

MINING (AMENDMENT) ACT, 1983, No. 182

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 182, 1983.

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

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 “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 1–13, commence on the day on which that provision commences.

(3) The several provisions of Schedules 1–13 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 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 IIIA OF THE PRINCIPAL ACT.

Mining (Amendment).

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

SCHEDULE 5.—AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

SCHEDULE 6.—INSERTION OF PART VA INTO 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 THE PRINCIPAL ACT BY WAY OF
STATUTE LAW REVISION.

SCHEDULE 14.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Amendment of Act No. 42, 1973.

5. The Principal Act is amended in the manner set forth in Schedules 1–13.

Savings, transitional and other provisions.

6. Schedule 14 has effect.

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 V, insert instead:—

DIVISION 3.—*Renewal and Cancellation of Authority—*
*ss. 66–75.*DIVISION 3A.—*Suspension and Amendment of Conditions of*
Authority—ss. 76, 76A.

(b) Section 2—

After the matter relating to Part V, insert:—

PART VA.—CONSOLIDATION OF LEASES—ss. 111A–111T.

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

After the definition of “authority”, insert:—

“block” means a graticular section referred to in section 6A
(1) or, where the Minister so directs in a particular case,
part of such a graticular section;

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

After the definition of “conditions”, insert:—

“consolidated mining lease” means a lease granted under
Part VA;

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

In paragraph (a), after “the licence”, insert “, or who is a
member of a designated group endorsed on the licence,”.

Mining (Amendment).

SCHEDULE 1—*continued.*

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

(d) Section 6 (1), definition of “mining lease”—

Omit “or 76B (1)”, insert instead “, and includes a consolidated mining lease”.

(e) Section 6 (1), definition of “mining purposes lease”—

Omit “or 76B (1)”.

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

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

“unit” means a unit constituted as provided by section 6A (2) or, where the Minister so directs in a particular case, part of such a unit;

(g) Section 6 (5)—

After “this Act”, insert “and the Coal Mining Act, 1973,”.

(3) Sections 6A, 6B—

After section 6, insert:—

Graticulation of the Earth’s surface.

6A. (1) For the purposes of this Act, the surface of the Earth shall be deemed to be divided—

- (a) by the meridian of Greenwich and by the meridians that are at a distance from that meridian of 5 minutes, or a multiple of 5 minutes, of longitude; and
- (b) by the equator and by parallels of latitude that are at a distance from the equator of 5 minutes, or a multiple of 5 minutes, of latitude,

Mining (Amendment).

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

into graticular sections, each of which is bounded—

- (c) by portions of 2 of those meridians that are at a distance from each other of 5 minutes of longitude; and
- (d) by portions of 2 of those parallels of latitude that are at a distance from each other of 5 minutes of latitude.

(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
- (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.

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

6B. (1) Where, for the purposes of this Act or for the purposes of an order, instrument or notification under this Act, it is necessary to determine the position on the surface of the Earth of a point, line or area, that position shall be determined by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial)

radius of 6,378,160 metres and a flattening of $\frac{100}{29825}$ and by reference to the position of the Johnston Geodetic Station in the Northern Territory of Australia.

Mining (Amendment).

SCHEDULE 1—*continued.*

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

(2) That station shall be taken to be situated at 133 degrees, 12 minutes and 30.0771 seconds of East Longitude and at 25 degrees, 56 minutes and 54.5515 seconds of South Latitude and to have ground level of 571.2 metres above the spheroid referred to in subsection (1).

(4) Section 8 (2A)—

After section 8 (2), insert:—

(2A) The regulations may provide that an application required by this Act to be lodged with any person may be so lodged by delivering or posting the application to another specified person.

(5) Section 9A—

After section 9, insert:—

Withdrawal of objections.

9A. (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 10—

Omit the section, insert instead:—

Forms of authorities, etc.

10. An authority or a permit or licence granted or issued under this Act shall be in such form as the Minister may determine in respect of it.

Mining (Amendment).

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO PART II OF THE PRINCIPAL ACT.

(1) (a) Section 15 (1)—

Omit “holders, for the time being, of”, insert instead “persons for the time being holding, or acting in,”.

(b) Section 15 (3)—

Omit “holder of an office in the Department”, insert instead “person for the time being holding, or acting in, an office in the Department designated by the Minister”.

(2) Section 18—

Omit “Governor”, insert instead “Minister”.

(3) (a) Section 19 (1A)—

After section 19 (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 a claim, an authority, an opal prospecting licence or a fossicking licence.

(b) Section 19 (5)—

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

Mining (Amendment).

SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO PART IIIA OF THE PRINCIPAL ACT.

(1) Section 26B (1) (b)—

Omit “or for family use”, insert instead “, for family use or for a designated group use”.

(2) Section 26B (3) (a)—

Omit “or”.

(3) Section 26B (3) (b)—

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

(4) Section 26B (3) (c)—

After section 26B (3) (b), insert:—

(c) where the application specifies that the fossicking licence is to be endorsed for a designated group use—a fossicking licence with the names of the persons included in, or a description sufficient to identify, the designated group in respect of which the application is made endorsed thereon.

(5) Section 26B (4) (b) (i)—

Omit “or”.

(6) Section 26B (4) (b) (ii)—

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

Mining (Amendment).

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

(7) Section 26B (4) (b) (iii)—

After section 26B (4) (b) (ii), insert:—

- (iii) a designated group use—at least one of the persons included in the designated group intended to be endorsed on the licence has attained the age of 16 years.

(8) Section 26B (8)—

After section 26B (7), insert:—

- (8) In this section, “designated group” means a group of persons who are members of a class of persons prescribed for the purposes of this section.

SCHEDULE 4.

(Sec. 5.)

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

(1) Section 28 (3) (b), (4)—

Omit “or, if a person is nominated under subsection (6), that person,” wherever occurring.

