

COAL MINING ACT.

New South Wales



ANNO VICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 81, 1973.

An Act to make provision with respect to prospecting for and mining coal; to repeal the Mining Act, 1906, and certain other Acts; to amend certain Acts; and for purposes connected therewith. [Assented to, 20th December, 1973.]

BE

Coal Mining.

No. 81, 1973

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 :—

PART I.

PRELIMINARY AND INTERPRETATION.

Short title and commencement.

1. (1) This Act may be cited as the "Coal Mining Act, 1973".

(2) Subject to subsection (3), this Act shall commence upon the day appointed under section 1 (2) of the Mining Act, 1973, or where more than one day is appointed under that section, upon the first day so appointed.

(3) Section 139 (1) shall commence on the date of assent.

Division of Act.

2. This Act is divided as follows :—

PART I.—PRELIMINARY AND INTERPRETATION—ss. 1–15.

PART II.—ADMINISTRATION—ss. 16–19.

PART III.—AUTHORISATIONS—ss. 20–26.

PART IV.—CONCESSIONS—ss. 27–82.

DIVISION 1.—*Application or Tender for the Grant of a Concession*—ss. 27–38.

DIVISION 2.—*Disposal of Application or Tender for the Grant of a Concession*—ss. 39–49.

DIVISION 3.—*Renewal, Cancellation and Suspension of Conditions of a Concession*—ss. 50–60.

DIVISION 4.—*Restrictions on Grant of a Concession*—ss. 61–67.

DIVISION 5.—*Rights and Duties of Registered Holder of a Concession*—ss. 68–74.

DIVISION 6.—*Rent and Royalty*—ss. 75–82.

PART

Coal Mining.

PART V.—OBJECTION TO GRANT OF CONCESSION **No. 81, 1973**
OVER, OR THE EXERCISE OF POWERS UNDER AN
AUTHORISATION OR AN EXPLORATION PERMIT IN,
AGRICULTURAL LAND—*ss.* 83–85.

PART VI.—OBJECTIONS TO GRANTING COAL LEASES,
AND REFERENCES OF APPLICATIONS TO GOVERN-
MENT DEPARTMENTS AND OTHER AUTHORITIES—
ss. 86–92.

PART VII.—PROTECTION OF THE ENVIRONMENT—*ss.*
93–96.

PART VIII.—COMPENSATION—*ss.* 97–101.

PART IX.—RECORDS AND REGISTRATION—*ss.* 102–
108.

PART X.—LEGAL PROCEEDINGS—*ss.* 109–112.

PART XI.—MISCELLANEOUS—*ss.* 113–134.

PART XII.—REGULATIONS—*ss.* 135, 136.

PART XIII.—TRANSITIONAL PROVISIONS, SAVINGS AND
REPEALS—*ss.* 137–139.

SCHEDULES.

3. Except so far as is herein expressly enacted, this Act **Act applies**
applies only to coal. **only to coal.**

4. Except so far as is herein expressly enacted, nothing in **Act not to**
this Act affects the operation of the State Coal Mines Act, **affect State**
1912, or the Coal Industry Act, 1946. **Coal Mines**
Act, 1912,
or the Coal
Industry
Act, 1946.

5. (1) Subject to such modifications as may be pre- **Application**
scribed, this Act applies to and in respect of the sea-bed and **of Act to**
subsoil of the continental shelf as if that sea-bed and subsoil **continental**
were Crown lands. **shelf.**

(2)

*Coal Mining.***No. 81, 1973**

(2) The reference in subsection (1) to the continental shelf is a reference to the continental shelf, within the meaning of the "Convention on the Continental Shelf" signed at Geneva on 29th April, 1958, which is adjacent to the coast of the State.

Interpretation.

6. (1) In this Act, except so far as the context or subject-matter otherwise indicates or requires—

"amend" includes alter, add to or rescind;

"approved" means approved by the Minister;

"authority" means an exploration licence, a prospecting licence, a mining lease or a mining purposes lease, granted under the Mining Act, 1973;

"authorisation" means an authorisation granted under section 20 or 21;

"authorisation to mine" means an authorisation that allows the registered holder of the authorisation to mine in land for coal;

"block" means a graticular section referred to in section 7 or, where the Minister so directs in a particular case, part of such a graticular section;

"claim" means a claim registered under the Mining Act, 1973;

"coal" includes shale;

"coal lease" means a lease granted under section 41;

"colliery holding" means the lands included in a colliery holding of a mine as shown on the plans of such a mine or included in any description furnished to the Under Secretary and registered in accordance with the provisions of the Coal Mines Regulation Act, 1912;

"concession" means an exploration permit or a coal lease;

"conditions" includes terms, limitations and restrictions;

"corporation" has the meaning assigned thereto in section 5 (1) of the Companies Act, 1961;

"Crown

Coal Mining.

“Crown lands” means all lands within the State, except— No. 81, 1973

- (a) land in the process of alienation from the Crown;
- (b) land held in fee simple by any person, other than land vested in Her Majesty or in any person holding that land for or on behalf of Her Majesty or as trustee for public purposes;
- (c) land held under the following tenures, either original or additional, that is to say, conditional lease, Crown lease (other than Crown lease for pastoral purposes), homestead farm, homestead selection, residential lease, special lease (other than special lease for pastoral purposes), settlement lease, suburban holding, town lands lease, weekend lease, conditional purchase lease, irrigation farm lease, lease of an oyster farm, and non-irrigable lease, and land held under any grant issued in respect of any of the foregoing tenures;
- (d) land purchased or resumed under the Closer Settlement (Amendment) Act, 1907, or land held under lease under the Closer Settlement Act, 1904, or the Returned Soldiers Settlement Act, 1916, or any Act amending those Acts;
- (e) land held under a mining lease or a mining purposes lease granted under the Mining Act, 1973, or a coal lease; and
- (f) any other land which the Governor, by order under section 23 (2) of the Mining Act, 1973, declares not to be Crown lands;

“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, 1901, and any Acts amending those Acts;

“Crown

No. 81, 1973

“Crown lease for pastoral purposes” means—

- (a) a Crown lease, under the Crown Lands Acts, of land, not being a Crown lease of land set apart for disposal by way of Crown lease for grazing, which contains a condition restricting the use of the land comprised therein to grazing or grazing and the giving of access to water; and
- (b) a Crown lease, under the Crown Lands Acts, of land set apart for disposal by way of Crown lease for grazing, whether or not the whole or any part of the land comprised in the lease may, under the lease, be used for agricultural purposes;

“Department” means the Department of Mines;

“district” means a mining district constituted under section 23 (1) of the Mining Act, 1973;

“division” means a division of a district, constituted under section 23 (1) of the Mining Act, 1973;

“exempted area” means an area constituted by lands—

- (a) reserved, dedicated, appropriated, resumed or acquired for public purposes (except land reserved for a temporary common or a commonage), whether vested in Her Majesty or in any person as trustee for public purposes;
- (b) held under a lease for water supply by virtue of a special lease or otherwise; or
- (c) granted or vested in trust by the Crown for the purpose of a race-course, cricket-ground, recreation reserve, park or permanent common or for any other public purpose;

“exploration area” means an area of land subject to an exploration permit;

“exploration

Coal Mining.

“exploration permit” means a permit granted under No. 81, 1973 section 39;

“fossicking area” means an area constituted under section 25 (1) of the Mining Act, 1973;

“functions” includes powers, authorities and duties;

“land” includes water;

“mine”, when used as a noun, means any place, pit, shaft, drive, level or other excavation, or drift, on or in which, or whereby, any operation for or in connection with mining is carried on;

“mine”, when used as a verb, means to disturb, remove, cart, carry, wash, crush or otherwise deal with rock, sand, soil or water for the purpose of obtaining any coal;

“mineral” means any substance prescribed as such under the Mining Act, 1973, but does not include petroleum or coal;

“mining area” means an area of land subject to a coal lease;

“mining operations” means operations carried out in the course of mining;

“mining purpose” means a purpose prescribed as such;

“occupier” means a person in lawful occupation of any Crown lands or private lands;

“owner”, in relation to private lands, includes—

(a) any person to whom the Crown has lawfully contracted to grant the fee simple in those lands under the Crown Lands Acts, or to whom the Crown has granted any lease of those lands under those Acts; and

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

“private

No. 81, 1973

“private lands” means lands other than Crown lands but does not include land held under a mining lease or a mining purposes lease granted under the Mining Act, 1973, or a coal lease;

“prospect” means to search for any mineral or for coal by any means and to carry out such works and remove such samples as may be necessary to test the mineral (including coal) bearing qualities of land;

“prospecting operations” means operations carried out in the course of prospecting;

“registered holder”, in relation to an authorisation or a concession, means the person whose name is for the time being recorded by the registrar as being the holder of the authorisation or the concession, as the case may be;

“registrar” means the person for the time being holding office, or acting, as the registrar (coal), Department of Mines, Sydney;

“special lease for pastoral purposes” means a special lease under the Crown Lands Acts which contains a condition restricting the use of the land comprised therein to grazing or grazing and the giving of access to water;

“the regulations” means the regulations made under section 135;

“this Act” includes the regulations;

“the warden” means any warden under the Mining Act, 1973, and includes the person for the time being holding office, or acting, as the chief warden under that Act;

“Under

Coal Mining.

“Under Secretary” means the person for the time being No. 81, 1973
holding office, or acting, as Under Secretary,
Department of Mines, Sydney;

“warden’s court” means a court established under section
128 of the Mining Act, 1973;

(2) In this Act a reference to coal in any land
includes a reference to coal on or under the land.

(3) In this Act a reference to the conditions of a
concession is a reference to the conditions on which the
concession is granted, as from time to time amended.

(4) For the purposes of this Act land is subject to a
pending application for an authorisation as from the date and
hour on which an application in respect of that land is lodged
under this Act, until the date when a notification relating to
the application is published in the Gazette pursuant to section
17 (1) (c).

(5) For the purposes of this Act land is subject to a
pending application for a concession as from—

- (a) the date on which a notice relating to that land is
published in the Gazette pursuant to section 27 or
31, until the date when a notification relating to
the notice (or to an application or a tender for a
concession lodged pursuant to or following on the
notice) is published in the Gazette pursuant to
section 17 (1) (b), (d), (e), (f) or (g); or
- (b) the hour and date on which an application is lodged
under section 30 in respect of that land, until the
date when a notification relating to the application
is published in the Gazette pursuant to section 17
(1) (d) or (g).

