for the concession has not in every respect complied with the requirements of—

(a) this Act as to—

- (i) the time within which anything is required to be done;
- (ii) the details to be contained in any notice served, lodged or caused to be published by the applicant;
- (iii) the particulars to accompany the application;

Coal Mining (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(iv) the furnishing of declarations and other information by the applicant; or

(v) the fees to be lodged by the applicant; or

(b) the regulations.

(6) Nothing in subsection (5) authorises the Minister to grant a concession where the applicant for the concession has not complied with a requirement of this Act or the regulations, unless the Minister is satisfied that the failure to comply is not likely to affect adversely any person's rights under this Act or the regulations or to result in any person being deprived of information necessary for the effectual exercise of those rights.

(7) A reference in subsections (5) and (6) to the regulations includes a reference to the regulations under the Mining Act, 1906.

(13) Section 45—

Omit "Governor or the Minister, as the case may be," insert instead "Minjster".

(14) Section 46—

Omit the section, insert instead:—

Signing of concession by applicant or tenderer.

46. (1) The applicant or tenderer for a concession, or, where there is more than one applicant or tenderer for a concession, each applicant or tenderer for a concession, shall, on or before such date as has been determined by the Secretary and notified to that applicant or tenderer or to those applicants or tenderers, as the case may be, sign the concession which is proposed to be granted and lodge it with the Secretary.

Coal Mining (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(2) Where—

- (a) there is one applicant or tenderer for a concession and that applicant or tenderer fails to comply with subsection (1), the application or tender for the concession may be refused; or
- (b) there is more than one applicant or tenderer for a concession, and—
 - (i) all of the applicants or tenderers for the concession fail to comply with subsection (1), the application or tender for the concession may be refused; or
 - (ii) some, but not all, of the applicants or tenderers for the concession fail to comply with subsection (1), the concession may be granted to such of the applicants or tenderers as comply with that subsection.

(15) Section 47 (1)—

Omit the subsection, insert instead:—

(1) Subject to subsection (2), the Minister shall sign a concession which it is proposed that an applicant or a tenderer be granted.

(16) Section 48—

Omit the section, insert instead:—

Date of effect of concession.

48. A concession has effect from and including the day on which it is signed by the Minister under section 47.

(17) Part IV, Division 3, heading—

Omit “, *Cancellation and Suspension of Conditions*”, insert instead “*and Cancellation*”.

Coal Mining (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(18) (a) Section 50 (10)—

Omit “served or published under subsection (7)”, insert instead “published under subsection”.

(b) Section 50 (11)—

Omit the subsection, insert instead:—

(11) Where a notice has been served in accordance with subsection (7) in respect of the area or part of the area of the land to which an application for the renewal of a concession relates, a copy of the notice, together with a statutory declaration under the hand of the applicant for that renewal, or the agent of that applicant, specifying the name of every owner and occupier of the area or part and the date on which each such owner or occupier was so served, shall—

(a) accompany the application; or

(b) be lodged with the Secretary within 21 days of the date of the notice.

(19) Section 52A—

After section 52, insert:—

Cash payments for renewal of concession.

52A. The Minister may, by instrument in writing, specify the cash payment subject to which the Minister would be prepared to renew a concession.

Coal Mining (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(20) (a) Section 53 (1), (2)—

Omit the subsections, insert instead:—

(1) On application made under section 50 for the renewal of a concession, the Minister, by instrument in writing, may—

- (a) subject to this section, renew the concession; or
- (b) refuse the application.

(b) Section 53 (5)—

Omit the subsection, insert instead:—

(5) The Minister may, in the instrument in writing renewing a concession, amend any of the conditions of the concession.

(c) Section 53 (7)–(10)—

Omit section 53 (7) and (8), insert instead:—

(7) The period for which a concession, if renewed, is renewed, is the period ending on the date specified by the Minister in the instrument in writing renewing the concession.

(8) Subject to subsection (9), the Minister may renew a concession notwithstanding that the applicant for the renewal of the concession has not in every respect complied with the requirements of—

(a) this Act as to—

- (i) the time within which anything is required to be done;
- (ii) the details to be contained in any notice served, lodged or caused to be published by the applicant;
- (iii) the particulars to accompany the application;

Coal Mining (Amendment).

*SCHEDULE 4—continued.**AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—continued.*

(iv) the furnishing of declarations and other information by the applicant; or

(v) the fees to be lodged by the applicant; or

(b) the regulations.

(9) Nothing in subsection (8) authorises the Minister to renew a concession where the applicant for the renewal of the concession has not complied with a requirement of this Act or the regulations, unless the Minister is satisfied that the failure to comply is not likely to affect adversely any person's rights under this Act or the regulations or to result in any person being deprived of information necessary for the effectual exercise of those rights.

(10) A reference in subsections (8) and (9) to the regulations includes a reference to the regulations under the Mining Act, 1906.

(21) (a) Section 55 (3)—

Omit "an exploration permit and the Governor shall not renew a coal lease", insert instead "a concession".

(b) Section 55 (3)—

Omit "permit or the lease" wherever occurring, insert instead "concession".

(22) (a) Section 59 (1)—

Omit the subsection.

(b) Section 59 (2)–(4)—

Omit "person empowered to cancel a concession" wherever occurring, insert instead "Minister".

Coal Mining (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(c) Section 59 (2)—

Omit “the concession has”, insert instead “a concession has”.

(d) Section 59 (5) —

Omit “person empowered to cancel a concession to do so that person”, insert instead “Minister to do so, the Minister”.

(e) Section 59 (10)—

After “improvements made”, insert “to the land”.

(f) Section 59 (10A)—

After section 59 (10), insert:—

(10A) In subsection (10), “mining improvements”, in relation to land, means artificial changes to the physical condition of the land for the purposes of mining.

(23) Part IV, Division 3A, heading—

Before section 60, insert:—

DIVISION 3A.—*Suspension and Amendment of Conditions of a Concession.*

(24) (a) Section 60A (1A)—

After section 60A (1), insert:—

(1A) The Minister may, during the currency of—

- (a) a coal lease which does not contain a condition requiring the registered holder of the lease to give security for the fulfilment of the obligations of the registered holder under the lease, amend the lease so as to include a condition requiring the registered holder to give that security in such amount and form as the Minister may determine;

Coal Mining (Amendment).

SCHEDULE 4—continued.**AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—continued.**

- (b) a coal lease which contains such a condition, amend the lease so as to vary the amount and form of the security which is required to be given; or
- (c) any 2 or more coal leases in a colliery holding which contain such a condition, amend those leases so as to require a single security to be given, in such amount and form as the Minister may determine, for the fulfilment of the obligations of the registered holder under those 2 or more leases.

(b) Section 60A (2)—

After “subsection (1)”, insert “or (1A)”.

(25) Section 60B—

After section 60A, insert:—

Amendment of coal lease over or in vicinity of prescribed dam.

60B. (1) In this section, “prescribed land” has the meaning ascribed to that expression in section 61A.

(2) Where it appears to the Dams Safety Committee that anything being done or proposed to be done by the registered holder of a coal lease in prescribed land may endanger a prescribed dam, that Committee may recommend to the Minister that the coal lease be amended to include such conditions, or such altered or additional conditions, as that Committee considers reasonably necessary to ensure the safety of the prescribed dam.

(3) Where the Dams Safety Committee makes a recommendation under subsection (2), the Minister shall—

- (a) if the Minister accepts the recommendation, amend the coal lease in accordance with the recommendation; or

Coal Mining (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(b) if the Minister does not accept the recommendation, deal with the recommendation in such manner—

(i) as may be determined by agreement between the Minister and the Minister administering the Dams Safety Act, 1978; or

(ii) in the event of failure to reach agreement under subparagraph (i), as may be determined by the Premier.

(4) The Minister shall cause to be served on the registered holder of a coal lease an instrument in writing setting out any amendment made under subsection (3) to the lease, and the amendment has effect from and including the date—

(a) specified in the instrument as the date of the amendment; or

(b) on which the instrument is so served,
whichever is the later date.

(26) Section 62 (6)—

Omit the subsection, insert instead:—

(6) A coal lease shall not be granted below the surface of any land referred to in subsection (1) (a), (b) or (c) unless the coal lease is granted at such depth and subject to such conditions as appear to the Minister to be necessary to prevent damage to that surface or, having regard to the significance of the coal in the land, to minimise any damage to that surface.

(27) (a) Section 70 (2)—

Omit the subsection, insert instead:—

(2) The registered holder of a coal lease may prospect or mine in the mining area for coal only, or—

(a) where the lease applies to a mineral by reason of a direction given by the Minister under section 72 (3)
(a)—for coal and that mineral, only;

Coal Mining (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

- (b) where the lease applies to petroleum by reason of a direction given by the Minister under section 72A (3) (a)—for coal and petroleum, only; or
 - (c) where the lease applies to both a mineral and petroleum by reason of any such directions—for coal, that mineral and petroleum, only.
- (b) Section 70 (3)—
 - Omit the subsection, insert instead:—
 - (3) Subject to subsection (4) and to the conditions of the lease, the registered holder of a coal lease may—
 - (a) carry out any mining purpose in the mining area;
 - (b) where by reason of a direction given by the Minister under section 72 (3) (a) the lease applies to a mineral—carry out any mining purpose under the Mining Act, 1973, in the mining area; and
 - (c) where by reason of a direction given by the Minister under section 72A (3) (a) the lease applies to petroleum—exercise any rights in the mining area which the holder of a petroleum mining lease may exercise under the Petroleum Act, 1955.
- (c) Section 70 (4) (a)—
 - After “purpose”, insert “, or activity authorised by subsection (3) (c),”.
- (d) Section 70 (4) (b)—
 - After “purpose”, insert “or activity”.
- (e) Section 70 (5)—
 - At the end of the subsection, insert:—
 - Penalty (subsection (5)): \$20,000 for each day the offence continues.