(2) Section 28 (4A)—

After section 28 (4), insert:—

- (4A) Any money realised from the forfeiture of any securities referred to in subsection (4) may, notwithstanding anything to the contrary in that subsection, be applied by the Minister for the purpose of rehabilitating any land in the State affected by prospecting or mining operations.

Mining (Amendment).

SCHEDULE 4—*continued.*

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

(3) Section 28 (5) (b), (d)—

Omit “, or the person, if any, nominated under subsection (6),”
wherever occurring.

(4) Section 28 (6)—

Omit the subsection.

SCHEDULE 5.

(Sec. 5.)

AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

(1) (a) Section 38 (a)—

Omit “and”.

(b) Section 38 (b)—

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

(c) Section 38 (c)—

After section 38 (b), insert:—

(c) containing a general description of the prospecting
methods intended to be used in that area.

(2) (a) Section 39 (1)—

Omit the subsection, insert instead:—

(1) An application for an exploration licence shall be lodged
with—

(a) where the boundaries of the area of land over which the
licence is sought are based on the cardinal points of the
compass—the mining registrar for the division in which
is situated the north-eastern corner of that area; or

Mining (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

- (b) where the boundaries of that area are not so based—the mining registrar for the division in which is situated the northernmost corner of that area.
- (b) Section 39 (2) (a)—
 - Omit the paragraph, insert instead:—
 - (a) a description, as prescribed, of the area of land over which the licence is sought;
- (c) Section 39 (4)—
 - Omit “plan”, insert instead “description”.
- (3) Section 40—
 - Omit the section.
- (4) (a) Section 41 (1) (a)—
 - Omit “and”.
- (b) Section 41 (1) (b)–(d)—
 - Omit section 41 (1) (b), insert instead:—
 - (b) containing particulars, consisting of a plan and a description, sufficient to lead to a ready identification of the area of land over which the licence or lease is, or is to be, sought;
 - (c) in the case of an application for a prospecting licence—containing a general description of the prospecting methods intended to be used in that area; and
 - (d) in the case of an application for a mining lease—containing a general description of the prospecting and mining methods intended to be used in that area.

Mining (Amendment).

SCHEDULE 5—*continued.*

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

(c) Section 41 (2) (a)—

Omit “and”.

(d) Section 41 (2) (b)—

Omit “area.”, insert instead “area;”.

(e) Section 41 (2) (c), (d)—

After section 41 (2) (b), insert:—

(c) in the case of an application for a prospecting licence—
containing a general description of the prospecting
methods intended to be used in that area; and

(d) in the case of an application for a mining lease—
containing a general description of the prospecting and
mining methods intended to be used in that area.

(5) Section 42—

Omit the section.

(6) (a) Section 43 (1) (a)—

Omit the paragraph, insert instead:—

(a) be lodged with—

(i) where the boundaries of the area of land over
which the licence or the lease is sought are based
on the cardinal points of the compass—the
mining registrar for the division in which is
situated the north-eastern corner of that area; or

(ii) where the boundaries of that area are not so
based—the mining registrar for the division in
which is situated the northernmost corner of that
area;

Mining (Amendment).

*SCHEDULE 5—continued.**AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.*

(b) Section 43 (3) (a)—

Omit “and”.

(c) Section 43 (3) (b)—

Omit “to that area,”, insert instead “to that area;”.

(d) Section 43 (3) (c), (d)—

After section 43 (3) (b), insert:—

(c) in the case of an application for a prospecting licence—
containing a general description of the prospecting
methods intended to be used in that area; and

(d) in the case of an application for a mining lease—
containing a general description of the prospecting and
mining methods intended to be used in that area,

(e) Section 43 (6)—

Omit the subsection.

(7) Section 44 (7)—

Omit “or the Governor refusing an application for a mining lease or a mining purposes lease.”, insert instead “a mining lease or a mining purposes lease”.

(8) (a) Section 52 (1)—

Omit the subsection, insert instead:—

(1) The area of land over which an exploration licence is
granted under section 51 shall be not less than 6 units and not
more than 4 blocks.

Mining (Amendment).

SCHEDULE 5—*continued.*

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

(b) Section 52 (3), (4)—

Omit the subsections, insert instead:—

(3) An exploration licence shall contain a description of the area of land over which the exploration licence is granted.

(c) Section 52 (7)—

After section 52 (6), insert:—

(7) A reference in this section to the withdrawal or refusal of a pending application under the Coal Mining Act, 1973, includes a reference to the publication of a notification under section 17 (1) (b) of that Act in relation to the pending application.

(9) (a) Section 53 (2), (2A)—

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

(b) Section 53 (5)—

Omit “manner”, insert instead “amount”.

(c) Section 53 (5)—

Omit “, in the case of a licence, or the Governor in the case of a lease, may determine.”, insert instead “may determine”.

(d) Section 53 (5A)—

After section 53 (5), insert:—

(5A) Where the Minister proposes to grant a prospecting licence or mining lease to a person on the condition that the person gives security for the fulfilment of the person’s obligations under the licence or the lease, the Minister may cause to be

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SCHEDULE 5—continued.**AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.**

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.

(10) Section 53A—

After section 53, insert:—

Application for mining lease dealt with as application for prospecting licence.

53A. (1) The Minister may, with the consent of the applicant for a mining lease, direct by an instrument in writing that the application is to be dealt with as an application for a prospecting licence.

(2) Where the Minister gives a direction under subsection (1) in respect of an application for a mining lease, the application shall be deemed to be an application for a prospecting licence in respect of the land over which the mining lease was sought and, subject to subsection (3), the provisions of this Act apply to the application.

