

## MINING (AMENDMENT) ACT.

---

Act No. 15, 1935.

An Act to provide for the annual registration of mining tenements; to provide for the grant of licenses to prospect on private lands; to provide for the extension of the term of certain mining leases of Crown lands; to modify the labour conditions in certain gold mining leases; to amend the Mining Act, 1906, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 14th March, 1935.]

George V.  
No. 15, 1935.

BE

**Mining (Amendment) Act.**

No. 15, 1935.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title and citation.

**1.** (1) This Act may be cited as the "Mining (Amendment) Act, 1935," and shall be read and construed with the Mining Act, 1906, as amended by subsequent Acts.

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

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

(4) The Principal Act, as amended by this Act, may be cited as the Mining Act, 1906-1935.

Amendment of Act No. 49, 1906.

**2.** The Principal Act is amended—

Sec. 3.

(Definition of Crown lands.)

(a) (i) by omitting from paragraph (a) of the definition of "Crown lands" in section three the words "except as hereinafter provided" and by inserting in lieu thereof the words "(other than the lands referred to in paragraph (f) of this definition) including—

(i) Crown leases granted before or after the commencement of the Mining (Amendment) Act, 1935, of land set apart for grazing; and

(ii) conditional leases which embrace any land reserved under the Crown Lands Acts, before the commencement of this Act, for mining or for mining purposes, or (where in the notification of such reserve the land is described as being within a gold field) for any other purpose, or which embrace any land exempted from alienation and reserved for mining or mining purposes in pursuance of the provisions of section one hundred and six of this Act."

(ii)

No. 15, 1935.

- (ii) by inserting in paragraph (f) of the same definition after the words "conditional lease" the words and symbols "(not being a lease of the class referred to in subparagraph (ii) of paragraph (a) of this definition)";
- (iii) by omitting from the same paragraph the words "not expressly limited to grazing" and by inserting in lieu thereof the words and symbols "(not being a lease of the class referred to in subparagraph (i) of paragraph (a) of this definition)";
- (iv) by inserting at the end of paragraph (g) of the same definition the words "or land included in any valid application for a conditional purchase or homestead selection";
- (b) by omitting from the same section the definition of "Crown Lands Acts" and by inserting in lieu thereof the following definition:—  
 "Crown Lands Acts" means the Crown Lands Alienation Act of 1861, the Crown Lands Act of 1884, the Crown Lands Consolidation Act, 1913, the Western Lands Act of 1901, and any Acts amending such Acts.
- (c) by inserting in the same section after the definition of "Justice" the following new definitions:—  
 "License" means a license to prospect issued in pursuance of this Act.  
 "Licensee" means the holder of a license.

3. The Principal Act is further amended by omitting section seventeen and by inserting in lieu thereof the following section:—

17. (1) A holder of a miner's right may make application for an authority to prospect for gold or any mineral on any Crown lands, whether exempted from occupation under this Part or not, and/or for an authority to occupy any such Crown lands, and to construct and use thereon races, dams, pipe-lines, reservoirs, or roads for mining purposes.

Further amendment of Act No. 49, 1906, substituted s. 17. Authority to prospect on Crown lands.

No. 15, 1935.

Application.

(2) The application shall be made in the manner and form prescribed, and shall be accompanied by the deposit prescribed, which may be applied towards payment of the rent referred to in this section.

Grant.

(3) The Minister may, on the recommendation of the warden or the prospecting board, grant the authority, subject to such conditions as to marking out the land comprised therein and taking possession thereof as may be prescribed.

Area, rent,  
and  
conditions.

(4) The Minister may—

- (a) determine the area to be held under such authority and the rent to be paid therefor;
- (b) impose such conditions thereon as to labour or otherwise as he thinks fit;
- (c) suspend or postpone the fulfilment of any conditions so imposed for any period not exceeding three months;
- (d) cancel any authority where the holder has failed to comply with any of the conditions upon which such authority was granted.

Term.

(5) An authority may be granted for any period not exceeding twelve months.

Upon application in that behalf made during the currency of any authority, the Minister may, if it appears to him that further time is requisite to enable the holder to complete the prospecting operations, grant extensions from time to time of the period of the authority, subject to such conditions as he may think fit, but so that the total period, including extensions for which any authority is to remain in force, shall not exceed twenty-four months.

Occupation,  
etc.

(6) Such authority shall, on payment in advance of the rent determined as aforesaid, and survey fee where a survey is required by the Minister, entitle the holder during the currency of the authority to carry on prospecting operations and/or to occupy and use the area for the purpose specified in the authority.

Report of  
discovery.

(7) Within fourteen days after the discovery of gold or other minerals, the holder of the authority shall

shall report the discovery to the warden of the district, who shall thereupon report to the Minister upon the discovery. The Minister may thereupon call upon the holder of the authority to apply for a lease of the land or such part thereof as the Minister may deem advisable or to continue prospecting operations.

No. 15, 1935.

4. The Principal Act is further amended—

Further amendment of Act No. 42, 1906.