Coal Mining (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(28) Section 72A—

After section 72, insert:—

Inclusion of petroleum in lease.

72A. (1) The registered holder of a coal lease may apply for the inclusion in the lease of petroleum.

(2) An application under subsection (1) shall be lodged with the Secretary.

(3) On application made under subsection (1), the Minister may, by instrument in writing—

- (a) subject to this section, direct that a coal lease shall apply to petroleum; or
- (b) refuse the application.

(4) The Minister shall refuse an application under subsection (1) where the land which is the subject of the coal lease to which the application relates is—

- (a) within the area specified in Schedule 2 to the Petroleum (Submerged Lands) Act, 1982, as being the adjacent area of New South Wales; or
- (b) subject to a petroleum mining lease or a petroleum exploration licence granted under the Petroleum Act, 1955.

(5) A direction under subsection (3) (a)—

- (a) may be given unconditionally or subject to such conditions as are specified in the direction; and
- (b) may be revoked at any time.

Coal Mining (Amendment).

SCHEDULE 4—continued.

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—continued.

(6) Without limiting the generality of subsection (5), the Minister may direct that a coal lease shall apply to petroleum subject to a condition relating to any one or more of the following matters:—

- (a) the limitation of the right to prospect or mine for petroleum to some part or parts, only, of the mining area;
- (b) the limitation of that right to the prospecting or mining for some specified type or form of petroleum, only;
- (c) the working practices and methods of extraction to be used when prospecting or mining for petroleum;
- (d) the use to which any petroleum recovered may be put;
- (e) the joint mining and development of petroleum with the registered holder of a coal lease, or with the holder of a petroleum mining lease under the Petroleum Act, 1955, applicable to land adjoining the mining area.

(7) The registered holder of a coal lease over any private lands or Crown lands held under a pastoral lease shall, either before, or within 21 days after, lodging an application under subsection (1), serve on every owner and occupier of the private lands and on every occupier of the Crown lands, a copy of the application.

(29) (a) Section 75 (1), (3)—

After “(6)” wherever occurring, insert “, (6A)”.

(b) Section 75 (4A), (5)—

Omit the subsections.

(c) Section 75 (6), (6A), (6B), (6C)—

Omit section 75 (6), insert instead:—

(6) The Minister may, in the instrument in writing renewing a coal lease under section 53 (1), increase or decrease the rent payable during the period for which the lease is renewed or waive payment of the rent payable during that period.

Coal Mining (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(6A) The Minister may, by instrument in writing, waive payment of the whole or any part of the rent payable to the Crown under this section in respect of a coal lease during any period specified in the instrument (being a period that is before or after, or partly before and partly after, the date of the instrument).

(6B) The power of the Minister under subsection (6A) may be exercised notwithstanding that a coal lease has ceased to have effect.

(6C) Where the rent payable for a period in respect of a coal lease is increased or decreased, or payment thereof is waived, under this section, the Minister shall cause to be served on the person who was or is, as the case may be, the registered holder of the lease an instrument in writing setting out the details of the increase, decrease or waiver, and—

- (a) as from the date on which the instrument is served, the increase, decrease or waiver has effect in relation to that period (whether that period is before or after, or partly before and partly after, that date);
- (b) where the rent is increased or decreased—the rent as so increased or decreased is payable by that person or, if when the instrument is served the rent for the period has been paid, the amount of any increase is payable by, or the amount of any decrease is payable to, that person; and
- (c) where payment of the rent is waived—the rent for the period is not payable by that person and, if when that instrument is served the rent for the period has been paid, the amount of that rent so paid is payable to that person.

(d) Section 75 (7)—

Omit “recommend the grant of”, insert instead “grant”.

Coal Mining (Amendment).

*SCHEDULE 4—continued.**AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—continued.*

(e) Section 75 (7)—

Omit “(5) and (6)”, insert instead “(6) and (6A)”.

(f) Section 75 (8A)—

After section 75 (8), insert:—

(8A) Where the area of land subject to a coal lease includes the surface of any private lands and that surface comprises 2 or more parcels of land owned by different persons, the annual amount of rent reserved pursuant to this section and payable to those persons shall be divided among those persons in such manner as may be determined by or under the regulations.

(30) Section 76 (1)—

Omit the subsection, insert instead:—

(1) The registered holder of a coal lease shall pay royalty—

(a) on coal;

(b) on any mineral to which the coal lease applies by reason of a direction given under section 72 (3) (a); and

(c) on petroleum to which the coal lease applies by reason of a direction given under section 72A (3) (a),

won from the mining area.

(31) (a) Section 77 (1)—

After “Subject to”, insert “section 82o and”.

(b) Section 77 (1) (b), (13)—

Omit “(9)” wherever occurring, insert instead “(8A)”.

Coal Mining (Amendment).

SCHEDULE 4—continued.

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—continued.

(c) Section 77 (7A)—

After section 77 (7), insert:—

(7A) The Minister may fix the rate of royalty to be paid on petroleum, to which a coal lease applies by reason of a direction given under section 72A (3) (a), that is won from the mining area.

(d) Section 77 (8)—

After “mineral”, insert “or petroleum”.

(e) Section 77 (8A)—

After section 77 (8), insert:—

(8A) The Minister may, from time to time, vary the rate of royalty fixed pursuant to subsection (8) in respect of a coal lease.

(f) Section 77 (9)—

Omit the subsection.

(g) Section 77 (10)–(12)—

Omit “or minerals” wherever occurring, insert instead “, minerals or petroleum”.

(h) Section 77 (10A)—

After section 77 (10), insert:—

(10A) The rate of royalty prescribed or fixed in respect of coal won from land subject to a coal lease may be prescribed or fixed by reference to the total value or measurement of coal won from that land and from land subject to any other coal lease within the same colliery holding.

Coal Mining (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(i) Section 77 (13)—

Omit “recommend the grant of”, insert instead “grant”.

(32) Section 77A (b) (i)—

Omit “(9)”, insert instead “(8A)”.

(33) Section 79 (1)—

Omit “or minerals” wherever occurring, insert instead “, minerals or petroleum”.

SCHEDULE 5.

(Sec. 5.)

INSERTION OF PART IVA INTO THE PRINCIPAL ACT.

After Part IV, insert:—

PART IVA.

CONSOLIDATION OF LEASES.

Interpretation.

82A. (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

“draft consolidated coal lease” means a lease prepared pursuant to section 82c or, where any such lease is amended pursuant to this Part, means the lease as so amended;

Coal Mining (Amendment).

SCHEDULE 5—*continued.*INSERTION OF PART IVA INTO THE PRINCIPAL ACT—*continued.*

“existing lease” means—

- (a) a coal lease granted, or deemed to have been granted, under section 41;
- (b) a coal lease deemed to have been granted under this Act pursuant to Schedule 2 to the Coal Mining (Amendment) Act, 1981, and the regulations made thereunder;
- (c) a mining purposes lease; or
- (d) a consolidated coal lease;

“mining purposes lease” means a mining purposes lease granted, or deemed to have been granted, under the Mining Act, 1973;

“registered holder”, in relation to a draft consolidated coal lease, means the registered holder of the existing leases specified in the draft lease as the existing leases which are to be consolidated.

(2) A reference in this Part to the grant of a draft consolidated coal lease is a reference to the grant of a consolidated coal lease that accords with the draft lease.

Existing leases which may be consolidated.

82B. (1) Any 2 or more existing leases (whether of the same kind or of a different kind) may be consolidated under this Part if the leases—

- (a) are held by the same registered holder; and
- (b) are contiguous or are separated only by a road, stream or railway.

(2) Notwithstanding subsection (1), 2 or more mining purposes leases may not be consolidated under this Part if they are the only existing leases being consolidated.

Coal Mining (Amendment).

SCHEDULE 5—*continued.*INSERTION OF PART IVA INTO THE PRINCIPAL ACT—*continued.***Minister may prepare draft consolidated coal lease.**

82C. (1) Where the Minister considers that 2 or more existing leases which may be consolidated under this Part should be so consolidated, the Minister may cause a draft consolidated coal lease to be prepared for that purpose.

(2) A draft consolidated coal lease shall, subject to this Part—

- (a) specify the existing leases to be consolidated;
- (b) specify the period for which the lease is to be granted;
- (c) specify the conditions on which the lease is to be granted;
- (d) have attached to it a plan of the area of land over which the lease is to be granted or specify that area by reference to plans kept by the Department; and
- (e) specify the times at which, and the manner in which, rent referred to in section 75 is to be paid.

Amendment, etc., of draft lease.

82D. (1) The Minister may, at any time after the preparation of a draft consolidated coal lease, make such amendments of the draft consolidated coal lease as the Minister thinks fit.

(2) The Minister may, by an amendment of a draft consolidated coal lease pursuant to subsection (1) or to any other provision of this Part, specify additional existing leases to be consolidated or exclude any existing lease from the existing leases to be consolidated.