(3) The provisions of—

- (a) sections 41 and 43–45 apply to and in respect of any such application for a prospecting licence only in such circumstances and subject to such variations as may be prescribed;
- (b) section 46 apply to and in respect of any such application for a prospecting licence subject to such variations as may be prescribed; and
- (c) section 60 apply to and in respect of any such application for a prospecting licence in the same manner as they would apply if the application had been lodged at the time the application for the mining lease was lodged.

Mining (Amendment).

SCHEDULE 5—*continued.*

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

(11) (a) Section 55 (1), (1A), (4)—

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

(b) Section 55 (4)—

Omit “manner”, insert instead “amount”.

(c) Section 55 (4A)—

After section 55 (4), insert:—

(4A) Where the Minister proposes to grant a mining purposes lease to a person on the condition that the person gives security for the fulfilment of the person’s obligations under the lease, 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.

(12) (a) Section 57 (1)—

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

(b) Section 57 (2)—

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

(13) Section 58—

Omit the section, insert instead:—

Circumstances in which requirements of section 54 may be departed from.

58. If, in the case of an application under section 43 for a prospecting licence or a mining lease, the Minister is satisfied that because of State boundaries, tidal waters, the external boundaries of any area of land or the nature or occurrence of any mineral, it is not possible

Mining (Amendment).

SCHEDULE 5—continued.

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.

or desirable to comply with the requirements of section 54 concerning the form of the area of land over which a prospecting licence or a mining lease may be granted, the Minister may grant a prospecting licence or a mining lease over an area having such form as the Minister determines.

(14) (a) Section 59 (1)—

Omit “the Governor or”.

(b) Section 59 (2)—

Omit “exploration licence or a prospecting licence, and the Governor may refuse an application for a mining lease or a mining purposes lease”, insert instead “authority”.

(c) Section 59 (3)—

Omit “, and the Governor may refuse an application for a mining lease,”, insert instead “or a mining lease”.

(d) Section 59 (4)–(6)—

Omit section 59 (4), insert instead:—

(4) Subject to subsection (5), the Minister may grant an authority notwithstanding that the applicant for the authority 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;
- (iv) the furnishing of declarations and other information by the applicant; or

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SCHEDULE 5—*continued.*

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

- (v) the fees to be lodged by the applicant; or
- (b) the regulations.

(5) Nothing in subsection (4) authorises the Minister to grant an authority where the applicant for the authority 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.

(6) A reference in subsections (4) and (5) to the regulations includes a reference to the regulations under the Mining Act, 1906.

(15) Section 61—

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

(16) Section 63 (1)—

Omit the subsection, insert instead:—

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

(17) Section 64—

Omit the section, insert instead:—

Date of effect of authority.

64. An authority has effect from and including the day on which it is signed by the Minister under section 63.

Mining (Amendment).

SCHEDULE 5—continued.**AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.****(18) Part V, Division 3, heading—**

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

(19) (a) Section 66 (5)—

Omit the subsection, insert instead:—

(5) An application for the renewal of an exploration licence shall be accompanied by a description, as prescribed, of the area of land over which renewal of the licence is sought.

(b) Section 66 (7) (a)—

Omit “and”.

(c) Section 66 (7) (b)—

Omit “area.”, insert instead “area;”.

(d) Section 66 (7) (c), (d)—

After section 66 (7) (b), insert:—

(c) in the case of an application for the renewal of a prospecting licence—containing a general description of the prospecting methods intended to be used in that area;
and

(d) in the case of an application for the renewal of a mining lease—containing a general description of the prospecting and mining methods intended to be used in that area.

(e) Section 66 (8) (a)—

Omit “and”.

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SCHEDULE 5—*continued.*

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

(f) Section 66 (8) (b)—

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

(g) Section 66 (8) (c), (d)—

After section 66 (8) (b), insert:—

(c) in the case of an application for the renewal of a prospecting licence—containing a general description of the prospecting methods intended to be used in that area; and

(d) in the case of an application for the renewal of a mining lease—containing a general description of the prospecting and mining methods intended to be used in that area.

(h) Section 66 (9) (a)—

Omit “and”.

(i) Section 66 (9) (b)—

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

(j) Section 66 (9) (c)—

After section 66 (9) (b), insert:—

(c) containing a general description of the prospecting methods intended to be used in that area.

(k) Section 66 (10)—

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

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SCHEDULE 5—*continued.*AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

(1) Section 66 (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 an authority 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.

(20) (a) Section 67 (1A)—

Omit the subsection, insert instead:—

(1A) Except where the Minister is satisfied that special circumstances exist, the size of a single area or the total size of a number of areas in an application referred to in subsection (1) shall not exceed—

- (a) where the exploration licence which is the subject of the application for renewal has not previously been renewed—half the size of the exploration area over which the exploration licence was granted; or
- (b) where the exploration licence which is the subject of the application for renewal has previously been renewed—half the size of the exploration area over which the licence was last renewed.

(b) Section 67 (1B)—

Omit the subsection.

Mining (Amendment).

SCHEDULE 5—*continued.*

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

(c) Section 67 (2)—

Omit the subsection, insert instead:—

(2) The size of an area referred to in subsection (1A) shall be determined by the Minister in each case and, for that purpose, the Minister may deem any such area to include or exclude any particular land.

(21) (a) Section 69 (1), (2)—

Omit the subsections, insert instead:—

(1) On application made under section 66 for the renewal of an authority, the Minister, by instrument in writing, may—

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

(b) Section 69 (4)—

Omit “The”, insert instead “Except where the Minister is satisfied that special circumstances exist, the”.

(c) Section 69 (6)—

Omit the subsection, insert instead:—

(6) The Minister may, in the instrument in writing renewing an authority, amend any of the conditions of the authority.

(d) Section 69 (8)—

Omit the subsection, insert instead:—

(8) The period for which an authority, if renewed, is renewed, is the period ending on the date specified by the Minister in the instrument in writing renewing the authority.

Mining (Amendment).