(a) by omitting from subsection one of section nineteen the words “ or a block claim, or a residence area not exceeding one quarter of an acre outside the boundaries of any town or village ”;

Sec. 19. (Holder to register.)

(b) by inserting next after subsection one of the same section the following subsections:—

New subsecs. (1A), (1B), (1C).

(1A) The registration of any tenement registered after the thirty-first day of December, one thousand nine hundred and thirty-four, shall expire on the thirty-first day of December next following the date of registration, and, unless a renewal of registration is effected, the title of the holder thereof to such tenement shall cease and determine.

Annual registration of tenements.

(1B) The registration of any tenement registered prior to the first day of January, one thousand nine hundred and thirty-five, whether such registration was effected before or after the commencement of the Mining (Amendment) Act, 1935, shall expire on the thirty-first day of December, one thousand nine hundred and thirty-five, and, unless a renewal of registration is effected, the title of the holder thereof to such tenement shall thereupon cease and determine.

Expiry of registration

(1C) Any person who, on the thirty-first day of December in any year, holds any registered tenement and who continues in possession thereof shall be entitled, without fee, to the renewal of the registration of such tenement for a further period of twelve months.

Registration

Application

No. 15, 1935.

Application for such renewal of registration may be made within one month before the said day or during the month of January after the day aforesaid, and shall be made in the manner prescribed.

Every renewal of registration shall take effect as from the first day of such month of January.

Subsec.  
(3).

(c) by inserting in subsection three of the same section after the word " registration " wherever occurring the words " or renewal of registration ";

Subsec.  
(4).

(d) by inserting in subsection four of the same section after the word " aforesaid " the words " or to renew the registration thereof ";

Subsec.  
(5).

(e) (i) by inserting in subsection five of the same section after the word " register " the words " or to renew registration ";

(ii) by omitting from the same subsection all words following the word " registration " and by inserting in lieu thereof the following words: " or renewal of registration, the warden may grant an extension of the period prescribed for a further period not exceeding twenty-eight days."

Further  
amendment of  
Act No. 49,  
1906.

### 5. The Principal Act is further amended—

Sec. 28.  
(Limitation  
of rights  
over streets,  
etc.)

(a) by omitting from the proviso to section twenty-eight the words " such rights as aforesaid " and by inserting in lieu thereof the words " the rights specified in paragraph (a) of this section ";

Sec. 37.  
(Labour  
conditions.)

(b) by inserting at the end of section thirty-seven the following new subsection:—

(2) Where in the case of a gold-mining lease granted under this Part of this Act, which is subsisting at the commencement of the Mining (Amendment) Act, 1935, the labour conditions require the employment of more than one man for

No. 15, 1935.

for each ten acres and part of ten acres comprised in the lease, such conditions shall be sufficiently complied with if one man is employed for each ten acres and part of ten acres comprised in the lease.

- (c) by omitting from subsection three of section thirty-eight the word "prescribe" and by inserting in lieu thereof the word "approve"; Sec. 38. (Renewal of leases.)
- (d) (i) by inserting in section 39A after the word "under" the words "this Act or"; Sec. 39A. (Renewal of Crown lands lease for further term.)
- (ii) by omitting from the same section the word "prescribe" and by inserting in lieu thereof the word "approve";
- (e) by inserting next after section 39A the following new section:— New s. 39B.

39B. (1) A lease of Crown lands granted under any Act hereby repealed, the term of which has been renewed pursuant to section 39A of this Act, may be renewed for a further term not exceeding twenty years subject to such rents, royalties and other covenants and conditions as the Governor may approve. Renewal of Crown lands lease for further term.

(2) Special covenants and conditions may be imposed in respect of any renewal the application for which is made earlier than five years before the expiration of the lease.

(3) Notwithstanding any other provision of this Act, application for renewal may be made at any time after the commencement of the Mining (Amendment) Act, 1935.

- (f) by inserting next after subsection two of section forty-six the following new subsection:— Sec. 46. New sub-sec. (2A).

(2A) The Governor, by notification, on the recommendation of the Minister, may exempt from the provisions of this Part any private land the Crown grant of which contains, or if not

Notification of exemption from entry or occupation.

No. 15, 1935.

not yet issued will when issued contain, a reservation to the Crown of any mineral, and may in like manner revoke or amend any such notification.

Sec. 47.  
(Extent of authority or lease.)

- (g) (i) by inserting in section forty-seven after the words " extend to " the words " the surface of any land " ;
- (ii) by omitting from paragraphs (a) and (b) of the same section the words " on the surface " ;
- (iii) by omitting from paragraph (c) of the same section the words " any land " ;
- (iv) by inserting at the end of the same section the following new subsection :—

(2) Except with the consent of the owner no operations under any such authority shall be conducted below the surface of any land referred to in subsection one of this section, and no lease shall be granted below the surface of any such land, except at such depths and upon such conditions as the Minister may, after full inquiry, deem to be sufficient to prevent damage to the surface.

Further amendment of Act No. 49, 1906.

New short heading and sec. 49A.

6. The Principal Act is further amended—

- (a) by inserting next after section forty-nine the following short heading and section :—

*License to prospect prior to grant of authority to enter.*

Application for license.