(3) The Minister may, at any time after the preparation of a draft consolidated coal lease, determine that the consolidation should not proceed, but may—

- (a) proceed with the consolidation at a later time; or

Coal Mining (Amendment).

SCHEDULE 5—*continued.*

INSERTION OF PART IVA INTO THE PRINCIPAL ACT—*continued.*

- (b) cause a further draft consolidated coal lease to be prepared pursuant to section 82C for the purpose of consolidating all or any of the existing leases concerned.

Notification to Director of Environment and Planning and Dams Safety Committee.

82E. (1) Except where the regulations otherwise provide, the Minister shall, after the preparation of a draft consolidated coal lease under section 82C, cause to be served on the Director of Environment and Planning and, where the lease is to be granted over prescribed land within the meaning of section 61A, on the Dams Safety Committee—

- (a) a copy of the lease; and
- (b) a notice stating that objections to the granting of the lease or proposals for the amendment of the conditions on which the lease is to be granted may be made to the Minister within the period specified in the notice.

(2) The Director of Environment and Planning or the Dams Safety Committee when served with a notice pursuant to subsection (1) may, within the period specified in the notice or within such further period as the Secretary in special circumstances may allow, by instrument in writing lodged with the Secretary—

- (a) object to the granting of the consolidated coal lease to which the notice relates; or
- (b) propose that the conditions on which the lease is to be granted should be amended in the manner specified in the instrument.

(3) Where—

- (a) the Minister amends a draft consolidated coal lease after a copy of the lease has been served on the Director of Environment and Planning or on the Dams Safety Committee pursuant to subsection (1) (not being an amendment made as a consequence of an objection or proposal made by that Director or Committee); and

Coal Mining (Amendment).

SCHEDULE 5—*continued.*

INSERTION OF PART IVA INTO THE PRINCIPAL ACT—*continued.*

- (b) the Minister is of the opinion that that Director or Committee will be materially affected by the amendment,

the Minister shall, before granting the lease, cause to be served on that Director or Committee a notice—

- (c) setting out details of the amendment; and
- (d) stating that objections to the amendment may be made to the Minister within the period specified in the notice.

(4) The Director of Environment and Planning or the Dams Safety Committee when served with a notice under subsection (3) may, within the period specified in the notice or within such further period as the Secretary in special circumstances may allow, by instrument in writing lodged with the Secretary, object to the amendment of the draft consolidated coal lease to which the notice relates.

(5) The Minister may take, or cause to be taken, such steps (including the amendment of the draft consolidated coal lease) as the Minister deems appropriate in connection with any objection or proposal made under subsection (2) or (4), and if, as a result of the steps so taken, agreement is not reached concerning the acceptance, modification or withdrawal of the objection or proposal, the matter shall be referred to the Premier.

(6) Where any matter is referred under subsection (5), the Premier shall give such decision as the Premier deems appropriate.

(7) If required by the Premier to do so, the Minister shall direct the warden to inquire into, and report on, any matter, being a matter referred under subsection (5) to the Premier, or connected with such a matter.

Coal Mining (Amendment).

SCHEDULE 5.—*continued.*

INSERTION OF PART IVA INTO THE PRINCIPAL ACT—*continued.*

Procedure where objection, etc., made under section 82E.

82F. (1) Where the Director of Environment and Planning or the Dams Safety Committee lodges an objection under section 82E (2) (a) to the granting of a consolidated coal lease, the Minister shall not grant the lease unless the objection is withdrawn or otherwise resolved or is rejected in a decision given by the Premier under section 82E (6).

(2) Where the Director of Environment and Planning or the Dams Safety Committee lodges a proposal under section 82E (2) (b) that the conditions on which a consolidated coal lease is to be granted should be amended, the Minister shall amend the conditions specified in the draft consolidated coal lease in accordance with the proposal unless—

- (a) the proposal is withdrawn or otherwise resolved or is rejected in a decision given by the Premier under section 82E (6); or
- (b) if the proposal is modified—the conditions specified in the draft consolidated coal lease have been amended in accordance with the proposal as so modified.

(3) Where the Director of Environment and Planning or the Dams Safety Committee lodges an objection under section 82E (4) to the amendment of a draft consolidated coal lease, the Minister shall revoke the amendment unless the objection is withdrawn or otherwise resolved or is rejected in a decision given by the Premier under section 82E (6).

(4) The failure to amend the conditions of a draft consolidated coal lease pursuant to subsection (2) or to revoke an amendment pursuant to subsection (3) shall not affect the validity of the consolidated coal lease if granted, but the Minister may, by instrument in writing, amend the lease so as to rectify that failure.

(5) The Minister shall cause to be served on the registered holder of a consolidated coal lease amended under subsection (4) a notice in writing setting out the details of the amendment, and the amendment has effect from and including the date—

- (a) specified in the notice as the date of the amendment; or

Coal Mining (Amendment).

SCHEDULE 5—*continued.*

INSERTION OF PART IVA INTO THE PRINCIPAL ACT—*continued.*

(b) on which the notice is so served,
whichever is the later date.

Notification to registered holder.

82G. (1) The Minister shall, before granting a consolidated coal lease, cause to be served on the registered holder—

- (a) a copy of the draft consolidated coal lease; and
- (b) a notice stating that representations with respect to the granting of the lease, or the conditions on which the lease is to be granted, may be made to the Minister within the period specified in the notice.

(2) Where—

- (a) the Minister amends a draft consolidated coal lease after a copy of the lease has been served on the registered holder pursuant to subsection (1) (not being an amendment made as a consequence of representations made by the registered holder); and
- (b) the Minister is of the opinion that the registered holder will be materially affected by the amendment,

the Minister shall, before granting the lease, cause to be served on the registered holder a notice—

- (c) setting out details of the amendment; and
- (d) stating that representations concerning the amendment may be made to the Minister within the period specified in the notice.

(3) A registered holder when served with a notice under subsection (1) or (2) may, within the period specified in the notice or within such further period as the Secretary in special circumstances may allow, by instrument in writing lodged with the Secretary, make such representations with respect to the matters referred to in the notice as the registered holder thinks fit.

Coal Mining (Amendment).

SCHEDULE 5—continued.**INSERTION OF PART IVA INTO THE PRINCIPAL ACT—continued.**

(4) The Minister shall take, or cause to be taken, such steps (including the amendment of the draft consolidated coal lease) as the Minister deems appropriate in connection with any representations made under subsection (3).

Grant of consolidated coal lease.

82H. (1) Where the Minister has complied with the requirements of sections 82E, 82F and 82G in respect of a draft consolidated coal lease, the Minister may grant, to the registered holder, a consolidated coal lease that accords with the draft consolidated coal lease.

(2) The Minister shall sign a consolidated coal lease which it is proposed to grant to a registered holder.

(3) A consolidated coal lease has effect from and including the day on which the lease is signed by the Minister under subsection (2).

(4) Upon a consolidated coal lease taking effect, each existing lease specified in the consolidated coal lease as an existing lease which is to be consolidated shall be deemed to have been cancelled under **section 59**.

Period for which consolidated coal lease may be granted.

82I. (1) The period for which a consolidated coal lease is granted is, subject to subsection (2), the period specified in the lease.

(2) The period for which a consolidated coal lease is granted shall not extend beyond the first day by which all the existing leases that have been consolidated would, but for the consolidation, have expired.

(3) The period for which a consolidated coal lease is granted commences on the date on and from which the lease has effect, as provided by **section 82H (3)**.

Coal Mining (Amendment).

SCHEDULE 5—*continued.*

INSERTION OF PART IVA INTO THE PRINCIPAL ACT—*continued.***Conditions of consolidated coal lease.**

82J. (1) The conditions on which a consolidated coal lease is granted shall be set out in the lease and, subject to subsection (2), may include any condition on which a coal lease may be granted under section 41.

(2) Where a mining purposes lease is one of the existing leases consolidated under this Part, the consolidated coal lease shall include a condition prohibiting prospecting for or mining coal in the area to which the mining purposes lease applied.

Area over which consolidated coal lease may be granted.

82K. (1) The area of land over which a consolidated coal lease may be granted shall be the aggregate of all areas of land subject to the existing leases that are consolidated.

(2) A consolidated coal lease may be granted subject to amendment if the area of land over which the lease is granted has not been surveyed or is not the subject of a survey satisfactory to the Minister.

(3) If, having regard to a survey of any land made either before or after the granting of a consolidated coal lease subject to amendment, the Minister is of the opinion that the lease should be amended, the Minister may do all or any of the following:—

- (a) alter the size of the area of land subject to the lease;
- (b) alter the rent payable under the lease; or
- (c) amend any condition in the lease required to be amended by reason of the survey.

Coal Mining (Amendment).

SCHEDULE 5—continued.

INSERTION OF PART IVA INTO THE PRINCIPAL ACT—continued.

(4) The Minister shall cause to be served on the registered holder of a consolidated coal lease an instrument in writing setting out any alteration or amendment made under subsection (3), and the alteration or amendment has effect from and including the date—

(a) specified in the instrument as the date of the alteration or amendment; or

(b) on which the instrument is so served,

whichever is the later date.

(5) If the size of the area of land subject to a consolidated coal lease is altered under subsection (3) (a) it shall be a sufficient compliance with subsection (4) if the instrument in writing served on the registered holder of the lease states that that area has been altered and refers to a plan, prepared by the Department and attached to that instrument, showing the area as altered.