SCHEDULE 5—*continued.*

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

(e) Section 69 (9)–(11)—

Omit section 69 (9), insert instead:—

(9) Subject to subsection (10), the Minister may renew an authority notwithstanding that the applicant for the renewal of the authority 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;
- (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.

(10) Nothing in subsection (9) authorises the Minister to renew an authority where the applicant for the renewal of the authority 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.

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

(22) (a) Section 70 (2)—

Omit “plan prepared by the Department showing”, insert instead “description of”.

Mining (Amendment).

SCHEDULE 5—*continued.*

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

(b) Section 70 (3)—

Omit the subsection.

(23) (a) Section 71 (3)—

Omit “exploration licence or a prospecting licence, and the Governor shall not renew a mining lease or a mining purposes lease”, insert instead “authority”.

(b) Section 71 (3)—

Omit “licence or the lease” wherever occurring, insert instead “authority”.

(24) Section 72 (1A)—

After section 72 (1), insert:—

(1A) Notwithstanding subsection (1), an exploration licence continues to have effect under that subsection in respect of the area of land to which the pending application for renewal of the licence relates, but does not continue to have effect in respect of any other area.

(25) Section 73 (a)—

Omit the paragraph, insert instead:—

- (a) if section 72 applies, from and including the date notification of the renewal of the authority is published in the Gazette pursuant to section 20; or

(26) (a) Section 75 (1)—

Omit the subsection.

Mining (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

- (b) Section 75 (2)–(5)—
Omit “person empowered to cancel an authority” wherever occurring, insert instead “Minister”.
 - (c) Section 75 (2)—
Omit “the authority has”, insert instead “an authority has”.
 - (d) Section 75 (7)—
Omit “or the Governor is prepared to grant a”, insert instead “, a”.
 - (e) Section 75 (11) —
After “improvements made”, insert “to the land”.
 - (f) Section 75 (11A)—
After section 75 (11), insert:—
(11A) In subsection (11), “mining improvements”, in relation to land, means artificial changes to the physical condition of the land for the purposes of mining.
- (27) Part V, Division 3A, heading—
Before section 76, insert:—
DIVISION 3A.—*Suspension and Amendment of Conditions of Authority.*
- (28) (a) Section 76A (1)—
Omit “Governor”, insert instead “Minister”.
- (b) Section 76A (1A)—
After section 76A (1), insert:—
(1A) The Minister may, during the currency of—
(a) a mining 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

Mining (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

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;

- (b) a mining 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 mining leases held by the same registered holder 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.

(c) Section 76A (2)—

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

(29) Section 76B—

Omit the section.

(30) Section 77 (3) (c)—

Omit the paragraph, insert instead:—

- (c) furnish particulars, consisting of a plan and a description, sufficient to lead to the ready identification of the part of the private lands in which the mining operations are being carried on; and

(31) Section 78 (b)—

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

(32) Section 82—

Omit “the period of 30 days”, insert instead “the prescribed period”.

Mining (Amendment).

SCHEDULE 5—*continued.*

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

(33) Section 84 (1) (b)—

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

(34) (a) Section 95 (1)—

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

(b) Section 95 (1) (b), (2) (b)—

Before “in respect of” wherever occurring, insert “in respect of the licence or lease or”.

(c) Section 95 (4)—

Omit “The appropriate authority referred to in subsection (5A)”, insert instead “The Minister”.

(d) Section 95 (4A), (5), (5A)—

Omit the subsections.

(e) Section 95 (6), (6A), (6B), (6C)—

Omit section 95 (6), insert instead:—

(6) The Minister may, in the instrument in writing renewing a prospecting licence, a mining lease or a mining purposes lease under section 69, increase or decrease the rent payable during the period for which the licence or the lease is renewed or waive payment of the rent payable during that period.

(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 prospecting licence, a mining lease or a mining purposes 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).

Mining (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

(6B) The power of the Minister under subsection (6A) may be exercised notwithstanding that a prospecting licence, a mining lease or a mining purposes lease has ceased to have effect.

(6C) Where the rent payable for a period in respect of a prospecting licence, a mining lease or a mining purposes 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 licence or 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.

(f) Section 95 (7A)—

After section 95 (7), insert:—

(7A) Where the area of land subject to a prospecting licence, a mining lease or a mining purposes lease includes the surface of any private lands and that surface comprises 2 or more

Mining (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

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.

(35) (a) Section 97 (1)—

Omit “, (8) or (9)”, insert instead “or (8)”.

(b) Section 97 (2), (3), (4), (5), (6)—

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

(c) Section 97 (9)—

Omit the subsection.

(d) Section 97 (10A) (c)—

Omit “Governor or the Minister, as the case may require,” insert instead “Minister”.

(36) Section 97A (1) (b) (i)—

Omit “, (8) or (9)”, insert instead “or (8)”.

(37) (a) Section 107 (2A)—

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

(b) Section 107 (2B)—

After section 107 (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).

Mining (Amendment).

SCHEDULE 5—*continued.*

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

(c) Section 107 (3A)—

After section 107 (3), insert:—

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

SCHEDULE 6.

(Sec. 5.)

INSERTION OF PART VA INTO THE PRINCIPAL ACT.

After Part V, insert:—

PART VA.

CONSOLIDATION OF LEASES.

Interpretation.

111A. (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

“draft consolidated mining lease” means a lease prepared pursuant to section 111C or, where any such lease is amended pursuant to this Part, means the lease as so amended;

“existing lease” means—

- (a) a mining lease granted, or deemed to have been granted, under section 53 (2);
- (b) a mining purposes lease; or
- (c) a consolidated mining lease;

Mining (Amendment).

SCHEDULE 6—*continued.***INSERTION OF PART VA INTO THE PRINCIPAL ACT—*continued.***

“registered holder”, in relation to a draft consolidated mining 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 mining lease is a reference to the grant of a consolidated mining lease that accords with the draft lease.