(6)

No. 81, 1973

(6) The person nominated in an application or a tender for the grant of a concession, or under section 38, as the person to whom the concession, if granted, is to be granted, is for the purposes of this Act the applicant or the tenderer, as the case may be, for the grant of the concession.

Graticulation of the Earth's surface.

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

in graticular sections, each of which is bounded—

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

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

8. (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.

Coal Mining.

(2) That station shall be taken to be situated at 133 No. 81, 1973 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).

9. (1) Where under this Act a document is required to be served on any person service of that document may be effected— Service of documents.

(a) in the case of an individual—

- (i) by delivering it to him; or
- (ii) by sending it to him by post in accordance with subsection (2); or

(b) in the case of a person, not being an individual—

- (i) by leaving it at the person's place of business and, if the person is a corporation, at the registered office of the corporation, with some individual apparently in the service of the person to be served and apparently not less than sixteen years of age; or
- (ii) by sending it to the person by post in accordance with subsection (2).

(2) Service of a document on any person by post shall be effected by sending the document by certified mail addressed, in the case of an individual, to him at his usual or last known place of abode or at his last known place of business or, in the case of a person not being an individual, addressed to the person at the person's last known place of business, and the service shall be deemed to have been effected at the time at which the document would be delivered in the ordinary course of post.

(3)

No. 81, 1973

(3) In any case where an owner or occupier of land upon whom a document is required under this Act to be served is absent from the State or cannot, after diligent inquiry, be found, and his place of abode or business cannot, after diligent inquiry, be ascertained, the document may be served by affixing it on some conspicuous part of the land.

(4) Where under this Act a document is required to be served on the registered holder of an authorisation or a concession and there is more than one such registered holder, service on any one such registered holder of the document, together with copies of the document addressed to the other registered holders, shall be deemed to be service on all of the registered holders effected at the time at which the document is served on the one such registered holder.

(5) Where a person has more than one place of business service may be effected under this section at any of those places.

Form and
manner of
lodging
applications
and tenders.

10. (1) An application or a tender under this Act shall be in or to the effect of an approved form.

(2) An application or a tender required by this Act to be lodged with any person shall be lodged with that person in such manner as may be prescribed.

Withdrawal
of
application
or tender.

11. (1) An application or a tender under Part III or IV may be withdrawn by the applicant's or the tenderer's lodging with the Under Secretary a notice of withdrawal.

(2) The withdrawal of an application or a tender pursuant to subsection (1) is irrevocable.

12.

Coal Mining.

12. (1) An authorisation or an exploration permit shall be in accordance with such forms as the Minister determines. **No. 81, 1973**

Form of authorisations, etc.

(2) A coal lease shall be in accordance with such form as the Governor determines.

13. Subject to this Act, an authorisation or a concession may be granted over private lands or Crown lands, or over lands which are partly private lands and partly Crown lands.

Lands over which an authorisation or a concession may be granted.

14. Subject to this Act, an authorisation or a concession may be granted over any land in respect of coal in that land whether the coal is reserved to, or vested in, the Crown or not so reserved or vested, or partly so reserved or vested and partly not so reserved or vested.

Authorisation or concession may be granted over coal not reserved to or vested in the Crown.

15. Subject to this Act, an authorisation or a concession may be granted over the surface of any land, or over the surface of any land and the soil of that land below the surface, or over the surface of any land and the soil of that land to a specified depth below the surface, or over the soil of any land between or below any specified depth or depths below the surface.

Extent of grant of concession.

PART II.

ADMINISTRATION.

16. (1) Subject to this section—

(a) the Minister may delegate any of his functions under this Act (except this power of delegation) to the holder of any office; and

Delegation of functions by Minister or Under Secretary.

(b)

Coal Mining.

No. 81, 1973

(b) the Under Secretary may delegate any of his functions under this Act (except this power of delegation or any function delegated to him under this section by the Minister) to the holder of any office.

(2) The delegation under subsection (1) of any function shall be by instrument in writing and may be made subject to such conditions as are specified in the instrument of delegation.

(3) A function delegated under subsection (1) shall, if exercised or performed by a delegate, be exercised or performed in accordance with the instrument of delegation.

(4) The delegation of a function under subsection (1) shall not prevent the Minister or the Under Secretary, as the case may be, from exercising or performing the function delegated by him.

(5) The Minister shall not delegate under subsection (1) a function to the holder of an office unless the function has been prescribed as a function which may be delegated to the holder of that office.

(6) The Minister or the Under Secretary, by instrument in writing, may revoke any delegation made by him under subsection (1).

(7) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing done or suffered had been done or suffered by the Minister or the Under Secretary, as the case may be.

Notifica-
tion.

17. (1) The Under Secretary shall cause notification of—

(a) the lodging of an application or a tender for the grant of an authorisation or a concession;

(b)

Coal Mining.

-
- (b) the cancellation under section 27 (3), 31 (2), No. 81, 1973 32 (2) or 34 (3) of an invitation to tender for the grant of an exploration permit, or a notice of intention to invite tenders or an application for the grant of a coal lease, or an invitation to tender for the grant of a coal lease, or an invitation to apply for the grant of a coal lease;
 - (c) the grant of, or the refusal of an application for the grant of, an authorisation, or the withdrawal of an application for the grant of an authorisation;
 - (d) the withdrawal or refusal of an application for the grant of a coal lease;
 - (e) the withdrawal of the only tender for the grant of a concession or, where there is more than one tender, of all of the tenders for the grant of a concession;
 - (f) the refusal of the only tender, or of all of the tenders, for the grant of a concession;
 - (g) the grant of a concession;
 - (h) the withdrawal or refusal of an application for the renewal of an authorisation or a concession;
 - (i) the grant of the renewal of an authorisation or a concession; and
 - (j) the cancellation of an authorisation or a concession as to all or some of the lands subject to the authorisation or the concession,

to be published in the Gazette.

(2) A notification of the lodging of an application under section 30 for the grant of a coal lease published in the Gazette pursuant to subsection (1) (a) shall name a place or places where the plan of the area of land over which the coal lease is sought is available for inspection at such hours as are specified in the notification.

No. 81, 1973

Minister,
etc., not
to be
registered
holder of a
concession,
etc.

18. Neither the Minister nor a person employed in the Department (other than the Under Secretary on behalf of the Department) shall be the registered holder of an authorisation or a concession.

Disclosure
of informa-
tion, etc.

19. (1) A person shall not disclose any information obtained by him in connection with the administration or execution of this Act, unless the disclosure is made—

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act;
- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings;
- (d) for the purposes of any investigation or inquiry conducted by the warden under this Act; or
- (e) with the concurrence of the Minister.

(2) A person employed in the Department shall not use for the purposes of personal gain any information obtained by him in connection with the administration or execution of this Act.

Penalty : \$1,000.

PART III.

AUTHORISATIONS.

Grant of
authorisa-
tions to
Under
Secretary
on behalf
of the
Department,
etc.

20. (1) This section applies to—

- (a) the Under Secretary, acting on behalf of the Department;

(b)

Coal Mining.

- (b) a person nominated by the Minister by instrument No. 81, 1973 in writing; and
- (c) a corporation established by an Act and designated by the Minister by order published in the Gazette.

(2) A person to whom this section applies may apply for the grant of an authorisation that will allow him to prospect in certain land for coal.

(3) An application under this section shall—

- (a) be lodged with the Minister; and
- (b) contain such particulars as may be prescribed.

(4) An application by a person referred to in subsection (1) (b) or (c) shall be in respect only of land set aside under subsection (5).

(5) The Governor may, by order published in the Gazette, set aside land that in his opinion contains coal that should be retained for the purposes of the steel industry or power generation, or for special purposes.

(6) In an order made under subsection (5) setting aside land the Governor may stipulate that the land set aside shall extend only to a specified depth beneath the surface of that land, and if he does so the extent of the land set aside shall be so limited.

(7) On application made under this section the Minister may—

- (a) subject to this Act, on such conditions as he may determine, grant to the applicant an authorisation; or
- (b) refuse the application.

Coal Mining.

No. 81, 1973
Grant of
authorisa-
tion to
owner of
coal, etc.

21. (1) The owner of coal (not reserved to the Crown) in any land, or a person with the consent of the owner, may apply for the grant of an authorisation that will allow him—

- (a) to prospect in the land for the coal; or
- (b) to mine in the land for the coal.

(2) A consent given by an owner of coal for the purposes of this section shall be given by instrument in writing and the conditions on which the consent is given shall be incorporated in the instrument of consent.

(3) An application under this section shall—

- (a) be lodged with the Under Secretary;
- (b) contain such particulars as may be prescribed; and
- (c) where the application is made by a person with the consent of an owner of coal, be accompanied by the instrument of consent referred to in subsection (2).

(4) The Minister may, by instrument in writing served on a person applying for the grant of an authorisation with the consent of an owner of coal, require him—

- (a) to agree with the owner of the coal to such amendments to the conditions in the instrument of consent accompanying (pursuant to subsection (3) (c)) the application as are specified in the instrument so served; and
- (b) to lodge an instrument of consent as so amended with the Under Secretary within such period as is specified in the instrument so served.

(5) On application made under this section the Minister may—

- (a) subject to this Act, on such conditions as he may determine, grant to the applicant an authorisation; or
- (b) refuse the application.

Coal Mining.

22. (1) The conditions on which an authorisation is granted shall be set out in the authorisation. **No. 81, 1973**

Conditions
of authorisa-
tion, etc.

(2) The conditions referred to in subsection (1) may include a condition requiring the registered holder of the authorisation to give security in such manner and form as the Minister may determine for the fulfilment of the obligations of the registered holder under the authorisation.

(3) Where operations under an authorisation will involve disturbance of the surface of land and conditions for the reinstatement, levelling, regrassing, reforesting and contouring of land are deemed necessary for inclusion in the authorisation, they shall be in such form as is approved by the Soil Conservation Service of New South Wales.