49A. (1) Any holder of a miner's right may make application to the warden's clerk of a mining division for a license to prospect on any private lands within such mining division in respect of which an authority to enter may be granted under this Part.

Such application shall be in the prescribed form and accompanied by a deposit of ten shillings, which deposit may be applied wholly

or



or in part towards payment of compensation for occupation and for surface damage to be assessed by the warden.

No. 15, 1935.

(2) The warden or warden's clerk may, if satisfied as to the character and the bonafides of the applicant, grant to the applicant a license in the form prescribed.

Grant of license.

(3) Such license shall during the period specified in the license, which shall not exceed six months, entitle the licensee—

Rights conferred upon licensee.

- (a) to enter on any private lands in the mining division in respect of which an authority to enter may be granted, and mark out in the manner prescribed for the marking out of a lease under this Act an area not exceeding the prescribed area;
- (b) to do all such acts and things as may be necessary for prospecting for gold or for minerals other than coal, shale, mineral oils, petroleum, or natural gas in the area so marked out for a period not exceeding thirty days from the date of marking out;
- (c) upon obtaining the permission of the warden, to erect a temporary residence upon the area so marked out in such position as the warden may consider proper;

but shall not entitle the licensee to remove any gold, mineral, or earth from such area except such samples and quantities as may be necessary for the purposes of testing or determining the value thereof.

(4) (a) The prescribed area to be marked out in pursuance of paragraph (a) of subsection three of this section shall not exceed where the prospecting is for opal the area of one-half of an acre, where the prospecting is for gold the area of twenty-five acres, or where the prospecting is for minerals other than opal, coal, shale, mineral oils, petroleum, or natural gas the area of eighty acres.

Prescribed area.

(b)

## Mining (Amendment) Act.

No. 15, 1935.

Form of  
area.

(b) Every such area shall, where practicable, be marked out in the form of a parallelogram, the length of which shall not exceed three times the width.

Only one  
area may  
be held.

(c) No licensee shall be entitled to mark out or prospect an area under this section until he has abandoned in the prescribed manner any area previously marked out by him.

Boundary  
marks.

(d) The licensee shall maintain his boundary marks and possession notice, and shall efficiently prospect the area during his occupancy.

Notification  
of posses-  
sion.

(5) Upon taking possession of an area by virtue of such license the licensee shall forthwith notify the warden's clerk and furnish particulars in the form prescribed as to the date of marking out, the dimensions of the area together with such description as will lead to the ready identification of the area, the class of deposit to be prospected for, and the name of the owner or occupier of the land.

Assessment  
of com-  
pensation.

(6) (a) Upon receipt of such notification the warden's clerk shall issue the prescribed notices to the persons appearing to be interested in the land, of the proposed assessment by the warden of compensation for occupation and for surface damage.

(b) The licensee shall pay into the warden's court within the time ordered by the warden such sum, if any, as will with the deposit of ten shillings lodged with the application for license make up the amount assessed.

Notification  
of abandon-  
ment and  
acquiring  
further  
area.

(7) (a) If the licensee discontinues prospecting operations, either within the period prescribed in paragraph (b) of subsection three of this section, or at the expiration of such period, he shall serve notice of abandonment in the form prescribed upon the occupier of the land and the warden's clerk, and affix a copy thereof on the datum post and where the warden

so directs fill in all shafts and excavations and otherwise repair as far as practicable any surface damage.

No. 15, 1935.

The licensee may thereupon mark out a further area upon paying into the warden's court such amount as will with any surplus to his credit after assessment and payment into court of compensation in respect of the area previously held under his license make up the sum of ten shillings.

If the licensee fails to comply with any such direction of the warden he shall be liable to a penalty not exceeding ten pounds or to imprisonment for a period not exceeding fourteen days or to both.

(b) The licensee may apply during the term of his occupation under the license for an authority to enter, and having paid into court the amounts assessed as compensation, may continue in occupation of the area marked out and carry on prospecting operations pending the result of the inquiry prescribed by section fifty-one of this Act.

May apply for authority to enter.

If authority to enter be granted by the warden the license shall merge into such authority to enter and be extinguished, and any compensation assessed in respect of such license shall be taken into consideration by the warden when making assessment in respect of the authority to enter.

(8) In the event of any dispute as to whether any area marked out is available for occupation under license or as to priority of possession by virtue of any license or upon any complaint as to non-compliance with the conditions thereof or attaching thereto, the matter shall be determined by the warden, whose decision shall be final.

Dispute as to priority, etc.

(9) The owner or occupier of the land marked out by virtue of any license may object to the occupation of the area by the licensee on the grounds that the area is exempt from occupation

Objection by owner of land.

No. 15, 1935.

occupation under a license to prospect or that the prospecting operations will interfere unduly with his use and enjoyment of the land.

Notice of such objection shall be served upon the licensee, and a copy thereof lodged forthwith with the warden who shall hold an inquiry into such objection as soon as practicable.