Existing leases which may be consolidated.

111B. (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.

Minister may prepare draft consolidated mining lease.

111C. (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 mining lease to be prepared for that purpose.

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

- (a) specify the existing leases to be consolidated;
- (b) specify the mineral in respect of which the lease is to be granted;
- (c) specify the period for which the lease is to be granted;

Mining (Amendment).

SCHEDULE 6—*continued*INSERTION OF PART VA INTO THE PRINCIPAL ACT—*continued.*

- (d) specify the conditions on which the lease is to be granted;
- (e) 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
- (f) specify the times at which, and the manner in which, rent referred to in section 95 is to be paid.

Amendment, etc., of draft lease.

111D. (1) The Minister may, at any time after the preparation of a draft consolidated mining lease, make such amendments of the draft consolidated mining lease as the Minister thinks fit.

(2) The Minister may, by an amendment of a draft consolidated mining 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 mining lease, determine that the consolidation should not proceed, but may—

- (a) proceed with the consolidation at a later time; or
- (b) cause a further draft consolidated mining lease to be prepared pursuant to section 111C for the purpose of consolidating all or any of the existing leases concerned.

Notification to Director of Environment and Planning.

111E. (1) Except where the regulations otherwise provide, the Minister shall, after the preparation of a draft consolidated mining lease under section 111C, cause to be served on the Director of Environment and Planning—

- (a) a copy of the lease; and

Mining (Amendment).

SCHEDULE 6—*continued.*INSERTION OF PART VA INTO THE PRINCIPAL ACT—*continued.*

- (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 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 mining 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 mining lease after a copy of the lease has been served on the Director of Environment and Planning pursuant to subsection (1) (not being an amendment made as a consequence of an objection or proposal made by that Director); and
- (b) the Minister is of the opinion that that Director will be materially affected by the amendment,

the Minister shall, before granting the lease, cause to be served on that Director 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 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 mining lease to which the notice relates.

Mining (Amendment).

SCHEDULE 6—*continued.*INSERTION OF PART VA INTO THE PRINCIPAL ACT—*continued.*

(5) The Minister may take, or cause to be taken, such steps (including the amendment of the draft consolidated mining 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.

Procedure where objection, etc., made under section 111E.

111F. (1) Where the Director of Environment and Planning lodges an objection under section 111E (2) (a) to the granting of a consolidated mining 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 111E (6).

(2) Where the Director of Environment and Planning lodges a proposal under section 111E (2) (b) that the conditions on which a consolidated mining lease is to be granted should be amended, the Minister shall amend the conditions specified in the draft consolidated mining 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 111E (6); or
- (b) if the proposal is modified—the conditions specified in the draft consolidated mining lease have been amended in accordance with the proposal as so modified.

Mining (Amendment).

SCHEDULE 6—*continued.*INSERTION OF PART VA INTO THE PRINCIPAL ACT—*continued.*

(3) Where the Director of Environment and Planning lodges an objection under section 111E (4) to the amendment of a draft consolidated mining 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 111E (6).

(4) The failure to amend the conditions of a draft consolidated mining lease pursuant to subsection (2) or to revoke an amendment pursuant to subsection (3) shall not affect the validity of the consolidated mining 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 mining 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
 - (b) on which the notice is so served,
- whichever is the later date.

Notification to registered holder.

111G. (1) The Minister shall, before granting a consolidated mining lease, cause to be served on the registered holder—

- (a) a copy of the draft consolidated mining 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 mining 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

Mining (Amendment).

SCHEDULE 6—*continued.*INSERTION OF PART VA INTO THE PRINCIPAL ACT—*continued.*

(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.

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

Grant of consolidated mining lease.

111H. (1) Where the Minister has complied with the requirements of sections 111E, 111F and 111G in respect of a draft consolidated mining lease, the Minister may grant, to the registered holder, a consolidated mining lease that accords with the draft consolidated mining lease.

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

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

(4) Upon a consolidated mining lease taking effect, each existing lease specified in the consolidated mining lease as an existing lease which is to be consolidated shall be deemed to have been cancelled under section 75.

Mining (Amendment).

SCHEDULE 6—*continued.*INSERTION OF PART VA INTO THE PRINCIPAL ACT—*continued.***Period for which consolidated mining lease may be granted.**

111I. (1) The period for which a consolidated mining lease is granted is, subject to subsection (2), the period specified in the lease.

(2) The period for which a consolidated mining 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 mining lease is granted commences on the date on and from which the lease has effect, as provided by section 111H (3).

Conditions of consolidated mining lease.

111J. (1) The conditions on which a consolidated mining lease is granted shall be set out in the lease and, subject to subsection (2), may include any condition on which a mining lease may be granted under section 53 (2).

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

Area over which consolidated mining lease may be granted.

111K. (1) The area of land over which a consolidated mining lease may be granted shall be the aggregate of all areas of land subject to the existing leases that are consolidated.

(2) A consolidated mining 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.

Mining (Amendment).

SCHEDULE 6—*continued.*INSERTION OF PART VA INTO THE PRINCIPAL ACT—*continued.*

(3) If, having regard to a survey of any land made either before or after the granting of a consolidated mining 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.

(4) The Minister shall cause to be served on the registered holder of a consolidated mining 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 mining 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 mining lease pursuant to subsection (4) the lease is not thereafter subject to amendment under this section.

Mining (Amendment).

SCHEDULE 6—*continued.*INSERTION OF PART VA INTO THE PRINCIPAL ACT—*continued.***Validity of consolidated mining lease not affected by certain defects.**

111L. (1) The validity of a consolidated mining lease shall not be affected by—

- (a) any failure to comply with this Act, the Coal 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 mining lease was granted.

(2) The Minister shall, by instrument in writing, amend a consolidated mining 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 Coal 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 mining 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.