(4) Subject to subsection (5), the date from which, and the period for which an authorisation has effect shall be specified in the authorisation.

(5) An authorisation shall terminate on the happening of any event specified by the Minister in the authorisation.

23. (1) Nothing in this Act shall be construed as authorising the Minister to disregard the provisions of any other Act regulating or restricting, or having the effect of regulating or restricting, the granting of an authorisation over any land. **Restriction on grant of authorisation.**

(2) An authorisation shall not be granted over any land that is, when the application for the authorisation is lodged, subject to a pending application for a concession, or to a pending application under the Mining Act, 1973, for an authority.

(3)

No. 81, 1973 (3) An authorisation shall not be granted over land
— in a fossicking area.

(4) An authorisation shall not be granted over any land if, by reason of section 77 of the Mining Act, 1973, an authority could not be granted under that Act over the land, and in the event of a dispute arising as to whether or not an authority could in any particular case be so granted, the dispute shall be referred for decision to the Minister and his decision shall be final.

(5) An authorisation shall not be granted over any land that is subject to a claim, an authority or a concession.

(6) The power to grant an authorisation over any land is subject to the rights conferred by this Act on any other person, being the registered holder of an authorisation over that land.

Restriction
on extent
of grant of
authoris-
ation.

24. (1) An authorisation to mine shall not be granted over the surface of any land—

- (a) that is bona fide in use as a garden or an orchard, or situated within fifty metres of any such land, without the consent of the occupier of the land so in use and, in the case of private lands, of the owner of the lands;
- (b) that is situated within two hundred metres of a dwelling-house that is the principal residence of its occupier, without the consent of that occupier and, in the case of a dwelling-house on private lands, of the owner of the lands; or
- (c) on which there is any improvement (being a substantial building, dam, reservoir, contour bank or graded bank or water disposal area, for soil

conservation

Coal Mining.

conservation purposes, or other valuable improvement) other than an improvement constructed or erected for mining purposes and not bona fide used for other purposes, without the consent of the occupier of the land on which there is such an improvement and, in the case of an improvement on private lands, of the owner of the lands. No. 81, 1973

(2) The provisions of subsection (1) shall not apply in respect of a garden, orchard, dwelling-house or improvement unless it was in existence at the prescribed time.

(3) An authorisation (not being an authorisation to mine) shall not extend to the surface of any land referred to in subsection (1) (a), (b) or (c) without the consent referred to in subsection (1) (a), (b) or (c).

(4) Any dispute as to whether or not subsection (1) applies in any particular case shall be decided by the Minister after inquiry and report by the warden.

(5) A decision of the Minister under subsection (4) shall be final.

(6) An authorisation to mine shall not be granted below the surface of any land referred to in subsection (1) (a), (b) or (c) except at such depth as the Minister may, after full inquiry, deem sufficient to prevent damage to the surface.

(7) For the purposes of this section the prescribed time is—

- (a) in the case of an application for the grant of an authorisation to mine by the registered holder of an authorisation, the time when the application for the grant of such last mentioned authorisation was lodged; and

(b)

No. 81, 1973

(b) in the case of an application for the grant of an authorisation to mine by a person, other than a person referred to in paragraph (a), the time when the application is lodged.

(8) A consent under subsection (1) or (3) shall be given by instrument in writing and shall be irrevocable.

Rights of person to whom authorisation granted, and renewal of authorisation.

25. (1) An authorisation (not being an authorisation to mine), while it remains in force, confers on the registered holder of the authorisation, subject to this Act and the conditions on which it is granted, the exclusive right to prospect for coal in the area of land subject to the authorisation.

(2) An authorisation to mine, while it remains in force, confers on the registered holder of the authorisation to mine, subject to this Act, the limitations and restrictions in sections 70 and 71 (1) and the conditions on which it is granted, the same rights as would be conferred by sections 70 and 71 (1) on that person if he were the registered holder of a mining lease and the area of land subject to the authorisation to mine were a mining area.

(3) The registered holder of an authorisation (not being an authorisation to mine) shall not exercise in lands in an exempted area any of the rights conferred by this Act or by the authorisation, except with the consent of the Minister given either unconditionally or subject to conditions.

(4) In the case of lands within a national park, a state park or a historic site under the National Parks and Wildlife Act, 1967, or a nature reserve under the Fauna Protection Act, 1948, the Minister shall not give his consent under subsection (3) without the approval of the Minister for Lands.

(5)

Coal Mining.

(5) Subject to subsection (6), nothing in this section shall be construed as authorising the registered holder of an authorisation 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 the registered holder of any right conferred on him by this Act or the authorisation. No. 81, 1973

(6) A person entitled under this Part to prospect on any land may do so notwithstanding that the land is affected by a scheme (as defined in section 90).

(7) The registered holder of an authorisation may, from time to time, apply for the renewal of the authorisation.

(8) An application for the renewal of an authorisation shall be lodged with the Minister not earlier than two months or later than one month before the authorisation ceases to have effect.

(9) Subject to subsection (10), on application made for the renewal of an authorisation the Minister, by instrument in writing, may renew the authorisation subject to such conditions and for such period as may be specified in the instrument, or refuse the application.

(10) Where an authorisation to prospect or mine for coal is granted under section 21 to a person (other than the owner of the coal) the authorisation shall not be renewed on the application of the registered holder of the authorisation without the consent of the owner of the coal, and the provisions of section 21 (2), (3) (c) and (4) shall apply, with such modification as may be necessary, to and in respect of the consent and such an application as they applied to and in respect of the consent and the application by the registered holder for the grant of the authorisation.

(11) The renewal of an authorisation has effect as from the date specified in the instrument renewing the authorisation.

(12)

No. 81, 1973 (12) If an application for the renewal of an authorisation is not finally dealt with before the date on which the authorisation would, but for this subsection, cease to have effect, the authorisation continues, under this subsection, to have effect until the date on which—

- (a) notification of the withdrawal of the application is published in the Gazette pursuant to section 17;
- (b) notification of the refusal of the application is published in the Gazette pursuant to section 17; or
- (c) the renewal of the authorisation has effect,

unless the authorisation is sooner cancelled under section 26.

**Cancellation
of authorisation.**

26. (1) Where the Minister is satisfied that the registered holder of an authorisation has not complied with—

- (a) any of the conditions of the authorisation; or
- (b) any provision of this Act with which he is required to comply,

he may, on that ground, by instrument in writing cancel the authorisation.

(2) Subject to subsection (3), where—

- (a) an authorisation is granted to a person applying under section 21 for the grant of the authorisation with the consent of the owner of the coal, or where such an authorisation is renewed; and
- (b) the Minister is satisfied, on the application of the owner of the coal, that the registered holder of the authorisation has not complied with the conditions on which that consent was given (as set out in the instrument of consent accompanying the application for the grant or renewal of the authorisation pursuant to section 21 (3) (c), or lodged pursuant to section 21 (4) (b), as the case may be),

he may, on that ground, by instrument in writing cancel the authorisation.

(3)

Coal Mining.

(3) The Minister shall not cancel under subsection No. 81, 1973
(2) an authorisation unless—

- (a) he affords to the registered holder of the authorisation a reasonable opportunity to submit written representations to him concerning the proposed cancellation of the authorisation, and considers any representations so made; and
- (b) he is satisfied that it is reasonable to do so having regard to the circumstances of the case, including any other remedy that may be available to the owner of the coal by reason of the failure of the registered holder of the authorisation to comply with the conditions concerned.

(4) Where all or some of the land subject to an authorisation is required for a public purpose the Minister may, on that ground, by instrument in writing cancel the authorisation as to all or some of the land subject to the authorisation.

(5) If the registered holder of an authorisation—

- (a) fails to use the land subject to the authorisation bona fide for the purpose for which the authorisation was granted; or
- (b) uses that land for any purpose other than the purpose for which the authorisation was granted,

the Minister may, on that ground, by instrument in writing cancel the authorisation.

(6) On the application of the registered holder of an authorisation for the Minister to do so the Minister may by instrument in writing cancel the authorisation as to all or some of the land subject to the authorisation.

(7) An application under subsection (6)—

- (a) shall be lodged with the Minister; and

(b)

No. 81, 1973 (b) if the application is for the cancellation of the authorisation as to some of the land subject to the authorisation, shall be accompanied by a plan of the area of land in respect of which the authorisation is to be cancelled, drawn in such manner and containing such particulars as may be prescribed.

(8) The cancellation of an authorisation has effect from and including the date on which notification of the cancellation is published in the Gazette pursuant to section 17 (1) (j).

(9) Except as provided in subsection (10), compensation shall not be paid to the registered holder of an authorisation because of any cancellation of the authorisation as to all or some of the land subject to the authorisation.

(10) When an authorisation to mine is cancelled under subsection (4) as to all or some of the land subject to the authorisation such amount as the Minister may determine as an appropriate compensation for mining improvements made shall be paid to the registered holder of the authorisation.

(11) An authorisation may be cancelled under this section as to all or some of the land subject to the authorisation on the ground that the registered holder of the authorisation has not complied with a provision of this Act notwithstanding that the registered holder has been convicted of an offence for failing to comply with that provision.

(12) The cancellation of an authorisation does not affect any liability of the person who was the registered holder of the authorisation incurred before the cancellation has effect.

*Coal Mining.***PART IV.****No. 81, 1973****CONCESSIONS.****DIVISION 1.—***Application or Tender for the Grant of a Concession.*

27. (1) Where the Minister is satisfied that he may grant an exploration permit over the land comprised in any block or blocks, he may invite tenders for the grant of an exploration permit over the block, or any number of the blocks (not exceeding one hundred). Minister may invite tenders for exploration permit.

(2) An invitation under subsection (1) shall—

- (a) describe the land comprised in the block or blocks to which it relates;
- (b) be published in the Gazette, in a newspaper circulating generally in the State and in one or more than one newspaper circulating in the district in which the area of land comprised in the block or blocks concerned is situated; and
- (c) specify the period within which a tender may be lodged.

(3) If no tenders are lodged under section 28 pursuant to an invitation under this section to tender for the grant of an exploration permit, the Minister shall, by instrument in writing, cancel the invitation.

28. (1) A tender for the grant of an exploration permit shall be lodged with the Under Secretary within the period specified in the invitation for the tender. Tender for exploration permit.