On receipt of such notice of objection the licensee shall forthwith cease prospecting operations pending the hearing by the warden, who may order that operations under the license be discontinued or that operations be resumed upon such conditions as he may think necessary to impose for a period not exceeding the balance of the term the licensee would have been entitled to have occupied the land if prospecting operations had not been suspended under this subsection.

If such objection is considered by the warden to be frivolous or vexatious, he may allow costs against the owner or occupier.

Cancellation  
of license.

(10) The warden may cancel any license if the licensee fails to observe any of the conditions thereof or attaching thereto, or fails to pay within the time allowed the compensation assessed for occupation and for surface damage, and may cancel any license which has been improperly obtained.

Sec. 50A.  
(Interim  
authority.)Sec. 56.  
(Result of  
cancellation.)

- (b) by omitting section 50A and the short heading preceding that section;
- (c) (i) by inserting in section fifty-six after the word "enter" the words "or a license to prospect";
- (ii) by inserting in the same section after the word "authority" where secondly occurring the words "or license";
- (iii) by omitting from the same section the words "therein defined" and by inserting in lieu thereof the words "defined in such authority or occupied under such license."

7. The Principal Act is further amended—

No. 15, 1935.

Further amendment of Act No. 49, 1906.

- (a) by omitting subsection four of section fifty-seven and by inserting in lieu thereof the following new subsection:—

Sec. 57 (4).  
(Application for mining lease.)

(4) The applicant shall serve upon the owner or occupier of the land notice in the prescribed form of the application.

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

Sec. 59.  
(Labour conditions.)

(2) Where in the case of a lease to mine for gold granted under this Part of this Act, which is subsisting at the commencement of the Mining (Amendment) Act, 1935, the labour conditions require the employment of more than one man for each ten acres and part of ten acres comprised in the lease, such conditions shall be sufficiently complied with if one man is employed for each ten acres and part of ten acres comprised in the lease.

- (c) by inserting in subsection three of section sixty after the word "payable" the words "annually in advance and reserved";

Sec. 60 (3).  
(Leases for mining purposes.)

- (d) by inserting after subsection two of section sixty-two the following new subsection:—

Sec. 62.

(3) A lease granted under this Part of this Act, or a lease of private lands granted under any Act repealed by this Act, the term of which has been renewed, may be renewed for a further term not exceeding twenty years, subject to such rents, royalties, and other covenants and conditions as the Governor may approve.

Renewal for further term.

8. The Principal Act is further amended by omitting from section sixty-three all words preceding the proviso and by inserting in lieu of such words the following words:—

Further amendment of Act No. 49, 1906, s. 63.

"The area which may be included in any one mining lease under this Part shall not exceed—

(Extent of lease.)

(a) lease to mine for opal—one-half acre;

(b) lease to mine for gold—twenty-five acres;

(c)

## Mining (Amendment) Act.

No. 15, 1935.

(c) lease to mine for coal, shale, mineral oils, petroleum, or natural gas—six hundred and forty acres;

(d) lease to mine for any other mineral—eighty acres.”

Further amendment of Act No. 49, 1906. Substituted s. 69.

Lease or agreement by owner to mine for minerals reserved to the Crown.

9. (1) The Principal Act is further amended by omitting section sixty-nine and by inserting in lieu thereof the following section:—

69. (1) The owner of any private land not applied for or occupied under this Part may, with the concurrence of the Minister, enter into a lease or agreement in writing with any holder of a miner's right giving such holder power to enter such land and take possession thereof and mine thereon for gold or any mineral reserved to the Crown.

The owner of any private land applied for as a lease or occupied under license to prospect or authority to enter under this Part may with the like concurrence enter into a like lease or agreement with the applicant, licensee, or holder of the authority.

Area and term.

(2) The area comprised in any such lease or agreement shall be marked out in the prescribed manner and in accordance with the prescribed dimensions.

The area and the term of such lease or agreement shall not exceed the extent and term, and shall be subject to the payment of the royalty to the Crown (after deduction of any sum paid by way of rent) and performance of the labour conditions prescribed in respect of a lease under this Part to mine for the same class of deposit, but the sum so deducted by way of rent shall not exceed twenty shillings per acre in respect of the portion of the surface occupied.

Registration and survey.

(3) The prescribed fee for registration and for survey of the land shall be paid within twenty-eight days after notice in that behalf given by post after the Minister has concurred in the lease or agreement, and in default of such payment the land shall be open to entry or occupation under this Part.

Transfer.

(4) Such lease or agreement may be transferred with the concurrence of the Minister.

(5)

(5) Subject to this section no such lease or agreement, and no such transfer shall have any force or validity unless and until it is registered in the prescribed manner.

No. 15, 1935.

Lease or agreement not valid unless registered.

(6) No tribute agreement in respect of any land included in any such lease or agreement shall have any force or validity unless and until it is registered in the prescribed manner.

Tribute agreement to be registered.

(7) From the date of the receipt by the Minister of such lease or agreement, or a draft thereof submitted for his concurrence, the land shall be exempt from entry or occupation under this Part by any person other than a party to such lease or agreement until such concurrence is refused, or if the concurrence is granted, until the expiration of the twenty-eight days referred to in subsection three of this section, as the case may be.