Mining (Amendment).

SCHEDULE 6—*continued.*

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

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

111M. (1) The provisions of Part V (Divisions 3, 3A, 5, 6 and 7 and section 78 excepted) and Part VI do not apply to or in respect of the grant of a consolidated mining lease.

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

Consolidated mining lease—payment of rent.

111N. (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 95 (3), the rent reserved by the consolidated mining lease in respect of the surface to which the agreement related shall, for the purposes of section 95, be the rent specified in the agreement.

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

(3) The Minister shall cause a copy of an instrument under subsection (2) to be served—

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

(4) Nothing in this section affects the operation of section 95 (4), (6) or (6A).

Mining (Amendment).

SCHEDULE 6—*continued.*INSERTION OF PART VA INTO THE PRINCIPAL ACT—*continued.***Consolidated mining leases—payment of royalty.**

111o. (1) Royalty is payable by the registered holder of a consolidated mining lease on minerals won from land subject to the lease at such rate as is, at the time the minerals are won, fixed by the Minister in respect of the lease.

(2) The Minister shall, before granting a consolidated mining lease and whenever a direction is given under section 92 (4) (a) in respect of the 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 mining 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 97 (subsections (10), (10A), (11) and (12) excepted) do not apply in respect of a consolidated mining lease.

Securities for performance of obligations under leases.

111p. (1) Where the Minister proposes to grant a consolidated mining 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.

Mining (Amendment).

SCHEDULE 6—*continued.*INSERTION OF PART VA INTO THE PRINCIPAL ACT—*continued.*

(2) Except as provided by subsection (3), where a consolidated mining 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 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 mining 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.

111Q. (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 107 and in force immediately before the existing lease is consolidated, shall continue to have the like force and effect in respect of the consolidated mining lease as it had before the existing lease was consolidated.

(2) Subsection (1) is subject to any determination under section 133 (o).

Mining (Amendment).

SCHEDULE 6—*continued.*INSERTION OF PART VA INTO THE PRINCIPAL ACT—*continued.***Compensation.**

111R. (1) Compensation under section 122 is not payable in respect of the grant of a consolidated mining lease.

(2) Any compensation to which a person is entitled under section 122 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.

(3) Except as provided by subsections (4), (5) and (6), any compensation assessed, agreed upon or paid under section 122 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 124 (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 124 (5) and (6), be deemed to be the date on which the consolidated mining lease ceases to have effect.

(5) Where—

- (a) compensation has been assessed or agreed upon under section 122 in respect of an existing lease which is consolidated under this Part;
- (b) the date of expiry of the consolidated mining 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 124 (1) (b); and

Mining (Amendment).

SCHEDULE 6—*continued.*INSERTION OF PART VA INTO THE PRINCIPAL ACT—*continued.*

- (ii) in the case of an assessment, the whole of the amount paid into court pursuant to section 124 (3) or (4) has been duly paid out,

the warden shall, subject to section 125 (2), assess the loss and order that the amount so assessed be paid by the registered holder of the consolidated mining lease to which the assessment relates, within the time and to the persons specified in the order.

(6) The provisions of section 126 have effect with respect to a consolidated mining lease notwithstanding that the assessment referred to in that subsection relates to an existing lease that has been consolidated under this Part.

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

111s. (1) Except as otherwise provided by this Act, the cancellation pursuant to section 111H (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 mining lease in that part of the area of land that was subject to the existing lease.

(3) Where the provisions of section 115 (4) or 116 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) A direction given under section 92 (4) (a) in respect of an existing lease and in force immediately before the lease is consolidated under this Part shall, if the mineral to which the direction relates is not specified as a mineral to which the consolidated mining lease applies,

Mining (Amendment).

SCHEDULE 6—*continued.*

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

be deemed to be a direction given under section 92 (4) (a) in respect of the consolidated mining lease, but the direction does not have effect outside the area of land that was subject to the existing lease.

(5) Where the Minister has granted the registered holder of an existing lease that is consolidated under this Part permission under section 94A 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 mining lease is granted, the registered holder of the consolidated mining lease shall be deemed to have been granted that permission under section 94A, 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) A right-of-way marked out under section 175 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 175 from land subject to the consolidated mining lease.

(7) A licence granted under section 174 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 mining lease.

Regulations.

111T. The regulations may make provision of a saving or transitional nature consequent on the consolidation of any existing leases under this Part.

Mining (Amendment).

SCHEDULE 7.

(Sec. 5.)

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

(1) Section 112 (4), (5)—

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

(2) (a) Section 113 (1A)—

Omit “a recommendation is made to the Governor for the granting of”, insert instead “granting”.

(b) Section 113 (1A) (d)—

Omit “the” where firstly occurring, insert instead “any”.

(c) Section 113 (1B)—

Omit the subsection, insert instead:—

(1B) Where, before granting a mining lease or a mining purposes lease, the Minister becomes aware that the detailed description contained in a notice served under subsection (1A) 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.

(3) Sections 114 (4), 115 (3), 116 (6), 116 (8)—

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

(4) Section 115 (6)—

Omit “64 (2)”, insert instead “64”.

(5) (a) Section 116 (1)—

After “granted” where firstly occurring, insert “to the applicant for the mining lease (being an applicant who has not already obtained that consent)”.

Mining (Amendment).

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

(b) Section 116 (3A)—

After section 116 (3), insert:—

(3A) Where a mining 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 minerals 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 116 (4) (a)—

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

(d) Section 116 (4) (a)—

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

SCHEDULE 8.

(Sec. 5.)

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT.

(1) Section 117—

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

Mining (Amendment).

SCHEDULE 8—*continued.*

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

(2) Section 117A—

After section 117, insert:—

Right of entry for environmental study.