(2) A tender shall be accompanied by—

- (a) particulars of the financial resources available to the tenderer for the permit;

(b)

Coal Mining.

- No. 81, 1973**
- (b) particulars of the technical advice available to the tenderer for the permit;
 - (c) particulars of the programme of work proposed to be carried out in the land comprised in the block or blocks over which the permit is sought; and
 - (d) particulars of the estimated amount of money which it is proposed to expend on prospecting.

(3) A tender for the grant of an exploration permit shall be made in respect of all of the land comprised in the block or blocks described in the invitation for the tender.

(4) There shall be paid to the Under Secretary when a tender is lodged under this section a fee of \$1,000, or such greater amount as the Minister in any particular case may require, and a deposit of an amount equal to ten per centum of the amount tendered.

(5) A tender lodged under this section may be forthwith refused if any of the requirements of this section are not complied with.

(6) If a tender lodged under this section is refused an amount equal to nine-tenths of any fee deposited pursuant to subsection (4), shall be refunded to the tenderer together with the amount of the deposit deposited pursuant to that subsection.

Intending applicant for coal lease over private lands, etc., to give notice to owner, etc.

29. (1) Subject to subsection (2), an applicant, or a person intending to apply, under section 30 for the grant of a coal lease wholly or partly over private lands, or Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, shall either before, or within seven days after, lodging his application under that section, serve on every owner or occupier of such lands a notice—

- (a) stating that an application for the grant of a coal lease has been, or will be, lodged, as the case may be; and

(b)

Coal Mining.

- (b) containing a plan of the area of land over which the lease is, or is to be, sought, and a description sufficient to lead to the ready identification of that area. No. 81, 1973

(2) Where—

- (a) an application under section 30 does not, or a proposed application under that section will not, relate to the surface of any private lands, or to the surface of any Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes; and
- (b) there are ten or more persons, each of whom is an owner or an occupier of land to which the application relates, or will relate,

the applicant, or the person intending to apply, may, if the Minister gives his consent, instead of serving any notice required by subsection (1) to be served, cause to be published in a newspaper, or more than one newspaper, circulating in the district in which is situated the area of land over which the lease is, or is to be, sought, a notice—

- (c) stating that an application for the grant of a coal lease has been, or will be, lodged, as the case may be; and
- (d) containing a plan of the area of land over which the lease is, or is to be, sought, and a description sufficient to lead to the ready identification of that area.

30. (1) The registered holder of an exploration permit may apply for the grant of a coal lease.

Application for coal lease by holder of exploration permit.

(2) An application under this section for the grant of a coal lease shall—

- (a) be lodged with the Under Secretary;

(b)

No. 81, 1973

- (b) be accompanied by a plan of the area of land over which the lease is sought, drawn in such manner and showing such particulars as may be prescribed;
- (c) if any part of that area includes private lands or Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, be accompanied by an instrument in writing, verified by statutory declaration under the hand of the applicant for the lease, or his agent, identifying any such part and the owner and any occupier thereof;
- (d) be accompanied by a copy of every notice sent to an owner or occupier of land pursuant to section 29 (1) before the application was lodged or, if a notice was published pursuant to section 29 (2) before the application was lodged, by a copy of that notice; and
- (e) be in respect of an area of land (to which the exploration permit concerned relates) comprising not more than twelve blocks which together form a rectangle of which one side comprises three adjoining blocks.

(3) There shall be paid to the Under Secretary when an application is lodged under this section such fees as may be prescribed.

(4) Subject to subsection (5), an applicant for the grant of a coal lease shall, within seven days after lodging his application under this section, cause to be published in a newspaper circulating generally in the State and in one newspaper, or more than one newspaper, circulating in the district in which is situated the area of land over which the lease is sought, a notice—

- (a) stating that an application for the grant of a coal lease has been lodged; and
 - (b) containing a plan of that area, and a description thereof sufficient to lead to its ready identification,
- and

Coal Mining.

and within seven days after the publication of any such notice the applicant shall lodge a copy thereof with the Under Secretary. No. 81, 1973

(5) Subsection (4) shall not apply in any case where an applicant, or a person intending to apply for, the grant of a coal lease causes a notice to be published pursuant to section 29 (2).

(6) A copy of every notice served pursuant to section 29 (1) after an application is lodged or, if a notice is published pursuant to section 29 (2) after an application is lodged, a copy of that notice, shall be lodged with the Under Secretary within seven days of the date of the service or publication of the notice, as the case may be.

(7) For the purposes of subsection (2) (e), a block adjoins another block if the graticular section that constitutes or includes the block, and the graticular section that constitutes or includes the other block, have a side in common.

31. (1) Where the Minister—

- (a) is satisfied that the Governor may grant a coal lease over the land comprised in any block or blocks; and
- (b) intends to invite under section 32 tenders for the grant of a coal lease over the land comprised in the block or blocks, or to invite under section 34 a person to apply for the grant of a coal lease over the land comprised in the block or blocks,

Minister
to
publish
notice of
intention
to invite
tenders
for coal
lease,
etc.

he shall, before inviting such tenders or such an application, cause to be published in the Gazette, in a newspaper circulating generally in the State and in one, or more than one, newspaper circulating in the district in which the area of land comprised in the block or blocks is situated, a notice—

- (c) stating his intention;

(d)

*Coal Mining.***No. 81, 1973**

- (d) describing the land comprised in the block or blocks concerned; and
- (e) naming a place or places where a plan of the land comprised in the block or blocks concerned is available for inspection at such hours as are specified in the notice.

(2) The Minister may, at any time, by instrument in writing, cancel a notice of intention published pursuant to subsection (1).

**Minister
may invite
tenders for
coal lease.**

32. (1) Subject to subsection (4), where—

- (a) an exploration permit is cancelled or otherwise ceases to have effect as to the land comprised in a block or blocks and that land is not the subject of pending application for a coal lease; or
- (b) the Minister is of opinion that the granting of an exploration permit over land comprised in a block or blocks, not previously subject to an exploration permit, is unnecessary by reason of previous testing by way of drilling, tunnelling, shaft sinking or otherwise of that land or for any other reason he considers sufficient,

he may invite tenders for the grant of a coal lease in respect of that land.

(2) If no tenders are lodged under section 33 pursuant to an invitation under this section to tender for the grant of a coal lease, the Minister shall, by instrument in writing, cancel the invitation.

(3) An invitation under subsection (1) shall—

- (a) describe the land comprised in the block or blocks to which it relates;

(b)

Coal Mining.

(b) be published in the Gazette, in a newspaper No. 81, 1973 circulating generally in the State and in one, or more than one, newspaper circulating in the district in which the land comprised in the block or blocks concerned is situated; and

(c) specify the period within which a tender may be lodged.

(4) The power of the Minister under subsection (1) to invite tenders is subject to sections 31, 84, 86 (8), 87 (3), 88 (2) and 89 (3) and (5).

33. (1) A tender for the grant of a coal lease shall be lodged with the Under Secretary within the period specified in the invitation for the tender. Tender for coal lease.

(2) A tender shall be accompanied—

- (a) by particulars of the financial resources available to the tenderer for the lease;
- (b) by particulars of the technical advice available to the tenderer for the lease;
- (c) by particulars of the programme of work proposed to be carried out in the land comprised in the block or blocks over which the permit is sought; and
- (d) where the tender provides for the payment of cash (not being a payment by way of royalty), by a deposit of an amount equal to ten per centum of the cash amount.

(3) If the invitation for a tender specifies a cash reserve price, the tender shall specify that in consideration of the grant of a coal lease over the land comprised in the block or blocks to which the tender relates the tenderer will pay, in addition to the amount of the cash reserve price—

(a) a specified amount;

(b)

*Coal Mining.*No. 81, 1973

(b) a specified rate of royalty additional to the rate referred to in section 77 (1) (b), whether or not the coal in the land comprised in the block or blocks to which the tender relates is reserved to the Crown and whether or not any of the coal not so reserved is owned by the tenderer; or

(c) such an amount and such a rate.

(4) If the invitation for a tender does not specify a cash reserve price, the tender shall specify—

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

(b) a rate of royalty additional to the rate referred to in section 77 (1) (b) that the tenderer will pay in consideration of the grant of a coal lease, whether or not the coal in the land comprised in the block or blocks to which the tender relates is reserved to the Crown and whether or not any of that coal not so reserved is owned by the tenderer; or

(c) such an amount and such a rate.

(5) A tender shall specify—

(a) whether or not the amount offered to be paid (otherwise than by way of royalty), including the amount of any cash reserve price, will be paid by way of instalments; and

(b) if that amount is to be paid by instalments, the period, not exceeding five years, during which the instalments will be paid.

(6) There shall be paid to the Under Secretary when a tender is lodged under this section a fee of \$1,000, or such greater amount as the Minister in any particular case may require

(7)

Coal Mining.

(7) A tender lodged under this section may be forth- **No. 81, 1973**
with refused if any of the requirements of this section are not
complied with.

(8) If a tender under this section is refused—

- (a) the amount deposited pursuant to subsection (2)
(d); and
- (b) nine-tenths of the fee paid pursuant to subsection
(6) or, if the tender is refused by reason of section
91 (8), all of the fee so paid,

shall be refunded to the tenderer.

34. (1) Subject to subsection (4), the Minister may, **Minister
may invite
persons to
apply for
coal lease.**
where he is satisfied that it is necessary or desirable in the
public interest to do so, either for additions to existing colliery
holdings or for the purpose of opening new mines, by
instrument in writing served on any person, invite that person
to apply under section 35 for the grant of a coal lease over
land comprised in any block or blocks specified in the
invitation.

(2) An invitation under subsection (1) shall specify
the rent, the rate of royalty, cash payment or instalments or
other conditions subject to which the Minister would be
prepared to recommend the grant of a lease.

(3) If the person invited to apply under this section
for the grant of a coal lease does not do so the Minister shall,
by instrument in writing, cancel the invitation to apply.

(4) The power of the Minister under subsection (1)
to invite an application is subject to sections 31, 84, 86 (8),
87 (3), 88 (2), 89 (3) and (5) and 92 (1) and (7).

35.

Coal Mining.