Land subject of lease, etc., not open to occupation.

(2) Where prior to the commencement of this Act an agreement or lease has been entered into in pursuance of section sixty-nine of the Mining Act, 1906, or any amendment thereof, and has been duly submitted for the concurrence of the Minister, the land comprised therein shall during the continuance of the agreement or lease be entitled to the protection afforded by subsection six of that section, and where the agreement or lease has been duly registered in accordance with that section royalty shall continue to be payable and labour conditions to be performed as provided in subsection two of that section.

Saving.

**10.** (1) The Principal Act is further amended by omitting section seventy and by inserting in lieu thereof the following section:—

Further amendment of Act No. 49, 1906.

Substituted s. 70.

70. (1) Subject to this section any holder of a miner's right may mark out in the prescribed manner an area of private land in respect of which he has entered into a lease or agreement with the owner of any mineral therein contained for the purpose of mining for any mineral not reserved to the Crown notwithstanding that any gold or mineral reserved to the Crown is associated or combined with the mineral to be mined for.

Lease or agreement to mine for minerals not reserved to the Crown.

The

No. 15, 1935.

The area comprised in such lease or agreement shall be marked out in the prescribed manner and in accordance with the prescribed dimensions.

The extent and term of such lease or agreement shall not exceed the extent and term and shall be subject to the performance of the labour conditions prescribed in this Part for a lease of the same class of deposit.

Lodgment  
of draft  
lease or  
agreement.

(2) Within twenty-one days of such marking out such holder shall lodge with the Registrar, Department of Mines, Sydney, the lease or agreement, or a draft thereof, containing a sketch and description of the subject land for the concurrence of the Minister.

Subject to prior rights, the area comprised in such lease or agreement shall, from the date of such marking out, be exempt from entry or occupation under this Part by any person other than a party to such lease or agreement until such concurrence is refused, or, if the concurrence is granted, until the expiration of the twenty-eight days referred to in subsection four of this section, as the case may be.

Minister  
may impose  
stipulations.

(3) The Minister may concur in such lease or agreement, subject to any stipulations which he may think necessary in the public interest to impose.

Registration  
and survey.

(4) The prescribed fees for registration and for survey of the land shall be paid, and notice of acceptance of the stipulations imposed by the Minister, if any, shall be given within twenty-eight days after notice in that behalf given by post after the Minister has concurred in the lease or agreement, and in default of payment and/or acceptance the land shall be open to entry or occupation under this Part.

Transfer.

(5) Such lease or agreement may be transferred with the concurrence of the Minister.

Registration.

(6) Subject to this section no such lease or agreement and no such transfer shall have any force or validity unless and until registered in the prescribed manner.

(7)



(7) No tribute agreement in respect of any land included in such lease or agreement shall have any force or validity unless and until it is registered in the prescribed manner.

No. 15, 1935.  
Tribute  
agreement.

(8) A party to the lease or agreement to mine shall before mining any ore containing any gold or mineral reserved to the Crown obtain a permit to mine such gold or mineral.

Permit to  
mine Crown  
mineral.

The Minister may, upon application in the prescribed form, grant upon such terms as he may think fit a permit authorising such party to mine in, under, or upon the land comprised in such lease or agreement for gold or any mineral reserved to the Crown and to remove and dispose of such gold or mineral, and may vary or revoke such permit.

Where it is found that the value of the gold or mineral reserved to the Crown exceeds fifty per centum of the value of the ore, the party mining the ore under the lease or agreement shall—

- (a) apply for and obtain a lease under this Part to mine for gold or any mineral; or
- (b) enter into a lease or agreement to mine therefor in accordance with section sixty-nine of this Act,

and where the ore is gold the area of any such lease or agreement granted or entered into in pursuance of paragraphs (a) or (b) of this subsection may include the area comprised in the lease or agreement entered into in pursuance of subsection one of this section notwithstanding that such area exceeds the area prescribed for a lease to mine for gold by section sixty-three of this Act.

Application for such lease shall be made in the manner prescribed.

A royalty of one per centum on the value of all gold or mineral reserved to the Crown, obtained from the land comprised in such lease or agreement, shall be payable to the Crown by the person obtaining the same at the times and in the manner prescribed.

(9)

No. 15, 1935.  
Cancellation.

(9) If the person mining under any such lease or agreement at any time during the term thereof—

- (a) fails to fulfil or contravenes the conditions therein or the terms of his permit; or
- (b) uses the land for a purpose other than that specified in the lease or agreement,

the permit and the registration of such lease or agreement may be cancelled by the Minister, and the cancellation shall take effect on a date notified in the Gazette.

Protection  
from  
authority to  
enter or  
lease.

(10) No authority to enter and no lease shall be granted in respect of any land being mined by the owner thereof, or any land held under any lease or agreement registered prior to the commencement of the Mining (Amendment) Act, 1935, or after such commencement in, under, or upon which bona fide mining operations are being carried on at the time when the application is made:

Provided that in the event of any dispute arising as to whether bona fide mining operations are being carried on as aforesaid, or as to the area protected by this subsection, the question shall be determined by the Minister after inquiry and report by the warden.