(6) If an instrument in writing is served on the registered holder of a consolidated coal lease pursuant to subsection (4) the lease is not thereafter subject to amendment under this section.

Validity of consolidated coal lease not affected by certain defects.

82L. (1) The validity of a consolidated coal lease shall not be affected by—

(a) any failure to comply with this Act, the Mining Act, 1973, the Mining Act, 1906, or any regulations thereunder in the grant or renewal of an existing lease that was consolidated; or

(b) the inclusion of any land not subject to any existing lease that was consolidated in the area of land over which the consolidated coal lease was granted.

Coal Mining (Amendment).

SCHEDULE 5—*continued.*

INSERTION OF PART IVA INTO THE PRINCIPAL ACT—*continued.*

(2) The Minister shall, by instrument in writing, amend a consolidated coal lease to exclude from the area of land subject to the lease—

- (a) any area of land subject to an existing lease that was consolidated if it appears to the Minister that the existing lease was not validly granted or renewed by reason of a failure to comply with this Act, the Mining Act, 1973, or the Mining Act, 1906, or any regulations thereunder; and
- (b) any area of land which appears to the Minister not to have been subject to any existing lease that was consolidated.

(3) The Minister shall cause to be served on the registered holder of a consolidated coal lease amended under subsection (2) a notice in writing setting out details of the amendment, and the amendment has effect from and including the date—

- (a) specified in the notice as the date of the amendment; or
- (b) on which the notice is so served,

whichever is the later date.

Application of this Act and other Acts to grant of consolidated coal leases.

82M. (1) The provisions of Part IV (Divisions 3, 3A, 5 and 6 and section 61 excepted), Part V and Part VI do not apply to or in respect of the grant of a consolidated coal lease.

(2) The provisions of any other Act regulating or restricting, or having the effect of regulating or restricting, the grant of a coal lease shall not, unless the contrary intention appears, apply to the grant of a consolidated coal lease.

Coal Mining (Amendment).

SCHEDULE 5—continued.**INSERTION OF PART IVA INTO THE PRINCIPAL ACT—continued.****Consolidated coal lease—payment of rent.**

82N. (1) Where the rent reserved by an existing lease immediately before it is consolidated under this Part is specified in an agreement referred to in section 75 (2) of this Act or in section 95 (3) of the Mining Act, 1973, the rent reserved by the consolidated coal lease in respect of the surface to which the agreement related shall, for the purposes of section 75, be the rent specified in the agreement.

(2) Where, pursuant to section 75 (7), the rent reserved by an existing lease immediately before it is consolidated under this Part is specified in an invitation under section 34, the rent reserved by the consolidated coal lease in respect of the surface or the coal to which the existing lease related shall, for the purposes of section 75, be the rent specified in the invitation.

(3) The Minister may, by instrument in writing, decrease, or waive payment of, rent payable in respect of a consolidated coal lease for any period after it is granted for the purpose of setting off against the rent payable under the consolidated coal lease any amount of rent paid in advance in respect of an existing lease that has been consolidated.

(4) The Minister shall cause a copy of an instrument under subsection (3) to be served—

- (a) on the registered holder of the consolidated coal lease; and
- (b) where rent in respect of private land is decreased or waived—
on the owner of that private land.

(5) Nothing in this section affects the operation of section 75 (4), (6) or (6A).

Consolidated coal leases—payment of royalty.

82o. (1) Royalty is payable by the registered holder of a consolidated coal lease on coal won from land subject to the lease at such rate as is, at the time the coal is won, fixed by the Minister in respect of the lease.

Coal Mining (Amendment).

SCHEDULE 5—continued.**INSERTION OF PART IVA INTO THE PRINCIPAL ACT—continued.**

(2) The Minister shall, before granting a consolidated coal lease, cause to be served on the registered holder a notice in writing setting out details of the rate of royalty fixed pursuant to subsection (1).

(3) The Minister shall, whenever the rate of royalty in respect of a consolidated coal lease is varied by the Minister pursuant to subsection (1), cause to be served on the registered holder a notice in writing setting out details of the rate as so varied, and the rate as so varied is payable from and including the date—

(a) specified in the notice as the date of effect of the notice; or

(b) on which the notice is so served,

whichever is the later date.

(4) The provisions of section 77 (subsections (7), (7A), (10), (10A), (11) and (12) excepted) do not apply in respect of a consolidated coal lease.

Securities for performance of obligations under leases.

82P. (1) Where the Minister proposes to grant a consolidated coal lease on the condition that the registered holder gives security for the fulfilment of the registered holder's obligations under the lease, the Minister may cause to be served on the registered holder an instrument in writing requiring the registered holder to lodge the security with the Minister within such time as is specified in the instrument.

(2) Except as provided by subsection (3), where a consolidated coal lease is granted, any security given for the fulfilment of the obligations of the registered holder under the existing leases that have been consolidated and not previously forfeited shall be refunded or otherwise returned by the Minister.

(3) Where any security required to be lodged with the Minister under subsection (1) is not lodged in accordance with that subsection, the Minister may, by instrument in writing, direct that any security given for

Coal Mining (Amendment).

SCHEDULE 5—continued.**INSERTION OF PART IVA INTO THE PRINCIPAL ACT—continued.**

the fulfilment of any obligations of the registered holder under the existing leases that have been, or are to be, consolidated shall be deemed to have been given, in accordance with the terms of the direction, for the fulfilment of the obligations of the registered holder under the consolidated coal lease, and the direction shall, upon being served on the registered holder and any other person liable to make any payment under the security, have effect according to its tenor.

(4) In this section a reference to obligations under a lease includes a reference to obligations under an approval or consent given under a lease.

Saving of interest in existing leases.

82Q. (1) An interest (whether legal or equitable) in, or affecting, an existing lease that is consolidated under this Part, being an interest that was created, assigned or dealt with by an instrument approved by the Minister under section 104 of this Act or section 107 of the Mining Act, 1973, and in force immediately before the existing lease is consolidated, shall continue to have the like force and effect in respect of the consolidated coal lease as it had before the existing lease was consolidated.

(2) Subsection (1) is subject to any determination under section 109 (o).

Compensation.

82R. (1) Compensation under section 97 is not payable in respect of the grant of a consolidated coal lease.

(2) Any compensation to which a person is entitled under section 97 of this Act or section 122 of the Mining Act, 1973, in respect of the grant of an existing lease which is consolidated under this Part shall be assessed or agreed upon and paid as if the existing lease had not been consolidated.

Coal Mining (Amendment).

SCHEDULE 5—*continued.*INSERTION OF PART IVA INTO THE PRINCIPAL ACT—*continued.*

(3) Except as provided by subsections (4), (5) and (6), any compensation assessed, agreed upon or paid under section 97 of this Act or section 122 of the Mining Act, 1973, in respect of an existing lease which is consolidated under this Part shall not be affected by the consolidation of the existing lease and shall be dealt with as if the existing lease had not been consolidated.

(4) Where any compensation is paid into court under section 98 (3) or (4) in respect of an existing lease that is consolidated under this Part, the date on which the existing lease ceases to have effect shall, for the purposes of section 98 (5) and (6), be deemed to be the date on which the consolidated coal lease ceases to have effect.

(5) Where—

- (a) compensation has been assessed or agreed upon under section 97 of this Act or section 122 of the Mining Act, 1973, in respect of an existing lease which is consolidated under this Part;
- (b) the date of expiry of the consolidated coal lease is after the date on which the existing lease would have expired if it had not been consolidated; and
- (c) it is proved to the satisfaction of the warden that—
 - (i) further loss has been caused to the land to which the assessment or agreement related, or to other land, after the date on which the existing lease would have so expired, being loss arising from any one or more of the causes referred to in section 98 (1) (b); and
 - (ii) in the case of an assessment, the whole of the amount paid into court pursuant to section 98 (3) or (4) of this Act or section 124 (3) or (4) of the Mining Act, 1973, has been duly paid out,

the warden shall, subject to section 99 (2), assess the loss and order that the amount so assessed be paid by the registered holder of the consolidated coal lease to which the assessment relates, within the time and to the persons specified in the order.

Coal Mining (Amendment).

SCHEDULE 5—*continued.*INSERTION OF PART IVA INTO THE PRINCIPAL ACT—*continued.*

(6) The provisions of section 100 have effect with respect to a consolidated coal lease notwithstanding that the assessment referred to in that section relates to an existing lease that has been consolidated under this Part.

Preservation of certain rights, liabilities, etc., upon consolidation.

82s. (1) Except as otherwise provided by this Act, the cancellation pursuant to section 82H (4) of an existing lease upon the consolidation of the lease under this Part does not affect any liability of the person who was the registered holder of the lease before that consolidation.

(2) Any development consent granted under the Environmental Planning and Assessment Act, 1979, with respect to the carrying out of development authorised by an existing lease that is consolidated under this Part shall be deemed to have been granted with respect to the carrying out of development authorised by the consolidated coal lease in that part of the area of land that was subject to the existing lease.

(3) Where the provisions of section 89 (6) or 91 have effect in respect of an existing lease that is consolidated under this Part, those provisions continue to have effect in respect of that part of the area of land that was subject to the existing lease.

(4) Where an existing lease that is consolidated under this Part—

- (a) applies to a mineral by reason of a direction given by the Minister under section 72 (3) (a); or
- (b) applies to petroleum by reason of a direction given by the Minister under section 72A (3) (a),

the direction continues to have effect in respect of the consolidated coal lease, but the rights and obligations conferred or imposed by this Act on the registered holder by reason of the direction shall apply only in that part of the area of land that was subject to the existing lease.