No. 81, 1973 **35.** (1) Any person applying pursuant to an invitation under section 34 to do so shall lodge his application with the Under Secretary within such period as is specified in the invitation or within such extended period as the Under Secretary may allow.

Application by person invited to apply for a coal lease.

(2) An application under subsection (1) shall contain such matter and be accompanied by such particulars as may be prescribed.

36. The Minister may at any time, by instrument in writing served on an applicant or a tenderer for the grant of a concession, require him to furnish, within the period specified in the instrument—

Minister may require further information from applicant or tenderer.

(a) further information in connection with the application or the tender; or

(b) if the applicant or the tenderer is a corporation, such information as the Minister may require to enable him to ascertain to what extent the controlling power in the direction of the corporation's affairs is a foreign company (as defined in section 5 (1) of the Companies Act, 1961), or an individual resident in a country outside Australia.

37. (1) The Minister may, by instrument in writing, direct that any part of the area of land to which an application or a tender for the grant of a concession relates shall be excluded from the application or the tender and, from and including the date of the direction, that part shall be so excluded and the application or the tender shall relate only to the remaining part of that area.

Minister may amend application or tender for a concession.

(2) A copy of a direction given by the Minister under subsection (1) shall be served on the applicant, or on every tendered, for the grant of the concession, as the case may be.

(3)

Coal Mining.

(3) Where the Minister gives a direction under subsection (1) a tenderer affected by that direction may, by instrument in writing lodged with the Under Secretary within such period as the Minister specifies in the direction, amend his tender. No. 81, 1973

38. (1) Subject to subsection (2), an applicant or a tenderer for the grant of a concession may, by notice in writing lodged with the Under Secretary, nominate a person to whom the concession, if granted, is to be granted. Nomination by applicant or tenderer for a concession.

(2) Subsection (1) does not apply in the case of an application under section 35.

DIVISION 2.—Disposal of Application or Tender for the Grant of a Concession.

39. (1) Where the Minister invites under section 27 tenders for the grant of an exploration permit he may, subject to this Act— Power of Minister in relation to tender for exploration permit.

(a) where one tender only is lodged under section 28, grant to the tenderer an exploration permit on such conditions as the Minister may determine, or refuse the tender; or

(b) where more than one tender is lodged under section 28, grant to a tenderer an exploration permit on such conditions as the Minister may determine and refuse the other tenders, or refuse all of the tenders.

(2) Before granting an exploration permit the Minister may require a tenderer to give security in such amount and form as the Minister may determine, for the fulfilment of his obligations under the permit.

(3)

Coal Mining.

No. 81, 1973

(3) The Minister shall not grant an exploration permit to a tenderer unless the tenderer pays that part of the amount tendered which was not deposited pursuant to section 28 (4), within thirty days after being required by the Under Secretary to do so by a notice in writing served on him.

(4) The conditions on which an exploration permit is granted shall be set out in the permit.

Area over which exploration permit may be granted.

40. (1) Subject to section 37, the area of land over which an exploration permit is granted shall be the area of land over which the exploration permit was sought.

(2) There shall be attached to an exploration permit a plan prepared by the Department showing the area of land over which the exploration permit is granted.

(3) There shall be deemed to be excluded from the area of land shown on a plan attached to an exploration permit pursuant to subsection (2) any land within that area over which the permit is not granted.

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

(a) a claim or an authority; or

(b) an authorisation or a concession,

becomes subject to the exploration permit—

(c) if the claim, the authority, the authorisation or the concession ceases to have effect; and

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

41.

Coal Mining.

41. (1) On application made under section 30 or 35 for the grant of a coal lease the Governor may—

- (a) subject to this Act, on such conditions as he may determine, grant to the applicant a coal lease; or
- (b) refuse the application.

Power of
Governor
in relation
to applica-
tion for
coal lease.

(2) Where the Minister invites under section 32 tenders for the grant of a coal lease the Governor may, subject to this Act—

- (a) where one tender only is lodged under section 33, grant to the tenderer a coal lease on such conditions as the Governor may determine, or refuse the tender; or
- (b) where more than one tender is lodged under section 33, grant to a tenderer a coal lease on such conditions as the Governor may determine and refuse the other tenders, or refuse all of the tenders.

(3) The conditions on which a coal lease is granted shall be set out in the lease.

(4) Where a coal lease is granted to the registered holder of an exploration permit applying pursuant to section 30 for the grant of the lease, the Minister may, with the concurrence of the Treasurer, direct that all or any part of the moneys received from tenderers for the grant of the permit by virtue of which the lease was granted (not being moneys refunded or refundable under section 28 (6)) be paid at such times and in such portions as the Minister thinks fit, to the owners of coal not reserved to the Crown in the land subject to the lease.

(5) The conditions referred to in sections 34 (2), 41 (1) (a) and 41 (2) (a) or (b) may include a condition requiring the registered holder of a coal lease to give security in such manner and form as the Governor may determine, for the fulfilment of the obligations of the registered holder under the lease.

(6)

(6)

No. 81, 1973

(6) When operations under a coal lease will involve disturbance of the surface of land and conditions for the reinstatement, levelling, regrassing, reforestation and contouring of land are deemed necessary for inclusion in the lease, the conditions shall be in such form as is approved by the Soil Conservation Service of New South Wales.

(7) The Minister may require an applicant or a tenderer for the grant of a coal lease to agree on the rate of royalty to be paid on coal won under the coal lease, if granted, which rate shall be additional to the rate referred to in section 77 (1) (b).

Grant of
coal
lease
subject to
amendment.

42. (1) This section applies where an application is made under section 30 or 35 for the grant of a coal lease.

(2) A coal lease may be granted under section 41 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 Governor.

(3) If, having regard to a survey of any land made either before or after the granting of a coal lease subject to amendment, the Governor is of opinion that the lease should be amended, he 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 relating to expenditure or required to be amended by reason of the survey.

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

(5)

Coal Mining.

(5) If the size of the area of land subject to a coal lease is altered under subsection (3) (a) it shall be a sufficient compliance with subsection (4) if the instrument in writing served on the registered holder of the lease states that that area has been altered and refers to a plan, prepared by the Department and attached to that instrument, showing the area as altered. No. 81, 1973

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

43. (1) The area of land over which a coal lease is granted pursuant to an application under section 30 may differ in size or shape from the area of land over which the coal lease was sought, but shall not be outside the boundaries of the area of land over which the lease was sought. Area over which coal lease may be granted.

(2) Subject to section 37, the area of land over which a coal lease is granted pursuant to a tender or an application under section 35 for the grant of the lease shall be the area of land to which the tender or the application relates.

(3) The area of land over which a coal lease is granted is the area shown on the plan prepared by the Department and attached to the coal lease.

44. (1) Nothing in this Act shall be construed as authorising the Governor or the Minister to disregard the provisions of any other Act regulating or restricting, or having the effect of regulating or restricting, the grant of a concession over any area of land. Exercise of powers under this Act.

(2)

Coal Mining.

No. 81, 1973

(2) The Minister may refuse an application for an exploration permit and the Governor may refuse an application for a coal lease notwithstanding that the applicant has complied with the requirements of this Act.

(3) The Minister may refuse a tender for an exploration permit and the Governor may refuse a tender for a coal lease notwithstanding that the tenderer has tendered in accordance with the invitation to tender and has complied with the requirements of this Act.

(4) Nothing in this Act shall be construed as requiring the Minister to grant an exploration permit or the Governor to grant a coal lease—

- (a) pursuant to an invitation under this Act to tender for the permit or tender or apply for the lease; or
- (b) to the person lodging the highest tender or to any tenderer.

(5) The Minister may grant an exploration permit and the Governor may grant a coal lease notwithstanding that the applicant for the grant of the permit or the lease has not complied with the requirements of the regulations.

Control of corporations may be taken into account.

45. In deciding whether or not to grant a concession to a corporation the Governor or the Minister, as the case may be, may take into account the extent, if any, to which the controlling power in the direction of the corporation's affairs is a foreign corporation (as defined in section 5 (1) of the Companies Act, 1961), or an individual resident in a country outside Australia.

Signature of concession by applicant.

46. (1) Subject to subsection (2), an applicant or a tenderer for the grant of a concession shall sign the concession which it is proposed to grant to him when required by the Under Secretary to do so.

(2)

Coal Mining.

(2) If there is more than one applicant for the grant **No. 81, 1973** of a concession and one, or some only, of the applicants signs or sign the concession when required under subsection (1) by the Under Secretary to do so, the concession may be granted to any applicant or applicants who so signs or sign the concession.

(3) Subject to subsection (2), if the applicant for the grant of a concession fails to comply with subsection (1) the application for the grant of the concession shall be treated as having been refused.

47. (1) Subject to subsection (2)—

- (a) the Minister shall sign an exploration permit; and
- (b) the Governor shall sign a coal lease,

Signature
of con-
cession by
Minister or
Governor.

which it is proposed to grant to an applicant or a tenderer.

(2) A concession shall not be signed under subsection (1) unless section 46 has been complied with.

48. (1) An exploration permit has effect from and including the day on which the permit is signed by the Minister under section 47.

Date of
effect of
exploration
permit, etc.

(2) A coal lease has effect from and including the day on which the lease is signed by the Governor under section 47.

49. (1) The period for which an exploration permit is granted is the period (not exceeding twenty-four months) specified in the permit.

Period for
which
concession
granted.

(2)

Coal Mining.

No. 81, 1973 (2) The period for which a coal lease is granted is the period (not exceeding twenty-one years) specified in the lease.

(3) The period for which a concession is granted commences on the date on and from which the concession has effect, as provided in section 48.

DIVISION 3.—*Renewal, Cancellation and Suspension of Conditions of a Concession.*

Lodging of application for renewal of concession with Under Secretary. **50.** (1) The registered holder of a concession may, from time to time, apply for the renewal of the concession.

(2) An application for the renewal of an exploration permit shall be lodged with the Under Secretary not earlier than two months or later than one month before the permit ceases to have effect.

(3) An application for the renewal of a coal lease shall be lodged with the Under Secretary not earlier than five years or later than one year or, if the term of the lease is for one year or less, not later than one month, before the lease ceases to have effect.

(4) An application for the renewal of a concession shall be accompanied by the prescribed fee.