Saving.

(2) Where prior to the commencement of this Act an agreement has been entered into in pursuance of section seventy of the Mining Act, 1906, and has been duly registered in accordance with that section, the land comprised therein shall during the continuance of the agreement be entitled to the protection afforded by subsection two of that section, and royalty shall continue to be payable in accordance with subsection three of that section.

Further  
amendment of  
Act No. 49,  
1906, s. 70E.  
New subsec.  
(3).

**11.** The Principal Act is further amended by inserting after subsection two of section 70E the following new subsection:—

(3) Upon complaint being made to the Minister that operations have been abandoned or that bona fide mining operations are not being carried on in respect to the freehold and leasehold lands comprised  
**within**

within the colliery holding, the Minister, after inquiry and report by the warden, may direct that the protection afforded by the plan lodged under this section shall cease to extend to such freehold and leasehold lands or such part thereof as he may specify. The Minister's determination shall take effect from the date notified in the Gazette.

No. 15, 1935.

**12.** The Principal Act is further amended by omitting section seventy-one and the short heading preceding that section.

Further amendment of Act No. 49, 1906, s. 71.

**13.** The Principal Act is further amended—

Further amendment of Act No. 49, 1906.

(a) by omitting from subsection three of section eighty-six the words "the prescribed conditions" and by inserting in lieu thereof the words "such rents, royalties, and other conditions as the Governor may approve";

Sec. 86. (Duration of lease and renewals.)

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

New subsec. (4).

(4) A dredging lease granted under this Act or under any Act hereby repealed, the term of which has been renewed, may be renewed for a further term not exceeding twenty years, subject to such rents, royalties, and other covenants and conditions as the Governor may approve.

Further renewal.

(c) (i) by omitting from subsection one of section ninety-nine the words "where the applicant has given notice of acceptance as aforesaid";

Sec. 99. (Grant of lease.)

(ii) by omitting from the same subsection the words "on the said terms."

**14.** The Principal Act is further amended by omitting section one hundred and nine and by inserting in lieu thereof the following section:—

Further amendment of Act No. 49, 1906.

109. (1) Every lease under this Act and every lease or agreement under sections sixty-nine and seventy thereof shall be lodged for registration within the time prescribed with the Registrar, Department of Mines, Sydney, by the lessee or the person entitled to mine thereunder.

Substituted sec. 109.

Registration of lease, agreement, transfer, etc.

Every

No. 15, 1935.

Every transfer or assignment thereof or of any interest therein (except in the case of an assignment by operation of law), and every sublease of or tribute or option contract affecting the land comprised in such lease or agreement or any portion thereof shall be submitted within the time and in the manner prescribed for the concurrence or sanction of the Minister and/or registration.

The Minister may grant such concurrence or sanction, subject to any stipulations which he may think necessary in the public interest to impose.

Every instrument, which by this subsection is required to be registered, shall be lodged by such person as is prescribed.

Caveat.

(2) Any person claiming interest in any lease under this Act or any Act hereby repealed, or under any lease or agreement under sections sixty-nine or seventy of this Act may, prior to the registration of any instrument required by subsection one of this section to be registered, lodge with the Minister a caveat in the prescribed form, and accompanied by the prescribed fee against such registration.

On receipt of such caveat the Minister shall stay registration for fourteen days, unless the caveat is sooner withdrawn, but may then register the instrument, unless the person lodging the caveat has obtained and served upon him an order of some competent court forbidding such registration.

Penalty for failure to register interest in lease, etc.

(3) Any person who acquires an interest in any lease or agreement as aforesaid, and who fails to comply with the provisions of subsection one of this section, shall be guilty of an offence against this Act and shall be liable upon conviction to a penalty not exceeding fifty pounds, and to a penalty not exceeding five pounds for each and every day such failure continues.

Further amendment of Act No. 49, 1906.

Sec. 111.  
(Authority to construct tunnel, etc., on holding.)

### 15. The Principal Act is further amended—

- (a) by inserting in subsection one of section one hundred and eleven after the words "purpose of" the words "laying or constructing a line of pipes or of"; (b)

- (b) (i) by inserting in subsection one of section one hundred and sixteen after the word "quantity" the words "and value";
- (ii) by inserting at the end of the same subsection the following new subsection:—

**No. 15, 1935.**  
**Sec. 116.**  
 (Further particulars and inquiries.)

(1A) Any person who when so required by the Minister fails to furnish such further particulars or to produce for inspection such books, accounts, documents, writings, papers, or instruments, or who obstructs or hinders any person authorised to make inquiries under this section, shall be liable to a penalty not exceeding fifty pounds.

- (c) by inserting in subsection one of section one hundred and eighteen after the words "adjoining mineral leases" the words "or of two or more special leases."

**Sec. 118.**  
 (Amalgamation of leases.)

**16. The Principal Act is further amended—**

- (a) by omitting subsections two, three, and four of section one hundred and twenty and by inserting in lieu thereof the following subsection:—

Further amendment of Act No. 49, 1906.