117A. (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 authority; and
- (b) the examination or assessment is to be undertaken by the person—
 - (i) as a consequence of a requirement under section 116 (1) (a);
 - (ii) pursuant to a request or requirement made by the Minister in connection with the administration or execution of this Act; or
 - (iii) in connection with an application made by the person for the grant of an authority,

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.

Mining (Amendment).

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

(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.

(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.

Mining (Amendment).

SCHEDULE 8—*continued.*

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

(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.

(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

Mining (Amendment).

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

(b) in the case of private lands—to the owner or any occupier of those lands,

for any loss referred to in section 124 (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 119 (1)—

Omit “Governor”, insert instead “Minister”.

(b) Section 119 (2)—

Omit the subsection.

(4) Section 119A—

After section 119, insert:—

Alteration of conditions relating to rehabilitation, etc.

119A. (1) The Minister may, during the currency of—

(a) a mining lease which does not contain conditions of the kind referred to in section 119; or

(b) a mining 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 mining 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

(b) on which the instrument is so served,

whichever is the later date.

Mining (Amendment).

SCHEDULE 8—*continued.*

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

(5) (a) Section 120 (1)—

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

(b) Section 120 (1)—

Omit “or 119”, insert instead “, 119 or 119A”.

SCHEDULE 9.

(Sec. 5.)

AMENDMENTS TO PART VIII OF THE PRINCIPAL ACT.

(1) Section 122 (1)—

Omit “Where”, insert instead “Subject to section 111R, where”.

(2) (a) Section 124 (1) (b)—

Before “123”, insert “117A (14) or”.

(b) Section 124 (1) (c) (ii)—

Omit “and”.

(c) Section 124 (1) (c1)—

After section 124 (1) (c), insert:—

Mining (Amendment).

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

(c1) shall, where the assessment is made for the purposes of section 117A (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

(d) Section 124 (3)—

After “authority”, insert “or the holder of a permit under section 117A”.

(e) Section 124 (5), (6)—

After “authority” wherever occurring, insert “or a permit”.

(3) Sections 125 (1), 126A (1), 127—

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

SCHEDULE 10.

(Sec. 5.)

AMENDMENTS TO PART IX OF THE PRINCIPAL ACT.

(1) Section 133 (m)—

Omit “and”.

Mining (Amendment).

SCHEDULE 10—*continued.*

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

(2) Section 133 (n)—

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

(3) Section 133 (o)—

After section 133 (n), insert:—

- (o) any question or dispute in connection with a consolidated mining lease arising by reason of the operation of section 111Q, 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.

SCHEDULE 11.

(Sec. 5.)

AMENDMENTS TO PART X OF THE PRINCIPAL ACT.

(1) Section 170 (3)—

After “57 (2) (a)”, insert “or 111K (3) (a)”.

(2) Section 175 (5)—

After section 175 (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).

Mining (Amendment).

SCHEDULE 11—continued.**AMENDMENTS TO PART X OF THE PRINCIPAL ACT—continued.****(3) (a) Section 177 (2)—**

After “57 (2) (a)”, insert “or 111k (3) (a)”.

(b) Section 177 (2)—

After “to section 57”, insert “or 111k”.

(4) Section 177B—

After section 177A, insert:—

Defence in proceedings for defamation.

177B. (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.

(5) Section 178 (2)—

Before “required”, insert “authorised or”.

(6) Section 186—

Omit the section, insert instead:—

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

186. (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 minerals occur in the land or of discovering the extent to which minerals so occur; or

Mining (Amendment).

SCHEDULE 11—*continued.*

AMENDMENTS TO PART X 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 that has been or may be lodged for a mining lease over any land,

the Minister may cause to be served on any applicant for the grant of a mining lease over the land or any part of the land a notice informing the applicant 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 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 for the grant of a mining lease.

(3) Where such an applicant elects to pay the lump sum referred to in subsection (1) (c), the application for the grant of a mining 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, specify.

(4) Where the applicant elects to pay the instalments referred to in subsection (1) (d), the mining 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).

Mining (Amendment).

SCHEDULE 11—*continued.*AMENDMENTS TO PART X 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) Section 189 (1)—

After “the offence continues”, insert “or imprisonment for 6 months”.

SCHEDULE 12.

(Sec. 5.)

AMENDMENTS TO PART XI OF THE PRINCIPAL ACT.

(1) Section 195 (2) (c)—

Omit “26 (6A)”, insert instead “26B (2)”.

(2) Section 195 (2) (f), (f1)—

Omit section 195 (2) (f), insert instead:—

(f) the amalgamation of claims, and the cancellation of any such amalgamation;

(f1) the aggregation of the labour or expenditure conditions in mining leases or mining purposes leases, or in mining leases and mining purposes leases, and the cancellation or variation of any such aggregation;

(3) Section 195 (2) (o) (i)—

After “fee”, insert “or rent”.

Mining (Amendment).

SCHEDULE 12—*continued.*

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

(4) Section 195 (2) (s)—

Omit the paragraph, insert instead:—

- (s) the making of searches in connection with claims, authorities, interests created in claims or authorities, opal prospecting licences, licences under section 173 or 174 or the granting of certificates in connection therewith and the effect of any such certificates;

(5) Section 195 (2) (t)—

Omit “and” where lastly occurring.

(6) Section 195 (2) (t1)—

After section 195 (2) (t), insert:—

- (t1) the issue of permits under section 117A, the exercise of the rights conferred by any such permit and any other matter concerning any such permit; and

SCHEDULE 13.

(Sec. 5.)

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

(1) Section 2—

From the matter relating to Part XII, omit “ss. 198–200”, insert instead “s. 198”

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

Omit “21”, insert instead “21A”.

*Mining (Amendment).*SCHEDULE 13—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—
continued.

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

After the definition of "reserve", insert:—

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

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

Omit the definition.