(5) An application for the renewal of an exploration permit shall be accompanied by a plan of the area over which renewal of the permit is sought, drawn in such manner and showing such particulars as may be prescribed.

(6) If an application for the renewal of a coal lease is in respect of some only of the land subject to the lease the application shall be accompanied by a plan of the area over which renewal of the lease is sought, drawn in such manner and showing such particulars as may be prescribed.

51.

Coal Mining.

51. An application under section 50 for the renewal of an exploration permit shall be in respect of all of the land subject to the permit, or in respect of a single area of land subject to the permit that is in such form, and has such relation to the boundaries of the exploration area, as may be prescribed.

No. 81, 1973
Lands to which application for renewal of exploration permit relate.

52. An application under section 50 for the renewal of a coal lease may be in respect of all of the land subject to the lease, or in respect of a single area of land subject to the lease.

Lands to which application for renewal of coal lease relates.

53. (1) On application made under section 50 for the renewal of an exploration permit the Minister, by instrument in writing, may—

Powers of Minister or Governor on application for renewal of concession.

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

(2) On application made under section 50 for the renewal of a coal lease the Governor, by instrument in writing, may—

- (a) renew the lease; or
- (b) refuse the application.

(3) The Minister may renew an exploration permit if he is satisfied that the renewal is necessary to enable the registered holder of the permit to complete his prospecting operations.

(4) The sum of the period for which an exploration permit is granted and of the period or periods for which it is renewed shall not exceed four years.

(5)

Coal Mining.

No. 81, 1973 (5) Any of the conditions of a concession may be amended—

(a) in the case of an exploration permit, by the Minister; and

(b) in the case of a coal lease, by the Governor,

in the instrument in writing renewing the permit or the lease.

(6) The area of land over which a concession is renewed may differ from the area of land over which the renewal of the concession is sought, but shall not include any land that was not subject to the concession immediately before the renewal.

(7) The period for which a concession, if renewed, is renewed, is—

(a) in the case of an exploration permit, the period ending on the date specified by the Minister; or

(b) in the case of a coal lease, the period ending on the date specified by the Governor,

in the instrument in writing renewing the permit or the lease.

Notice of renewal, etc., to be served on registered holder of concession.

54. (1) If a concession is renewed the Minister shall cause to be served on the registered holder of the concession an instrument in writing—

(a) so informing him;

(b) setting out any amendments to the conditions of the concession made under section 53 (5); and

(c) stating the period for which the concession is renewed.

(2) There shall be attached to an instrument served on the registered holder of an exploration permit pursuant to subsection (1) a plan prepared by the Department showing the area of land over which the exploration permit is renewed.

(3)

Coal Mining.

(3) There shall be deemed to be excluded from the area of land shown on a plan attached to an exploration permit pursuant to subsection (2) any land, within that area, to which the permit does not apply. No. 81, 1973

(4) Section 40 (4) applies, with such modifications as may be necessary, during the period for which an exploration permit is renewed as it applies during the period for which the permit is granted.

55. (1) This section applies where there is more than one registered holder of a concession and all of the registered holders of the concession do not apply for its renewal. Application by some only of registered holders of a concession for the renewal of the concession.

(2) In any case to which this section applies a concession may—

- (a) subject to subsection (3), be renewed in the name of the person, or the names of the persons, applying for its renewal; or
- (b) be renewed in the name of the person or the names of the persons applying for its renewal and in the name of any other registered holder of the concession not so applying, who wishes the concession to be renewed in his name.

(3) The Minister shall not renew an exploration permit and the Governor shall not renew a coal lease, as provided in subsection (2) (a), unless he is satisfied that any registered holder of the permit or the lease not applying for its renewal does not wish the permit or the lease to be renewed in his name.

(4) In any case to which this section applies the Minister may cause to be served on any registered holder of a concession not applying for its renewal an instrument in writing—

- (a) stating that an application for the renewal of the concession has been lodged; and

(b)

No. 81, 1973

- (b) requiring him, in such manner and by such date, as is specified in the instrument, to state whether or not he wishes the concession to be renewed in his name.

(5) If a registered holder of a concession upon whom an instrument is served pursuant to subsection (4) fails to state, as required by the notice, whether or not he wishes the concession to be renewed in his name his failure to do so shall be conclusive proof that he does not wish the concession to be renewed in his name.

Concession to have effect until application for renewal dealt with.

56. (1) If an application for the renewal of a concession is not finally dealt with before the date on which the concession would, but for this section, cease to have effect, the concession continues, under this section, to have effect until the date on which—

- (a) notification of the withdrawal of the application is published in the Gazette pursuant to section 17;
- (b) notification of the refusal of the application is published in the Gazette pursuant to section 17; or
- (c) the renewal of the concession has effect, as provided in section 57 (a),

unless the concession is sooner cancelled under section 59.

(2) During any period when a concession has effect under subsection (1) the Minister may, by instrument in writing served on the registered holder of the concession, amend any of the conditions of the concession (other than a condition relating to rent or royalty), and the amendment shall have effect from and including the date on which the instrument is so served.

57.

Coal Mining.

57. The renewal of a concession has effect—

No. 81, 1973

- (a) if section 56 applies, from and including the date on which an instrument in writing is served on the registered holder of the concession pursuant to section 54 (1); or
- (b) if section 56 does not apply, from and including the date on which the concession would cease to have effect if not renewed.

Date from which renewal of concession has effect, etc.

58. Any amendment under section 53 (5) of the conditions of a concession is effective from and including the date on which the renewal of the concession has effect, as provided in section 57.

Date from which amendments to concessions have effect.

59. (1) The person empowered to cancel a concession is—

Cancellation of concession.

- (a) in the case of an exploration permit, the Minister; and
- (b) in the case of a coal lease, the Governor.

(2) Where the person empowered to cancel a concession is satisfied that the registered holder of the concession has not complied with—

- (a) any of the conditions of the concession; or
- (b) any provision of this Act with which he is required to comply,

he may, on that ground, by instrument in writing cancel the concession.

(3) Where all or some of the land subject to a concession is required for a public purpose the person empowered to cancel a concession may, on that ground, by instrument in writing cancel the concession as to all or some of the land subject to the concession.

(4)

No. 81, 1973

(4) If the registered holder of a concession—

(a) fails to use the land subject to the concession bona fide for the purpose for which the concession was granted; or

(b) uses that land for any purpose other than the purpose for which the concession was granted,

the person empowered to cancel a concession may, on that ground, by instrument in writing, cancel the concession.

(5) On the application of the registered holder of a concession for the person empowered to cancel a concession to do so that person may, by instrument in writing cancel the concession as to all or some of the land subject to the concession.

(6) An application under subsection (5)—

(a) shall be lodged with the Under Secretary; and

(b) if the application is for the cancellation of some of the land subject to the concession, shall be accompanied by a plan of the area of land in respect of which the concession is to be cancelled, drawn in such manner and containing such particulars as may be prescribed.

(7) If the Governor is prepared to grant a coal lease in any case to which section 65 applies, he may, on that ground, before granting the lease, by instrument in writing cancel the exploration permit, or the exploration licence granted under section 51 of the Mining Act, 1973, concerned, as to that part of the exploration area over which the coal lease is to be granted.

(8) The cancellation of a concession has effect from and including the date on which notification of the cancellation is published in the Gazette pursuant to section 17 (1) (j).

(9)

Coal Mining.

(9) Except as provided in subsection (10), compensation shall not be paid to the registered holder of a concession because of any cancellation of the concession as to all or some of the land subject to the concession. com- No. 81, 1973

(10) When a coal lease is cancelled under subsection (3) as to all or some of the land subject to the lease such amount as the Minister may determine as an appropriate compensation for mining improvements made shall be paid to the registered holder of the lease.

(11) A concession may be cancelled under this section as to all or some of the land subject to the concession on the ground that the registered holder of the concession has not complied with a provision of this Act notwithstanding that the registered holder has been convicted of an offence for failing to comply with that provision.

(12) The cancellation of a concession does not affect any liability of the person who was the registered holder of the concession incurred before the cancellation had effect.

60. (1) The Minister may, by instrument in writing, suspend any of the conditions of a concession for such period or until the happening of such event as is specified in the instrument. Suspension
of con-
ditions of
concession.

(2) On the application of the registered holder of a concession, lodged with the Under Secretary, the Minister may, by instrument in writing served on the registered holder of the concession, suspend any of the conditions of the concession, subject to compliance with such conditions as may be specified in that instrument.

(3) No condition of a concession shall be suspended under subsection (2) on any one occasion for a period exceeding—

- (a) in the case of an exploration permit, three months;
- or
- (b) in the case of a coal lease, six months.

DIVISION

No. 81, 1973

DIVISION 4.—*Restrictions on Grant of a Concession.*

Power
to grant
concession
subject to
rights of
other
powers.

61. The power to grant a concession to any person over any land is subject to the rights conferred by—

- (a) this Act on any other person, being the registered holder of an authorisation or a concession; or
- (b) the Mining Act, 1973, on any other person, being the registered holder under that Act of a claim or an authority,

over that land.

Concession
not to be
granted
over land
used as an
orchard,
etc.

62. (1) Subject to this section, a coal lease shall not be granted over the surface of any land—

- (a) that is bona fide in use as a garden or an orchard, or situated within fifty metres of any such land, without the consent of the occupier of the land so in use and, in the case of private lands, of the owner of the lands;
- (b) that is situated within two hundred metres of a dwelling-house that is the principal residence of its occupier, without the consent of that occupier and, in the case of a dwelling-house on private lands, of the owner of the lands; or
- (c) on which there is any improvement (being a substantial building, dam, reservoir, contour bank or graded bank or water disposal area, for soil conservation purposes, or other valuable improvement) other than an improvement constructed or effected for mining purposes and not bona fide used for other purposes, without the consent of the occupier of the land on which there is such an improvement and, in the case of an improvement on private lands, of the owner of the lands.

(2)

Coal Mining.

(2) The provision of subsection (1) shall not apply No. 81, 1973 in respect of a garden, orchard, dwelling-house or improvement unless it was in existence at the prescribed date.