**Sec. 120.**

(2) The mining surveyor authorised as aforesaid may enter and inspect and survey the land and mines described in such authority. Such surveyor may make such plans and sections of the land entered, and of any drives or other works therein as are necessary for the purposes aforesaid.

Mining surveyor may enter and inspect.

Any person who obstructs or hinders such mining surveyor acting as aforesaid shall be liable to a penalty not exceeding fifty pounds.

- (b) by omitting from section one hundred and twenty-one the words "or geological surveyor or other authorised person" and by inserting in lieu thereof the word "surveyor";

**Sec. 121.**  
 (Surveyor to make a declaration.)

(c)

No. 15, 1935.

—  
New ss.,  
121A, 121B,  
and short  
heading.

Geological  
surveyor  
may enter  
and inspect.

- (c) by inserting next after section one hundred and twenty-one the following new short heading and sections:—

*Geological surveys.*

121A. (1) Any geological surveyor or other person authorised in writing in that behalf by the Minister may enter any mine or works for the purpose of inspecting the same, and removing any sample of ore or deposit.

The Minister may grant any such authority of his own motion or upon the application and at the cost of any person who proves to the satisfaction of the Minister that he has a substantial interest in the company or partnership which has been formed for the purpose of prospecting or of carrying on mining operations or which is carrying on mining operations in or upon the mine or works.

Before granting an authority upon the application of any such person the Minister may require that a deposit be made of such sum as he may fix to provide for the cost of the inspection or survey, and the sum so deposited may be applied accordingly.

Any person who obstructs or hinders such geological surveyor, or authorised person acting as aforesaid, shall be liable to a penalty not exceeding fifty pounds.

(2) The geological surveyor authorised as aforesaid, or other authorised person, may enter and inspect and survey the land, mines, and works described in such authority. Such surveyor or person may make such plans and sections of the land entered, and of any drives or other works therein, as are necessary for the purposes aforesaid.

(3) A geological surveyor or other person authorised under this section shall not, without the consent in writing of the occupier or lessee of the mine or works to be entered,  
divulge

divulge or cause to be divulged to any person, other than the Minister, any information which may be obtained consequent upon such entry.

No. 15, 1935.

Any person who contravenes any provision of this subsection shall be liable to a penalty not exceeding fifty pounds.

(4) Upon receipt of the report of any geological surveyor or other person to whom an authority under subsection one of this section has been granted, the Minister—

- (a) shall, where the authority was granted upon the application of any person, communicate the contents of the report to such person; and
- (b) may (whether the authority was granted of his own motion or upon any such application) at his discretion communicate the contents of the report to any person or publish the same in such manner as to him seems fit.

121b. Any geological surveyor may enter any private lands in the performance of his duties, and may remove any sample of ore or deposit.

Power of geological surveyor to enter private lands.

**17. The Principal Act is further amended—**

Further amendment of Act No. 49, 1906.

- (a) by inserting next after subsection one of section 124A the following new subsection:—

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

(1A) Where notice by complaint of non-compliance with the labour conditions by the lessee of any lease has been given by any person to the Minister under subsection one of this section, and the Minister has directed the warden to hear such complaint, the Minister may disallow any complaint and any application lodged therewith of which notice has been given by any other person at any time after such first-mentioned notice, of non-compliance with the labour conditions by the same lessee in respect of the same lease.

Where

No. 15, 1935.

Where any complaint is disallowed under this subsection no further action under this section shall be taken on such complaint or on any application lodged therewith.

- (b) by omitting paragraph (iii) and subparagraph (c) of subsection five of the same section and by inserting in lieu thereof the following subparagraph:—
  - (c) that, where the lessee has entered an appearance, costs be allowed to such lessee, but not exceeding the amount deposited by the complainant.
- (c) by omitting from subsection seven of the same section the words “ the determination ” and by inserting in lieu thereof the word “ considera- tion ”;
- (d) by inserting before the word “ disallow ” in paragraph (c) of the same subsection the words “ withhold his decision for such period as he may determine or ”;
- (e) by omitting subsections eight and nine of the same section and by inserting in lieu thereof the following subsections:—

Lease to complainant.

(8) Upon the cancellation of any lease upon complaint as aforesaid, the complainant shall, where the Minister has so recommended, be entitled to a lease of the subject land or such part thereof as he may specify in his application, and the Governor may grant such lease in the same manner as if possession of the land had been taken and application made in accordance with the provisions of this Act relating to the grant of a lease of the same class as the cancelled lease.

The notification of the approval of the Governor to the grant of such lease shall be published at the same time as the notification of cancellation of the cancelled lease, and thereupon the complainant shall be entitled upon making all the prescribed payments to the same

rights



rights as are conferred by the provisions of this Act upon an applicant for a lease of the same class as the cancelled lease.

No. 15, 1935.

(9) Where under the provisions of this Act it is required that the rent and/or compensation payable in respect of the lease to be granted shall be assessed or determined, it will be a compliance therewith if the amount of rent and/or the compensation as assessed or determined in respect of the cancelled lease be paid by the complainant in the prescribed manner.