Coal Mining (Amendment).

SCHEDULE 5—*continued.*INSERTION OF PART IVA INTO THE PRINCIPAL ACT—*continued.*

(5) Where the Minister has granted the registered holder of an existing lease that is consolidated under this Part permission under section 74A of this Act or under section 94A of the Mining Act, 1973, to carry on a tourist activity in the area of land subject to the existing lease and that permission is in force immediately before the consolidated coal lease is granted, the registered holder of the consolidated coal lease shall be deemed to have been granted that permission under section 74A, but the tourist activity shall not, pursuant to that permission, be carried on outside the area of land that was subject to the existing lease.

(6) The consolidation of an existing lease under this Part does not affect an agreement referred to in section 127 relating to the existing lease and, for the purposes of that section, the consolidated coal lease shall be the coal lease to which the agreement relates.

(7) Where the Minister has made an order under section 70 (4) in respect of the carrying on of a mining purpose by the registered holder of an existing lease and the order is in force immediately before the existing lease is consolidated under this Part, the order shall be deemed to have been made in respect of the carrying on of the mining purpose by the registered holder of the consolidated coal lease in that part of the area of land that was subject to the existing lease.

(8) A consent given under section 70 (5) in respect of the suspension of mining operations in the area of land subject to an existing lease and in force immediately before the existing lease is consolidated under this Part shall be deemed to have been given in respect of the suspension of mining operations in that part of the area of land that was subject to the existing lease.

(9) A right-of-way marked out under section 117 of this Act or under section 175 of the Mining Act, 1973, from any land subject to an existing lease and in existence immediately before the lease is consolidated under this Part shall be deemed to be a right-of-way marked out under section 117 from land subject to the consolidated coal lease.

Coal Mining (Amendment).

SCHEDULE 5—*continued.*

INSERTION OF PART IVA INTO THE PRINCIPAL ACT—*continued.*

(10) A licence granted under section 174 of the Mining Act, 1973, to the registered holder of an existing lease and in force immediately before the existing lease is consolidated under this Part shall be deemed to have been granted in respect of the consolidated coal lease.

Regulations.

82T. The regulations may make provision of a saving or transitional nature consequent on the consolidation of any existing leases under this Part.

SCHEDULE 6.

(Sec. 5.)

AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

(1) Section 83 (1)—

Omit “Crown lease for pastoral purposes or a special lease for pastoral purposes”, insert instead “pastoral lease”.

(2) Section 83 (1) (a)—

Omit “Governor’s”, insert instead “Minister’s”.

Coal Mining (Amendment).

SCHEDULE 7.

(Sec. 5.)

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

- (1) Sections 86 (1) (a), 86 (1) (b), 87 (3) (b), 89 (3)—
Omit “block or blocks” wherever occurring, insert instead “unit or units”.
- (2) Sections 86 (6), 86 (9), 88 (5), 91 (6), 91 (8)—
Omit “Governor” wherever occurring, insert instead “Minister”.
- (3) (a) Section 86 (2)—
Omit “subsections (10) and”, insert instead “subsection”.
- (b) Section 86 (2)—
After “application”, insert “under section 30”.
- (c) Section 86 (7)—
Omit “, or the Governor”, insert instead “or”.
- (d) Section 86 (10)—
Omit the subsection.
- (4) (a) Section 87 (1)—
After “application” where firstly occurring, insert “under section 30”.
- (b) Section 87 (2)—
Omit the subsection.

Coal Mining (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(c) Section 87 (3A), (3B)—

Omit the subsections, insert instead:—

(3A) The Minister shall, before granting a coal lease, cause to be served on the Director of Environment and Planning a notice—

- (a) stating that an application or a tender for the lease has been lodged;
- (b) containing a description or a plan of the area of land over which the lease is sought;
- (c) containing a detailed description of the works to be undertaken by or on behalf of the applicant or tenderer if the lease is granted, including works and activities relating to—
 - (i) the preparation of the land for mining; and
 - (ii) the reinstatement of the land either during the carrying on of mining operations or after they have ceased;
- (d) containing a copy of any environmental impact statement that is required by Part V of the Environmental Planning and Assessment Act, 1979, to be prepared in relation to the application or tender; and
- (e) stating that objection to the granting of the lease (not being an objection relating to the safety of a prescribed dam), or proposals for the inclusion in the lease of any condition (not being a condition relating to the safety of a prescribed dam), may be made to the Minister within the period specified in the notice.

Coal Mining (Amendment).

*SCHEDULE 7—continued.**AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—continued.*

(3B) Where, before granting a coal lease, the Minister becomes aware that the information contained in a notice served under subsection (3A) or a notice served under this subsection requires alteration for any reason, the Minister shall, before granting the lease, cause to be served on the Director of Environment and Planning a notice of the alteration.

(5) Section 88 (1)—

Omit “and that Government Department or statutory authority”, insert instead “or on the Director of Environment and Planning pursuant to section 87 (3A) and that Government Department, statutory authority or Director”.

(6) (a) Section 89 (1)—

Omit “Subject to subsection (2), where an application”, insert instead “Where an application under section 30”.

(b) Section 89 (2)—

Omit the subsection.

(c) Section 89 (5)—

Omit “or the Governor, as the case may be,”.

(d) Section 89 (6) (a)—

After “mineral”, insert “or petroleum”.

(e) Section 89 (6) (a)—

After “section 72 (3) (a)”, insert “or 72A (3) (a)”.

(f) Section 89 (8)—

Omit “48 (2)”, insert instead “48”.

Coal Mining (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(7) (a) Section 91 (1)—

After “this section applies”, insert “(being a person who has not already obtained that consent)”.

(b) Section 91 (3A)—

After section 91 (3), insert:—

(3A) Where a coal lease is granted over any land to a person, any condition (being a prescribed condition) imposed by an authority, or a body hearing an appeal from an authority, as a condition of, or in connection with, a consent to the use of the land for the purpose of obtaining coal given to the person before the grant of the lease (otherwise than pursuant to a requirement under subsection (1) (a)) is void and the consent to that use of the land shall be deemed to have been given free of the condition.

(c) Section 91 (4) (a)—

Omit “pursuant to a requirement under subsection (1) (a),”.

(d) Section 91 (4) (a)—

After “coal”, insert “(whether pursuant to a requirement under subsection (1) (a) or not)”.

(e) Section 91 (9) (b)—

Omit “recommend the grant of”, insert instead “grant”.

Coal Mining (Amendment).

SCHEDULE 8.

(Sec. 5.)

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT.

(1) (a) Section 93—

Before “a concession” wherever occurring, insert “an authorisation or”.

(b) Section 93—

Omit “or the Governor, as the case may be,”.

(c) Section 93—

Before “concession” where secondly occurring, insert “authorisation or”.

(2) Section 93A—

After section 93, insert:—

Right of entry for environmental study.

93A. (1) Where—

- (a) a person proposes to undertake, for the purposes of this Act or the Environmental Planning and Assessment Act, 1979, an examination or assessment of the likely effect on the environment of the activities to be carried out in connection with a proposed authorisation or concession; and
- (b) the examination or assessment is to be undertaken by the person—
 - (i) as a consequence of a requirement under section 91 (1) (a);
 - (ii) pursuant to a request or requirement made by the Minister in connection with the administration or execution of this Act;
 - (iii) in connection with an application or tender made by the person for the grant of an authorisation or a concession; or

Coal Mining (Amendment).

SCHEDULE 8—*continued.*AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(iv) in connection with an invitation proposed to be made to the person by the Minister under section 34, the person may apply to the warden for a permit under this section to enter land for the purposes of the examination or assessment.

(2) The warden may—

- (a) subject to such conditions as the warden may determine, issue to an applicant under subsection (1) a permit to enter land specified in the permit if the warden is satisfied that it is necessary for the applicant to enter the land for the purposes of the examination or assessment to which the application relates; or
- (b) refuse the application.

(3) The warden may, of his or her own motion, hold an inquiry into any application under subsection (1) or into any matter arising under, or in connection with, a permit issued under this section.

(4) The conditions subject to which a permit is issued under this section shall be set out in the permit.

(5) The warden may, for such reason as the warden thinks fit, cancel a permit issued under this section.

(6) Unless sooner cancelled, a permit remains in force for such period (not exceeding 6 months from the date it is issued) as is specified in the permit.

(7) A permit under this section, while it remains in force, confers on the holder of the permit, either personally or by the holder's servants or agents, the right to enter, subject to this Act and to the conditions subject to which it is issued, the land to which the permit applies and to do all such things as may be necessary to carry out the examination or assessment to which the permit relates, but does not confer any right to carry out prospecting or mining operations.

Coal Mining (Amendment).

SCHEDULE 8—continued.**AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—continued.**

(8) A person shall not enter, pursuant to a permit issued under this section, any portion of private lands or Crown lands held under a pastoral lease, unless—

- (a) before doing so, the person serves on the owner and any occupier of the private lands, or on any occupier of the Crown lands, a notice in writing stating his or her intention to enter the land;
- (b) the person enters the land at such reasonable time as is specified in the notice; and
- (c) the person produces the permit to any such owner or occupier if required to do so.