(3) An exploration permit shall not extend to the surface of any land referred to in subsection (1) (a), (b) or (c) without the consent referred to in subsection (1) (a), (b) or (c).

(4) Any dispute as to whether or not subsection (1) or (3) applies in any particular case shall be decided by the Minister after inquiry and report by the warden.

(5) A decision of the Minister under subsection (4) shall be final.

(6) A coal lease shall not be granted below the surface of any land referred to in subsection (1) (a), (b) or (c) except at such depth as the Minister may, after full inquiry, deem sufficient to prevent damage to that surface.

(7) Any consent given for the purposes of subsection (1) or (3) shall be given by instrument in writing and shall be irrevocable.

(8) For the purposes of this section the prescribed date is—

- (a) in the case of an application for the grant of a coal lease where the applicant is the registered holder of an exploration permit over the land to which the application relates, the date on which a notice inviting tenders for the grant of the exploration permit was published pursuant to section 27 (2) in the Gazette;
- (b) in the case of a tender under section 34 for the grant of a coal lease, the date on which a notice of intention to invite tenders for the grant of the coal lease was published pursuant to section 31 in the Gazette;

(c)

No. 81, 1973

- (c) in the case of an application under section 35 for the grant of a coal lease (other than a case to which paragraph (d) refers), the date on which a notice of intention to invite the application was published pursuant to section 31 in the Gazette; or
- (d) in the case of an application under section 35 for the grant of a coal lease by the registered holder of an authorisation, the date on which the application for the authorisation was lodged.

Concession
not to be
granted
over land
on which
mining
operation
being carried
on under
Mining Act,
1973.

63. A concession shall not be granted over any land if, by reason of section 77 of the Mining Act, 1973, an authority could not be granted under that Act over the land, and in the event of a dispute as to whether or not an authority could in any particular case be so granted, the dispute shall be referred for decision to the Minister and his decision shall be final.

Concession
not to be
granted over
land in a
fossicking
area, etc.

64. (1) A concession shall not be granted over land that is in a fossicking area.

(2) An exploration permit or a coal lease shall not be granted over land in a reserve if an order made under section 24 of the Mining Act, 1973, directs that such a permit or lease, as the case may be, shall not be granted over land in that reserve.

Restriction
on grant of
coal lease
over land
subject to
exploration
permit.

65. (1) This section—

- (a) does not apply in any case where the applicant for the grant of a coal lease—
- (i) is the registered holder of the sole exploration permit covering the area of land to which the application for the lease relates or, if any other exploration permit covers that area, has the consent of the registered holder of that other permit to so apply; or

(ii)

Coal Mining.

- (ii) has the consent of the registered holder of No. 81, 1973 any exploration permit covering that area to so apply; and
- (b) shall not operate so as to prevent the Governor refusing an application for the grant of a coal lease in any case where the procedure set out in this section has not been followed.
- (2) Where an application is lodged for the grant of a coal lease over any area of land subject, wholly or partly, to one or more than one exploration permit the Minister shall cause notice of the application to be served on the registered holder of every such exploration permit.
- (3) The registered holder of an exploration permit served with a notice pursuant to subsection (2) may object to the granting of the coal lease by serving, within the period specified in the notice, on the Minister an instrument in writing stating the grounds of his objection.
- (4) If any objection is made under subsection (3) to the grant of a coal lease the Minister shall, if the area of land over which the lease is sought is subject to an exploration permit relating to a mineral, refer the application for the grant of the lease and any such objection to the chief inspector of mines or, if the area of land over which the lease is sought is subject to an exploration permit relating to coal, refer the application for the grant of the lease and any such objection to the chief inspector of coal mines, for investigation and report, and the lease applied for shall not be granted until the Minister has considered that report.
- (5) Any consent given for the purposes of subsection (1) (a) shall be given by instrument in writing and shall be irrevocable.
- (6) For the purposes of this section a reference to an exploration permit includes a reference to an exploration licence granted under section 51 of the Mining Act, 1973.

Coal Mining.

No. 81, 1973 **66.** The restrictions in this Division on the grant of a concession in respect of any coal apply notwithstanding that an application or tender for the grant of the concession in respect of that coal is made by the owner of the coal or by a person with the consent of that owner.

Restriction on grant of concession to apply to owner of coal.

Concession not to be granted over land in colliery holding without consent.

- 67.** (1) A concession shall not be granted over—
- (a) the freehold or leasehold lands held by the owner of a colliery within the colliery holding; or
 - (b) any other lands within a colliery holding in which the owner of the colliery has the right to mine for coal or to carry out mining purposes in connection with mining for coal,

unless the owner of the colliery consents.

(2) The provisions of subsection (1) do not apply in respect of a colliery holding where—

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

(3) Subsection (1) does not extend to an abandoned colliery holding in respect of which the requirements of sections 37 and 39 (1) of the Coal Mines Regulation Act, 1912, have been complied with, unless the Minister in any particular case otherwise directs.

(4)

Coal Mining.

(4) Upon complaint in writing being made to the Minister that mining operations have been abandoned in or on the freehold and leasehold and other lands comprised within a colliery holding, or that bona fide mining operations are not being carried on therein or thereon, the Minister may, after inquiry and report by the warden, direct, by order published in the Gazette, that the provisions of subsection (1) shall cease to extend to those freehold and leasehold and other lands, or such part thereof as he may specify in the order, and any such order shall, upon publication, have effect according to its tenor. No. 81, 1973

(5) Any consent given for the purposes of subsection (1) shall be given by instrument in writing and shall be irrevocable.

DIVISION 5.—Rights and Duties of Registered Holder of a Concession.

68. (1) Subject to subsection (2) and to sections 89 (6), 91 (4) and 92 (4), nothing in this Act shall be construed as authorising the registered holder of a concession 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 the registered holder of any right conferred on him by this Act or by the concession. Restriction on exercise of rights.

(2) A person entitled under this Part to prospect on any land may do so notwithstanding that the land is affected by a scheme (as defined in section 90).

69. (1) An exploration permit, while it has effect, confers on the registered holder of the permit, subject to this Act and to the conditions of the permit, the exclusive right to prospect in the exploration area for coal. Rights of registered holder of an exploration permit.

(2)

Coal Mining.

No. 81, 1973

(2) Where the registered holder of an exploration permit determines or is required to carry out any surveys or prospecting operations on any portion of private lands or Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, in the exploration area, he shall, before commencing such surveys or operations, serve on the owner and any occupier of the private lands, or on any occupier of the Crown lands, a notice stating his intention to carry out the surveys or operations.

(3) The registered holder of an exploration permit shall not exercise in lands in an exempted area any of the rights conferred by this Act or by the permit, except with the consent of the Minister, given either unconditionally or subject to conditions.

(4) In the case of lands within a national park, a state park or a historic site under the National Parks and Wildlife Act, 1967, or a nature reserve under the Fauna Protection Act, 1948, the Minister shall not give his consent under subsection (3) without the approval of the Minister for Lands.

Rights of registered holder of coal lease.

70. (1) A coal lease, while it remains in force, confers on the registered holder of the lease, subject to this Act and to the conditions of the lease, the exclusive right to prospect and mine in the mining area.

(2) The registered holder of a coal lease may prospect or mine in the mining area only for coal, except where the lease applies to a mineral by reason of a direction given by the Minister under section 72 (3) (a), in which event the registered holder may prospect and mine for coal and that mineral.

(3)

Coal Mining.

(3) Subject to subsection (4) and to the conditions No. 81, 1973 of the lease, the registered holder of a coal lease may carry out in the mining area any mining purpose (including, where by reason of a direction given by the Minister under section 72 (3) (a) the lease applies to a mineral, a mining purpose under the Mining Act, 1973).

(4) The Minister may, by instrument in writing served on the registered holder of a coal lease, order that—

- (a) any mining purpose which the registered holder may carry on shall be carried on in accordance with any condition specified in that instrument; or
- (b) the carrying on of any such mining purpose shall be discontinued for such period as is specified in that instrument,

and the registered holder of the coal lease shall comply with the order.

(5) Except with the consent in writing of the Minister and subject to compliance with such conditions as may be specified in the instrument of consent, the registered holder of a coal lease shall not suspend mining operations in the mining area.

71. (1) Subject to section 73, where a mining area includes the surface of any land the registered holder of the coal lease may fence the whole or part of that surface. Fencing of lands subject to coal lease.

(2) Where a mining area includes the surface of any land the registered holder of the coal lease shall erect and maintain a fence around any shaft, machinery or other works, not already fenced, on those lands, if required, by instrument in writing served on him, to do so—

- (a) in the case of private lands, by the owner or occupier of the lands;

(b)

Coal Mining.

No. 81, 1973

- (b) in the case of Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, by the occupier of the lands; or
- (c) in the case of Crown lands not so held, by the Minister.

Addition
of mineral
to lease.

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

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

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

- (a) direct that a coal lease shall apply to the mineral specified in the instrument; or
- (b) refuse the application.

(4) A direction given under subsection (3) (a)—

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

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

73.

Coal Mining.

73. (1) Where the land subject to a concession includes the surface of any land, being private lands or Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, the owner or occupier of that surface shall have free and uninterrupted access, for stock watering and water draining purposes, to the water in any stream, whether perennial or intermittent, or any lagoon or swamp, whether permanent or temporary, abutting or on that land. No. 81, 1973
Right of
access to
water.

(2) Where any dispute arises between the registered holder of a concession and any owner or occupier referred to in subsection (1) concerning the right of access given under that subsection either the registered holder or the owner or occupier, or all of them, may, by instrument in writing lodged with the Minister, request the Minister to determine the dispute.

(3) The Minister shall refer the dispute to the warden for investigation and report, and, following on that report, shall determine the dispute.

(4) A determination of the Minister under subsection (3) shall be final.

74. (1) Where land subject to a concession includes the surface of any lands, being private lands or Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, the registered holder of the concession shall not— Restriction
on registered
holder of
concession.

- (a) use water artificially conserved on those lands by the owner or occupier of the surface except with his consent and in accordance with the conditions of any such consent; or
- (b) fell trees, strip bark or cut timber on those lands except with the approval of the warden and subject to payment to the owner of the trees, bark or timber of compensation to be assessed by the warden under this Act.