- (3) Sections 9 (3) (b), 14 (2), 15 (1), 15 (2), 17 (1), 19 (1) (b), 19 (4), 19 (6), 19 (7), 20 (1), 25A (1), 25B (2) (a), 39 (5), 43 (3), 43 (4), 43 (4A), 44 (5), 46 (1), 46 (2), 46 (3), 49, 62 (1), 66 (2), 66 (3), 66 (12), 75 (6), 76 (2), 77 (1) (c), 77 (3), 87 (2) (a), 87 (3), 92 (3), 94B (2), 95 (3), 99 (b), 107 (2), 112 (2) (a), 113 (2), 115 (2), 116 (1) (b) (ii), 122 (2), 172 (5) (d), 173 (2), 173 (3), First Schedule, paragraphs 2 (2) and 3—

Omit "Under Secretary" wherever occurring, insert instead "Secretary".

- (4) Sections 25A (4) (d), 25B (3) (a), 25B (4), 35 (3)–(6), 36 (3), 46 (3), 46 (4), 80 (1), 80 (4), 87 (3), 87 (4), 87 (5), First Schedule, definition of "the Director"—

Before "Agriculture" wherever occurring, insert "the Department of".

- (5) (a) Section 71 (1)—

After "and", insert "not".

- (b) Section 71 (1)—

Omit "do not".

- (6) Section 85 (2)—

Omit "a scheme (as defined in section 116)", insert instead "an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979".

- (7) Sections 96 (2), 124 (6)—

Omit "Consolidated Revenue Fund" wherever occurring, insert instead "Consolidated Fund".

Mining (Amendment).

SCHEDULE 13—*continued.*

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

(8) Section 100 (3)—

Omit the subsection, insert instead:—

(3) A registered holder of a mining lease shall not knowingly furnish a return pursuant to subsection (1) or (2) which is false or misleading in a material particular.

Penalty: \$2,000.

(9) (a) Section 110 (2)—

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

(b) Section 110 (2)—

Omit “is guilty of an offence”.

(10) Section 143 (4)—

Omit the subsection, insert instead:—

(4) A person against whom an order referred to in subsection (1) has been made shall comply with the order.

Penalty: \$500.

(11) (a) Section 167—

Omit “and who refuses or neglects”, insert instead “shall not refuse or neglect”.

(b) Section 167—

Omit “, is guilty of an offence”.

(12) Section 172 (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”.

Mining (Amendment).

SCHEDULE 13—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—
continued.

(13) (a) Section 189 (2) (a) (i)—

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

(b) Section 189 (2) (a) (ii)—

Omit “(1) (b) of the Coal Mining Act, 1973, and registered by the registrar under that Act”, insert instead “of the Coal Mining Act, 1973”.

(14) Section 197 (2)—

Omit “District Courts Act, 1912”, insert instead “District Court Act, 1973”.

SCHEDULE 14.

(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.

Withdrawal of objections.

2. Section 9A 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.

Grant, renewal and cancellation of mining leases or mining purposes leases by Governor.

3. (1) A mining lease granted by the Governor under section 53 (2) of the Principal Act and in force immediately before the commencement of Schedule 5 (9) (a) or a mining purposes lease granted by the Governor under section 55 of the Principal Act and in force immediately before the commencement of Schedule 5 (11) (a) 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.

Mining (Amendment).

SCHEDULE 14—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(2) A mining lease or a mining purposes lease signed by the Governor under section 63 (1) of the Principal Act shall, on and from the commencement of Schedule 5 (16), be deemed to have been signed by the Minister under that subsection on the day when it was so signed by the Governor.

(3) A mining lease or a mining purposes lease renewed by the Governor by instrument in writing under section 69 (2) of the Principal Act and in force immediately before the commencement of Schedule 5 (21) (a) shall, on and from that commencement, be deemed to have been renewed by the Minister, by that instrument, under section 69 (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 mining lease or a mining purposes lease cancelled by the Governor by instrument in writing under section 75 of the Principal Act before the commencement of Schedule 5 (26) (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 75 (5) of the Principal Act for the Governor to cancel a mining lease or a mining purposes lease, lodged but not finally dealt with before the commencement of Schedule 5 (26) (b), shall, on and from that commencement, be deemed to be an application under that subsection for the Minister to cancel the lease.

Increase, decrease or waiver of rent by Governor.

4. Where the rent payable in respect of a prospecting licence, a mining lease or a mining purposes lease is increased, decreased or waived by the Governor under section 95 (4) or (6) of the Principal Act, being an increase, decrease or waiver in force immediately before the commencement of Schedule 5 (34), 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.

Fixing of royalty rate by Governor.

5. A rate of royalty fixed by the Governor under section 97 of the Principal Act in respect of minerals won from land subject to a mining lease and in force immediately before the commencement of Schedule 5 (35) 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.

Mining (Amendment).

SCHEDULE 14—*continued.***SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*****Conditions of approval of transfer, etc.**

6. Section 107 (3A) of the Principal Act, as amended by this Act, applies to the conditions of an approval given under section 107 of the Principal Act before the commencement of Schedule 5 (37) (c) as well as to the conditions of an approval so given after that commencement.

Recovery of public money expended on research, etc.

7. Section 186 of the Principal Act, as amended by this Act, applies to public money expended before the commencement of Schedule 11 (6) as well as to public money expended after that commencement.

Amalgamated leases.

8. (1) Any amalgamation pursuant to the regulations under the Principal Act of mining leases or mining purposes leases or of mining leases and mining purposes leases, being an amalgamation in force immediately before the commencement of Schedule 12 (2), shall, on and from that commencement, be deemed to have been cancelled.

(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 97 (9) of the Principal Act in relation to those leases.

Definition of "colliery holding".

9. If Schedule 13 (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 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.

Mining (Amendment).

SCHEDULE 14—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

Regulations.

10. (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.

(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).