Rent and compensation.

(10) In the grant of the new lease the provisions of section forty-seven of this Act shall not apply in respect to any buildings or improvements which were erected or effected on the subject land during the currency of the cancelled lease.

Buildings, etc., erected

**18.** The Principal Act is further amended by omitting from section one hundred and twenty-seven the words "lease or application for a lease" and by inserting in lieu thereof the words "tenure or application therefor."

Further amendment of Act No. 49, 1906, s. 127. (Inquiry may be directed.)

**19.** The Principal Act is further amended—

Further amendment of Act No. 49, 1906.

(a) (i) by omitting from paragraph (a) of subsection one of section one hundred and thirty-three the word "license" and by inserting in lieu thereof the words "business license, license to prospect";

Sec. 133. (Jurisdiction of court.)

(ii) by inserting at the end of paragraph (p) of the same subsection the words "or which may arise between miners and the owners or occupiers of private lands";

(b) (i) by inserting in subsections one and two of section one hundred and fifty-five after the word "right" wherever occurring the word "license";

Sec. 155. (How compensation assessed.)

(ii) by inserting in subsection four of the same section after the word "lease" where first occurring the word "license."

**Mining (Amendment) Act.**

No. 15, 1935.

Further  
amendment of  
Act No. 49,  
1906.Sec. 184.  
(Regula-  
tions.)**20. The Principal Act is further amended—**

- (a) (i) by inserting in paragraph (ii) of section one hundred and eighty-four after the words "miner's right" the words "license to prospect";
- (ii) by inserting in paragraph (xviii) of the same section after the word "notices" the word "licenses";
- (iii) by inserting in the same paragraph after the word "used" the words "the method of the service of notices";
- (iv) by inserting in paragraph (xxxv) of the same section after the word "generally" the words "for prescribing any matter or thing which by this Act is directed or authorised to be prescribed or which is necessary or convenient to be prescribed";

Sec. 185.  
(Power to  
make rules.)

- (b) by omitting from section one hundred and eighty-five the figures "1901" and by inserting in lieu thereof the figures and words "1912, or any Act amending or replacing that Act";

Sec. 186.  
(Rules and  
regulations  
to be laid  
before  
Parliament.)

- (c) (i) by inserting in section one hundred and eighty-six after the word "shall" the words—
- (a) be published in the Gazette;
- (b) take effect from the date or such publication or from a later date specified in the regulations or general rules; and
- (c)
- (ii) by inserting in the same section after the word "fourteen" wherever occurring the word "sitting";
- (iii) by omitting from the same section the words "then sitting" and by inserting in lieu thereof the words "then in session";
- (iv)

Mining (Amendment) Act.

195

- (iv) by inserting at the end of the same section the following words:—

No. 15, 1935,

“ If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations or general rules have been laid before such House disallowing any regulation, general rule or part thereof, such regulation, general rule or part shall thereupon cease to have effect.”

21. (1) The Principal Act is further amended—

Revision.

- (a) (i) by inserting in section one in the matter appearing under Part IV after the figures “ 68-70 ” the figures, letters and words “ 4A.—*Mining on private land held without reservation of minerals—ss. 70A-70E* ”;
- (ii) by omitting from the same section the figures “ 39 ” and “ 67,” and by inserting in lieu thereof the figures “ 39B ” and “ 67A ” respectively;
- (iii) by inserting in the same section after the figures “ 40 ” the figures and letter “ 40A ”;

Act No. 49,  
1906, s. 1.

- (b) by omitting subsections (3A) and four of section sixteen;

Sec. 16.

- (c) by omitting sections one hundred and twenty-two and 122A.

Secs. 122,  
122A.

(2) The Mining (Amendment) Act, 1907, is amended—

Act No. 18  
1907.

- (a) by omitting paragraph (c) of section three;
- (b) by omitting paragraphs (g) and (h) of the same section.

Sec. 3.

*Ibid.*

(3) The Mining (Amendment) Act, 1918, is amended—

Act No. 41  
1918.

- (a) by omitting so much of section three—
- (i) as inserts new subsection four in lieu of subsection four of section thirty-five of the Mining Act, 1906;

Sec. 3.

(ii).

**Metropolitan Water, Sewerage, and Drainage  
Amendment (Elections) Act.**

**No. 15, 1935.**

---

- (ii) as inserts new section 50A and short heading thereto in the Mining Act, 1906;
- (iii) as amends section sixty-three of the Mining Act, 1906;
- (iv) as inserts new section 67A in the Mining Act, 1906;
- (v) as inserts new subsection four in section one hundred and twenty of the Mining Act, 1906;
- (vi) as inserts new section 122A in the Mining Act, 1906;
- (vii) as omits certain words from section one hundred and seventy-eight of the Mining Act, 1906;

(b) by omitting so much of section four as inserts new section 70c in the Mining Act, 1906.

Act No. 37,  
1919.

(4) The Mining (Amendment) Act, 1919, is repealed.

Act No. 68,  
1924, s. 6.

(5) The Mining (Amendment) Act, 1924, is amended by omitting section six.

---