(9) A person shall not, without reasonable excuse, obstruct or hinder a person in the exercise of the powers conferred on the person by subsection (7).

Penalty: \$500.

(10) Nothing in this section operates to prevent a person or the person's servants or agents from entering any lands with the consent of the owner or occupier thereof for the purpose of carrying out any examination or assessment referred to in subsection (1).

(11) The holder of a permit issued under this section shall not exercise in lands in an exempted area any of the rights conferred by subsection (7), except with the consent of the Minister given either unconditionally or subject to conditions.

(12) In the case of lands within a national park, historic site or nature reserve under the National Parks and Wildlife Act, 1974, or land reserved or dedicated under that Act the Minister shall not give a consent under subsection (11) without the approval of the Minister for Planning and Environment.

Coal Mining (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(13) Nothing in this section shall be construed as authorising the holder of a permit issued under this section to disregard the provisions of any Act, ordinance or regulation prohibiting, regulating or restricting, or having the effect of prohibiting, regulating or restricting, the exercise by that holder of any right conferred by this section.

(14) Where the holder of a permit issued under this section enters any land in pursuance of the permit, the holder is liable to pay compensation, assessed by the warden—

- (a) in the case of Crown lands—to the Crown and to any person lawfully occupying those lands; or
- (b) in the case of private lands—to the owner or any occupier of those lands,

for any loss referred to in section 98 (1) (c1) suffered by any of them as a result of the exercise of the rights conferred by this section on the holder of the permit.

(3) (a) Section 94—

Before “a concession”, insert “an authorisation or”.

(b) Section 94—

Before “concession” where secondly occurring, insert “authorisation or”.

(4) (a) Section 95 (1)—

Omit “a coal lease”, insert instead “an authorisation or a concession”.

Coal Mining (Amendment).

SCHEDULE 8—continued.**AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—continued.****(b) Section 95 (1) (a)—**

Omit “mining area”, insert instead “area of land subject to the authorisation or concession”.

(c) Section 95 (1) (a)—

After “mining operations” insert “or prospecting operations”.

(d) Section 95 (1)—

Omit “Governor”, insert instead “Minister”.

(e) Section 95 (2)—

Omit the subsection.

(5) Section 95A—

After section 95, insert:—

Alteration of conditions relating to rehabilitation, etc.

95A. (1) The Minister may, during the currency of—

(a) a coal lease which does not contain conditions of the kind referred to in section 95; or

(b) a coal lease which contains conditions of that kind, being conditions which the Minister considers are not adequate,

amend the lease so as to include conditions of that kind or altered or additional conditions of that kind.

(2) The Minister shall cause to be served on the registered holder of a coal lease an instrument in writing setting out any amendment made under subsection (1) to the lease, and the amendment has effect from and including the date—

(a) specified in the instrument as the date of the amendment; or

Coal Mining (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(b) on which the instrument is so served,
whichever is the later date.

(6) (a) Section 96 (1)—

Omit “Where a concession”, insert instead “During the currency of an authorisation or a concession or where an authorisation or a concession”.

(b) Section 96 (1)—

Before “concession” where secondly and thirdly occurring, insert “authorisation or”.

(c) Section 96 (1)—

Omit “or 95”, insert instead “, 95 or 95A”.

SCHEDULE 9.

(Sec. 5.)

AMENDMENTS TO PART VIII OF THE PRINCIPAL ACT.

(1) Section 97 (1)—

Omit “Where”, insert instead “Subject to section 82R, where”.

(2) (a) Section 98 (1) (b)—

Before “97 (5)”, insert “93A (14) or”.

Coal Mining (Amendment).

*SCHEDULE 9—continued.**AMENDMENTS TO PART VIII OF THE PRINCIPAL ACT—continued.*

(b) Section 98 (1) (cl)—

After section 98 (1) (c), insert:—

(cl) shall, where the assessment is made for the purposes of section 93A (14), be of the loss caused by—

- (i) the interference with the use of the land;
- (ii) the damage to the land, to any crops, trees, grasses or other vegetation on the land or to any buildings and improvements thereon, being damage caused by the holder of the permit; and
- (iii) all consequential damage; and

(c) Section 98 (1) (d)—

Omit “thereon; and”, insert instead “thereon.”.

(d) Section 98 (1) (e)—

Omit the paragraph.

(e) Section 98 (3)—

After “concession”, insert “or the holder of a permit under section 93A, as the case may be,”.

(f) Section 98 (5), (6)—

Omit “or a concession” wherever occurring, insert instead “, a concession or a permit”.

(3) Sections 99 (1), 100A (1)—

Omit “Part” wherever occurring, insert instead “Act”.

Coal Mining (Amendment).

SCHEDULE 9—*continued.*

AMENDMENTS TO PART VIII OF THE PRINCIPAL ACT—*continued.*

(4) Section 101—

Omit the section, insert instead:—

Appeal.

101. The provisions of sections 152–162 of the Mining Act, 1973, apply to and in respect of an assessment made by the warden in pursuance of this Act, and to and in respect of a person dissatisfied with such an assessment, as if the assessment were a decision of a warden's court and the person were a party to a complaint or proceeding dissatisfied with the decision.

SCHEDULE 10.

(Sec. 5.)

AMENDMENTS TO PART IX OF THE PRINCIPAL ACT.

(1) Section 102 (1)—

After “affecting”, insert “, an authorisation or”.

(2) (a) Section 103 (1), (2)—

After “affecting,” wherever occurring, insert “an authorisation or”.

(b) Section 103 (2)—

Before “concession” where secondly and thirdly occurring, insert “authorisation or”.

(c) Section 103 (3)—

Omit the subsection.

Coal Mining (Amendment).

*SCHEDULE 10—continued.**AMENDMENTS TO PART IX OF THE PRINCIPAL ACT—continued.*

(3) (a) Section 104 (1) (a), (b)—

Before “a concession” wherever occurring, insert “an authorisation or”.

(b) Section 104 (2A)—

Omit “its execution”, insert instead “execution of the transfer or instrument”.

(c) Section 104 (2B)—

After section 104 (2A), insert:—

(2B) The Minister may, by instrument in writing, specify the cash payment subject to which the Minister would be prepared to approve an application under subsection (2).

(d) Section 104 (3A)—

After section 104 (3), insert:—

(3A) Where the registered holder of an authorisation or a concession is required to comply with any condition on which an approval was given under this section to the transfer of the authorisation or concession or to an instrument relating to the authorisation or concession, the condition shall, for the purposes of this Act, be deemed to be a condition of the authorisation or concession.

(e) Section 104 (5)—

Before “a concession”, insert “an authorisation or”.

(f) Section 104 (5)—

Omit “the concession”, insert instead “the authorisation or concession”.

Coal Mining (Amendment).

SCHEDULE 10—*continued.*

AMENDMENTS TO PART IX OF THE PRINCIPAL ACT—*continued.*

(4) (a) Section 105—

Before “a concession”, insert “an authorisation or”.

(b) Section 105—

Omit “the concession”, insert instead “the authorisation or concession”.

(5) (a) Section 106 (1)—

Before “a concession”, insert “an authorisation or”.

(b) Section 106 (1)—

Omit “the concession” wherever occurring, insert instead “the authorisation or concession”.

(6) Section 108—

Omit the section, insert instead:—

Evidentiary provision.

108. A certificate signed by the registrar to the effect that—

- (a) an authorisation or a concession specified in the certificate was granted, renewed, transferred or cancelled on a date so specified;
- (b) a condition specified in the certificate is a condition of an authorisation or a concession so specified;
- (c) a person named in the certificate is, or was on a day specified in the certificate, the registered holder of an authorisation or a concession so specified;

Coal Mining (Amendment).

SCHEDULE 10—*continued.*AMENDMENTS TO PART IX OF THE PRINCIPAL ACT—*continued.*

- (d) land described in the certificate—
 - (i) is affected by an authorisation or a concession specified in the certificate, or an authorisation or a concession of a kind so specified; or
 - (ii) is not affected by an authorisation or a concession, or an authorisation or a concession of a kind so specified;
- (e) a transfer of an authorisation or a concession specified in the certificate—
 - (i) has been approved by the Minister; or
 - (ii) has not been approved by the Minister; or
- (f) an instrument of a kind referred to in section 104 (1) (b), specified in the certificate—
 - (i) has been approved by the Minister; or
 - (ii) has not been approved by the Minister,

shall be received by all courts, wardens and tribunals as prima facie evidence of that fact.

SCHEDULE 11.

(Sec. 5.)

AMENDMENTS TO PART X OF THE PRINCIPAL ACT.

- (1) (a) Section 109 (f)—
 - After “mineral” wherever occurring, insert “, petroleum”.

Coal Mining (Amendment).

SCHEDULE 11—*continued.*

AMENDMENTS TO PART X OF THE PRINCIPAL ACT—*continued.*

(b) Section 109 (g)—

Before “a concession”, insert “an authorisation or”.

(c) Section 109 (m)—

Omit “and”.

(d) Section 109 (n)—

Omit “concession.”, insert instead “concession; and”.

(e) Section 109 (o)—

After section 109 (n), insert:—

- (o) any question or dispute in connection with a consolidated coal lease arising by reason of the operation of section 82Q, including a question or dispute concerning the rights and obligations conferred or imposed by an interest referred to in that section or the priority of any such interest.

(2) Section 110 (a)—

After “coal”, insert “and petroleum”.

(3) Section 112A—

After section 112, insert:—

Proceedings for offences.

112A. (1) Proceedings for an offence against this Act shall be disposed of summarily—

- (a) in the case of an offence against section 70 (5)—before the Supreme Court in its summary jurisdiction; or

Coal Mining (Amendment).

SCHEDULE 11—continued.**AMENDMENTS TO PART X OF THE PRINCIPAL ACT—continued.**

(b) in any other case—before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

(2) Proceedings for an offence against section 70 (5) shall not be instituted without the written consent of the Minister.

(3) In proceedings for an offence against section 70 (5), a consent to institute the proceedings, purporting to have been signed by the Minister, shall be evidence of that consent without proof of the signature of the Minister.

SCHEDULE 12.

(Sec. 5.)

AMENDMENTS TO PART XI OF THE PRINCIPAL ACT.**(1) Section 114A—**

After section 114, insert:—

Directions concerning drilling cores and samples.

114A. (1) The Minister may, by notice in writing served on the registered holder of an authorisation or a concession, direct the registered holder to do any one or more of the following things:—

- (a) to preserve for the period specified in the notice any drilling core or sample recovered as a result of an operation carried on pursuant to the authorisation or concession;
- (b) to label or otherwise identify those cores or samples in the manner specified in the notice and to keep such other records in relation to those cores or samples as may be so specified;

Coal Mining (Amendment).

SCHEDULE 12—*continued.*

AMENDMENTS TO PART XI OF THE PRINCIPAL ACT—*continued.*

- (c) to make those cores or samples available for inspection by an officer of the Department at the times and in the manner specified in the notice;
- (d) to deliver up to the Secretary any such core or sample specified in the notice.

(2) Where the Minister has reason to believe that a person has possession or control of a drilling core or sample recovered as a result of an operation carried on pursuant to an authorisation granted under section 20 or a concession, the Minister may, by notice in writing served on the person, direct the person to deliver up to the Secretary the core or sample.

(3) The Minister may revoke or vary a direction given under subsection (1) or (2) by notice in writing served on the person to whom the direction was given.

(4) A direction contained in a notice served under subsection (1) or (2), and a revocation or variation contained in a notice served under subsection (3), has effect on and from the date—

- (a) specified in the notice as the date of the direction, revocation or variation; or
- (b) on which the notice is so served,

whichever is the later date.

(5) A person shall comply with a direction under this section which is within the person's power to comply with.

Penalty (subsection (5)): \$1,000.

(2) Section 117 (5)—

After section 117 (4), insert:—

(5) The warden may, of his or her own motion, hold an inquiry into any matter arising under, or in connection with, a right-of-way conferred by subsection (1).

Coal Mining (Amendment).

SCHEDULE 12—continued.**AMENDMENTS TO PART XI OF THE PRINCIPAL ACT—continued.****(3) Section 119A—**

After section 119, insert:—

Defence in proceedings for defamation.

119A. (1) A person has qualified privilege in proceedings for defamation in respect of the lodging of any objection under this Act with the Secretary.

(2) This section does not limit or affect any right, privilege or immunity that a person has, apart from this section, as defendant in proceedings for defamation.

(4) Section 120 (2)—

Before “required”, insert “authorised or”.

(5) Section 121 (1)—

After “(including coal)”, insert “or to any petroleum”.

(6) Section 125—

Omit the section, insert instead:—

Recovery of public money expended on testing for coal or research.

125. (1) Where public money is expended—

- (a) in the course of testing any land by way of drilling or any other means for the purpose of ascertaining whether or not any coal occurs in the land or of discovering the extent to which coal so occurs; or

Coal Mining (Amendment).

SCHEDULE 12—continued.

AMENDMENTS TO PART XI OF THE PRINCIPAL ACT—continued.

- (b) in the course of an environmental impact study or other research programme which is necessary or desirable for the purpose of the proper assessment of any application or tender that has been or may be lodged for a coal lease over any land,

the Minister may cause to be served on any applicant or tenderer for the grant of a coal lease over the land or any part of the land a notice informing the applicant or tenderer that he or she may, within the period (in this section referred to as the "prescribed period") specified in the notice, elect—

- (c) to pay to the Minister in a lump sum the amount of public money so expended or such part of that amount as the Minister thinks fit; or
- (d) to pay to the Minister by instalments of such amounts and at such times as may be specified in the notice an amount specified therein, being the amount of public money so expended or such part of that money as the Minister thinks fit.

(2) Where an applicant or tenderer referred to in subsection (1) neglects or fails to make within the prescribed period the election referred to in that subsection, the Minister may forthwith refuse the application or tender for the grant of a coal lease.

(3) Where such an applicant or tenderer elects to pay the lump sum referred to in subsection (1) (c), the application or tender for the grant of a coal lease shall be refused unless payment of that sum in full is made within a period which the Minister shall, by a further notice served on that applicant or tenderer, specify.

(4) Where the applicant or tenderer elects to pay the instalments referred to in subsection (1) (d), the coal lease, when granted, shall contain a condition requiring payment by the registered holder of the lease to the Minister of the instalments specified in the notice referred to in subsection (1) (d).

Coal Mining (Amendment).

SCHEDULE 12—*continued.*

AMENDMENTS TO PART XI OF THE PRINCIPAL ACT—*continued.*

(5) Where public money has been expended as referred to in subsection (1) in connection with several parcels of land, the amount so expended in respect of a particular parcel of land shall, for the purposes of this section, be determined by the Minister in such manner as the Minister thinks fit.

(7) (a) Section 126 (1)—

Omit the subsection, insert instead:—

(1) The Minister shall cause to be paid to an account within the Special Deposits Account in the Treasury moneys received in connection with tenders for an exploration permit.

(b) Section 126 (2) (c) (i)—

After “28 (6).;”, insert “and”.

(c) Section 126 (2) (c) (ii)—

Omit the subparagraph.

(8) (a) Section 127 (1)—

Omit the subsection, insert instead:—

(1) The Minister and a person who—

- (a) successfully tenders for the grant of a coal lease in response to an invitation to tender under section 32;
- (b) applies for the grant of a coal lease in response to an invitation so to apply under section 34;
- (c) applies for the renewal of a coal lease; or

Coal Mining (Amendment).

SCHEDULE 12—*continued.*

AMENDMENTS TO PART XI OF THE PRINCIPAL ACT—*continued.*

- (d) applies for the approval of the Minister under section 104 (1) of a transfer, or an instrument, in respect of a coal lease,

may enter into an agreement in writing for and in relation to the payment, by instalments, of any amount to be paid in respect of the grant or renewal of the coal lease or the approval of the transfer or instrument, as the case may be (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 remaining from time to time unpaid.

- (b) Section 127 (4)—

Omit “Governor”, insert instead “Minister”.

- (9) Section 128 (1)—

Omit the subsection, insert instead:—

(1) The Minister shall cause to be paid to an account within the Special Deposits Account in the Treasury moneys received in connection with tenders for the grant of a coal lease in response to an invitation to tender under section 32 (including any cash reserve price but not including royalties) whether paid by instalments or otherwise.

- (10) Section 130 (1)—

Omit “pursuance of” wherever occurring, insert instead “accordance with”.

- (11) Section 131 (1)—

After “applicant” wherever occurring, insert “or tenderer”.

Coal Mining (Amendment).

SCHEDULE 13.

(Sec. 5.)

AMENDMENTS TO PART XII OF THE PRINCIPAL ACT.

(1) Section 135 (2) (e)—

Omit the paragraph, insert instead:—

- (e) the aggregation of the labour or expenditure conditions in coal leases or in coal leases and mining purposes leases (within the meaning of the Mining Act, 1973) and the cancellation or variation of any such aggregation;

(2) (a) Section 135 (2) (n) (i)—

After “fee” where firstly occurring, insert “or rent”.

(b) Section 135 (2) (n) (ii)—

Omit the subparagraph, insert instead:—

- (ii) any moneys (not being royalties) paid in consideration of the grant or renewal of an authorisation or a concession or of an approval under section 104; or

(3) Section 135 (2) (n1)—

Omit the paragraph, insert instead:—

- (n1) determining the person to whom a refund referred to in paragraph (n) is payable;

(4) Section 135 (2) (p)—

Omit “and minerals”, insert instead “, minerals and petroleum”.

(5) Section 135 (2) (r)—

Omit “and” where lastly occurring.

Coal Mining (Amendment).

SCHEDULE 13—*continued.*

AMENDMENTS TO PART XII OF THE PRINCIPAL ACT—*continued.*

(6) Section 135 (2) (rl)—

After section 135 (2) (r), insert:—

- (rl) the issue of permits under section 93A, the exercise of the rights conferred by any such permit and any other matter concerning any such permit; and

SCHEDULE 14.

(Sec. 5.)

AMENDMENT TO THE SECOND SCHEDULE TO THE PRINCIPAL ACT.

Second Schedule, paragraph 9 (13)—

Omit "Crown lease for pastoral purposes or a special lease for pastoral purposes", insert instead "pastoral lease".

SCHEDULE 15.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION.

(1) (a) Section 6 (1), definitions of "Department" and "registrar"—

Omit "Mines" wherever occurring, insert instead "Mineral Resources".

(b) Section 6 (1), definition of "Secretary"—

After the definition of "registrar", insert:—

"Secretary" means the person for the time being holding office, or acting, as the Secretary, Department of Mineral Resources;

Coal Mining (Amendment).

SCHEDULE 15—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—*continued.*

(c) Section 6 (1), definition of “Under Secretary”—

Omit the definition.

(2) Section 7—

Omit “in graticular”, insert instead “into graticular”.

(3) Sections 11 (1), 16 (1) (b), 16 (4), 16 (6), 16 (7), 17 (1), 18, 20 (1) (a), 21A (2) (a), 28 (1), 28 (4), 30 (2) (a), 30 (3), 30 (4), 30 (6), 30 (6A), 33 (1), 33 (6), 35 (1), 37 (3), 38 (1), 39 (3), 50 (2), 50 (3), 50 (12), 59 (6) (a), 60 (2), 61A (3) (c), 61A (3) (d), 67 (2) (a), 72 (2), 74B (2), 75 (2), 77B (b), 83 (2), 83 (3) (a), 83 (4), 86 (3) (a), 87 (4), 89 (4), 97 (2), 104 (2), 115 (5) (d), 119, First Schedule, paragraphs 2 (2) and 3—

Omit “Under Secretary” wherever occurring, insert instead “Secretary”.

(4) Section 41 (5)—

Omit “sections 34 (2), 41 (1) (a), 41 (1A) (a) and 41 (2) (a) or (b)”, insert instead “section 34 (2) and in subsections (1) (a), (1A) (a), (2) (a) and (2) (b)”.

(5) Section 61A (3) (a) (iii)—

Omit the subparagraph, insert instead:—

(iii) of the proposal to invite an application under section 34,
as the case may be;

(6) Sections 76 (2), 98 (6), 126 (2) (c), 128 (2) (b), 128 (3)—

Omit “Consolidated Revenue Fund” wherever occurring, insert instead “Consolidated Fund”.

(7) Section 77 (4)—

Omit “mining lease”, insert instead “coal lease”.

Coal Mining (Amendment).

SCHEDULE 15—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—*continued.*

(8) (a) Section 78 (3)—

Omit “Any”, insert instead “A”.

(b) Section 78 (3)—

Omit “who knowingly furnishes”, insert instead “shall not knowingly furnish”.

(c) Section 78 (3)—

Omit “is guilty of an offence”.

(9) Sections 83 (4), 83 (5), 84 (1), 84 (4), 85 (1), First Schedule, paragraph 1 (1), definition of “the Director”—

Before “Agriculture” wherever occurring, insert “the Department of”.

(10) Section 102 (3)—

Omit “Mines”, insert instead “Mineral Resources”.

(11) (a) Section 107 (2)—

Omit “who furnishes”, insert instead “shall not furnish”.

(b) Section 107 (2)—

Omit “is guilty of an offence”.

(12) Section 115 (5)—

Omit “sections 9, 10 and 11 of the Unclaimed Moneys Act, 1917, shall apply to the moneys so paid to the Treasurer”, insert instead “sections 6 (2) and 10 of the Unclaimed Money Act, 1982, shall apply to and in respect of the balance so paid in the same manner as those provisions would apply if that balance had been paid to the Treasurer under section 6 of that Act”.

(13) Section 130 (2)—

Omit “(1) (b) and registered by the registrar”.

Coal Mining (Amendment).

SCHEDULE 16.

(Sec. 6.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.**Interpretation.**

1. Except in so far as the context or subject-matter otherwise indicates or requires, expressions used in this Schedule have the meanings ascribed to those expressions in the Principal Act.

Savings concerning pastoral leases.

2. The amendments of sections 29, 30, 50 and 72 of the Principal Act by this Act do not affect an application under any such section made before the commencement of those amendments.

Withdrawal of objections.

3. Section 11A of the Principal Act, as amended by this Act, applies to an objection under the Principal Act notwithstanding that the objection was lodged before the commencement of that section.

Time for lodgment of applications for renewal of section 21A authorisations.

4. The amendment of section 25 (8) of the Principal Act by this Act does not apply to an application for the renewal of an authorisation—

- (a) which was granted under section 21A of the Principal Act; and
- (b) which, if not renewed, would cease to have effect within 2 months after the commencement of that amendment.

Grant, renewal and cancellation of coal leases by Governor.

5. (1) A coal lease granted by the Governor under section 41 of the Principal Act and in force immediately before the commencement of Schedule 4 (10) shall, on and from that commencement, be deemed to have been granted by the Minister under that section, as amended by this Act, and to have been so granted subject to the conditions to which it was subject immediately before that commencement.

(2) A coal lease signed by the Governor under section 47 (1) of the Principal Act shall, on and from the commencement of Schedule 4 (15), be deemed to have been signed by the Minister under that subsection on the day when it was so signed by the Governor.

Coal Mining (Amendment).

SCHEDULE 16—continued.**SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—continued.**

(3) A coal lease renewed by the Governor by instrument in writing under section 53 (2) of the Principal Act and in force immediately before the commencement of Schedule 4 (20) (a) shall, on and from that commencement, be deemed to have been renewed by the Minister, by that instrument, under section 53 (1) of the Principal Act, as amended by this Act, and to be subject to the conditions to which it was subject immediately before that commencement.

(4) A coal lease cancelled by the Governor by instrument in writing under section 59 of the Principal Act before the commencement of Schedule 4 (22) (a) shall, on and from that commencement, be deemed to have been cancelled by the Minister, by that instrument, under that section, as amended by this Act.

(5) An application under section 59 (5) of the Principal Act for the Governor to cancel a coal lease, lodged but not finally dealt with before the commencement of Schedule 4 (22) (d), shall, on and from that commencement, be deemed to be an application under that subsection for the Minister to cancel the coal lease.

(6) An objection under section 83 of the Principal Act to the grant of a coal lease by the Governor, lodged but not finally dealt with before the commencement of Schedule 6 (2), shall, on and from that commencement, be deemed to be an objection under that section, as amended by this Act, to the grant of the coal lease by the Minister.

Lodgment of copy of notice of application for renewal of coal lease.

6. Where a written statement has, before the commencement of Schedule 4 (18), been lodged in accordance with section 50 (11) of the Principal Act in respect of an application for the renewal of a concession, it shall not be necessary for a statutory declaration to be lodged in respect of that application in accordance with section 50 (11) of the Principal Act, as amended by this Act.

Proceedings for offence under section 70 (5).

7. The amendment of section 70 (5) of the Principal Act by this Act does not affect anything done before the commencement of that amendment.

Increase, decrease or waiver of coal lease rent by Governor.

8. Where the rent payable in respect of a coal lease is increased, decreased or waived by the Governor under section 75 (4) or (6) of the Principal Act, being an increase, decrease or waiver in force immediately before the commencement of Schedule 4 (10), the rent so payable shall, on and from that commencement, be deemed to have been so increased, decreased or waived, as the case may be, by the Minister under those subsections, as amended by this Act.

Coal Mining (Amendment).

SCHEDULE 16—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Fixing of royalty rate by Governor.**

9. A rate of royalty fixed by the Governor under section 77 of the Principal Act in respect of coal won from land subject to a coal lease and in force immediately before the commencement of Schedule 4 (10) shall, on and from that commencement, be deemed to have been fixed by the Minister under that section, as amended by this Act, and to have been so fixed at the time when it was fixed by the Governor.

Continuance of certain appeals to arbitration.

10. Any proceedings commenced under section 101 of the Principal Act before the commencement of Schedule 9 (4) and not determined before that commencement may be determined as if Schedule 9 (4) had not been enacted.

Conditions of approval of transfer, etc.

11. Section 104 (3A) of the Principal Act, as amended by this Act, applies to the conditions of an approval given under section 104 of the Principal Act before the commencement of Schedule 10 (3) (d) as well as to the conditions of an approval so given after that commencement.

Recovery of public money expended on research, etc.

12. Section 125 of the Principal Act, as amended by this Act, applies to public money expended before the commencement of Schedule 12 (6) as well as to public money expended after that commencement.

Amalgamated leases.

13. (1) Any amalgamation pursuant to the regulations under the Principal Act of coal leases or of coal leases and mining purposes leases (within the meaning of the Mining Act, 1973), being an amalgamation in force immediately before the commencement of Schedule 13 (1), shall, on and from that commencement, be deemed to have been cancelled.

Coal Mining (Amendment).

SCHEDULE 16—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(2) The cancellation pursuant to subclause (1) of the amalgamation of any leases shall not affect the aggregation pursuant to the regulations under the Principal Act of the labour required to be performed, if any, on or in connection with the leases and the expenditure required to be observed, but the aggregation may be cancelled or varied in accordance with those regulations.

(3) The cancellation pursuant to subclause (1) of the amalgamation of any leases shall not affect any royalty fixed under section 77 (9) of the Principal Act in relation to those leases.

Definition of "colliery holding".

14. If Schedule 15 (3) commences before the day appointed and notified under section 2 (2) of the Coal Mining (Amendment) Act, 1982, the reference in the definition of "colliery holding" in section 6 (1) of the Principal Act and in section 67 (2) of that Act to the Under Secretary shall, until that day, be read and construed as a reference to the Secretary within the meaning of the Principal Act, as amended by this Act.

Regulations.

15. (1) The Governor may make regulations containing other provisions of a saving or transitional nature consequent on the enactment of this Act.

(2) A provision made under subclause (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

Coal Mining (Amendment).

SCHEDULE 16—continued.**SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—continued.**

(4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule.

(5) In this clause, "appointed day" means the day, or the earliest day, appointed and notified under section 2 (3).