(2)

No. 81, 1973

(2) Where land subject to a coal lease includes the surface of any lands, being lands referred to in subsection (1), the registered holder of the lease shall not—

- (a) unless the lands are securely fenced, depasture horses thereon, or keep or permit to be kept thereon any dog unless it is chained up or kept under proper control; or
- (b) except in connection with mining operations, remove rock or earth from those lands without the consent of the owner or occupier.

DIVISION 6.—*Rent and Royalty.*

Rent.

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

- (a) in the case of Crown lands, of \$2.50; and
- (b) in the case of private lands, of \$12.50,

for each hectare or portion of a hectare.

(2) Where an agreement in writing between the applicant for the grant of a coal lease and the owner of private lands to which the application for the grant of the lease relates is lodged with the Under Secretary and provides for the payment of rental for the surface of the lands at a rate other than that specified in subsection (1) (b), the rent reserved by the lease in respect of the surface to which the agreement relates shall be that specified in the agreement.

(3) In addition to any rent that may be reserved in accordance with subsection (1) or (2), every coal lease which is wholly or partly over lands which contain coal not owned by, or reserved to, the Crown shall reserve in favour of the owner of the coal an annual rent of \$1.50 for each hectare, or portion of a hectare, of the lands which contain the coal.

(4)

Coal Mining.

(4) The Governor may, by instrument in writing ^{No. 81, 1973} served on the person who was or is, as the case may be, the registered holder of a coal lease increase or decrease the rent payable, in the case of Crown lands, for any period when the lease has effect under section 56, and the rent as so increased or decreased is payable by that person or, if when that instrument is so 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.

(5) The power of the Governor under subsection (4) may be exercised notwithstanding that a coal lease has ceased to have effect.

(6) The Governor may, in the instrument in writing renewing a coal lease under section 53 (2), increase the rent payable during the period for which the lease is renewed.

(7) Where, in an invitation under section 34, the Minister specifies the rent subject to which he would be prepared to recommend the grant of a coal lease and the lease is granted the rent reserved in the lease shall be that specified in the invitation, subject to subsections (4), (5) and (6).

(8) Rent referred to in this section shall be paid—

- (a) in the case of rent in respect of Crown lands, to the Crown;
 - (b) in the case of rent in respect of private lands, to the owner of the land; and
 - (c) in the case of rent in respect of coal not reserved to, or owned by, the Crown, to the owner of the coal,
- at the times, and in the manner, prescribed.

76. (1) The registered holder of a coal lease shall pay ^{Liability to pay royalty.} royalty on coal, and on any mineral to which a coal lease applies by reason of a direction given under section 72 (3) (a), won from the mining area.

(2)

Coal Mining.**No. 81, 1973**

(2) If royalty is paid, or recovered under section 82 (2), in respect of coal or a mineral not owned by, or reserved to, the Crown, the Minister shall pay to the owner of the coal or the mineral the amount of the royalty (and any interest thereon paid pursuant to section 81), less an amount equal to one-eighth of the amount of the royalty which shall be paid into the Consolidated Revenue Fund.

Rate of royalty.

77. (1) Subject to subsection (13), royalty is payable by the registered holder of a coal lease on coal won from land subject to the lease—

- (a) at such rate (if any) additional to the prescribed rate as the registered holder agreed to pay pursuant to a requirement of the Minister under section 41 (7); and
- (b) at the prescribed rate or, if a different rate is fixed pursuant to subsection (2), (3), (4), (5), (8) or (9), at that different rate.

(2) The Governor may fix the rate of royalty to be paid on coal won from land subject to a coal lease during any period when the lease has effect under section 56.

(3) The Governor may fix the rate of royalty to be paid on coal won from a mining area during any period for which the coal lease concerned is renewed under this Act.

(4) If a coal lease is to be granted wholly or partly over land which was, at a date not earlier than five years before the date on which the application or tender for the grant of that lease was lodged, the subject of a coal lease held by the same person or persons, or persons who are, in the opinion of the Minister, substantially the same persons, as the person or persons to whom the coal lease is to be granted, the Governor may, by instrument in writing, fix the rate of royalty to be paid on coal won under the mining lease to be granted.

(5)

Coal Mining.

(5) The Governor may—

No. 81, 1973

- (a) after a period of ten years from the date on which a coal lease had effect; and
- (b) subject to subsection (6), after successive periods of ten years from the expiration of the period of ten years referred to in paragraph (a),

by instrument in writing served on the registered holder of the lease, fix the rate of royalty to be paid on coal won from the mining area after the date on which that notice is so served.

(6) The Governor shall not exercise the power conferred on him by subsection (5) in respect of coal won from any mining area unless a period of ten years has elapsed since the power under that subsection was last exercised in respect of coal so won.

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

(8) The Minister may fix the rate of royalty to be paid on coal or any mineral won from land that is subject to a coal lease after the lease is transferred under this Act, or after the Minister approves under section 104 any instrument referred to in subsection (1) (b) of that section.

(9) The Minister may fix the rate of royalty to be paid on coal won from any land—

- (a) during the period when the coal lease to which that land is subject is amalgamated with any other coal lease; or
- (b) after the cancellation of any amalgamation of coal leases affecting the land.

(10) The rate of royalty prescribed or fixed may be prescribed or fixed—

- (a) as a percentage of the value of coal or minerals won; or

(b)

*Coal Mining.*No. 81, 1973

(b) as an amount payable on the basis of any specified measurement of coal or minerals won.

(11) The value of coal or minerals won is such amount as is determined by the Minister as being that value.

(12) If the manner of ascertaining or determining the amount of coal or minerals won, or of measuring coal or minerals won, is prescribed, the amount shall be ascertained or determined, and the measurement carried out, in that manner.

(13) Where, in an invitation under section 34, the Minister specifies the rate of royalty subject to which he would be prepared to recommend the grant of a coal lease and the lease is granted, royalty is payable by the registered holder of the lease on coal won from land subject to the lease at the rate so specified, subject to subsections (2), (3), (5), (8) and (9).

Returns.

78. (1) Subject to subsection (2), the registered holder of a coal lease shall furnish to the Minister returns in such form, at such intervals and containing such information, as may be prescribed.

(2) The Minister may authorise the registered holder of a coal lease to furnish to him returns in a different form, or at different intervals, from the form or the intervals prescribed pursuant to subsection (1).

(3) Any registered holder of a coal lease who knowingly furnishes pursuant to subsection (1) or (2) a return which is false or misleading in a material particular is guilty of an offence.

Penalty: \$2,000.

79.

Coal Mining.

79. (1) Where the Minister has reason to believe that a person is capable of giving information or producing or making available books or documents relating to coal or minerals won or the value of coal or minerals won he may, by instrument in writing served on that person, require that person to—

No. 81, 1973
Minister
may require
information
to be
furnished,
etc.

- (a) furnish to him in writing, within the period and in the manner specified in the instrument any such information;
- (b) attend before him or a person specified in the instrument at such time and place as is so specified and there to answer questions relating to coal or minerals won or the value of coal or minerals won; or
- (c) make available to a person specified in the instrument at such time and place as is so specified books or documents in his custody or power relating to coal or minerals won or the value of the coal or minerals won.

(2) A person is not excused from furnishing information, answering a question or making available books or documents when required to do so under this section on the ground that the information so furnished, the answer to the question, or the production of, or the making available of, any books or documents, might tend to incriminate him or make him liable to a penalty but the information so furnished or his answer to the question is not admissible in evidence against him in proceedings other than proceedings for an offence against section 80.

(3) When books or documents are made available pursuant to a requirement under subsection (1) (c) the person to whom the books are made available may make copies of, or take extracts from, the books or documents.

No. 81, 1973

Failing to
furnish
information,
etc.**80.** A person shall not—

- (a) refuse or fail to comply with a requirement under section 79 to the extent to which he is capable of complying with it;
- (b) in purported compliance with such a requirement knowingly furnish information that is false or misleading in a material particular;
- (c) when attending before the Minister or any person in pursuance of such a requirement, knowingly make a statement or produce a document that is, or produce books that are, false or misleading in a material particular; or
- (d) when making available books or documents in pursuance of such a requirement, knowingly make available books which are, or a document which is, false or misleading in a material particular.

Penalty : \$2,000.

Payment of
royalty.**81.** (1) Royalty is payable on demand by the Minister.

(2) When an amount of royalty is not paid within twenty-eight days of the demand for its payment interest shall, if the Minister so directs, be added at such rate as the Minister determines to the amount due until it is paid.

Recovery
of rent
and
royalty.**82.** (1) Rent payable in respect of land subject to a coal lease is—

- (a) in the case of rent payable in respect of Crown lands, a debt due to the Crown; and
- (b) in the case of rent payable in respect of private lands, a debt due to the owner of those lands,

and is recoverable in a court of competent jurisdiction.

(2) Royalty and any interest payable under section 81 are debts due to the Crown and are recoverable in a court of competent jurisdiction.

(3)

Coal Mining.

(3) A certificate of the Minister that a specified amount of royalty or interest is payable by a specified person shall, in any proceedings instituted against that person for the recovery of royalty or interest, be evidence of that fact. **No. 81, 1973**

PART V.

OBJECTION TO GRANT OF CONCESSION OVER, OR THE EXERCISE OF POWERS UNDER AN AUTHORISATION OR AN EXPLORATION PERMIT IN, AGRICULTURAL LAND.

83. (1) An owner or occupier of private lands, or an occupier of Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, may— **Objection to grant of concession, etc.**

- (a) within the prescribed period, object to the Governor's granting a coal lease over that land, or any part of it, pursuant to an application lodged under section 30;
- (b) within the prescribed period, object to the Minister's inviting under section 32 tenders for the grant of a coal lease over that land, or any part of it;
- (c) within the prescribed period, object to the Minister's inviting under section 34 an application for the grant of a coal lease over that land, or any part of it; or
- (d) object to the exercise by the registered holder of an authorisation or an exploration permit of any rights conferred by this Act, or the authorisation or the permit, in that land, or any part of it,

on the ground that the land, or the part of it, as the case may be, is agricultural land.

(2) An objection under subsection (1) (a), (b) or (c) shall be made by lodging with the Under Secretary an instrument in writing stating the objection and giving particulars of the land claimed to be agricultural land.

(3)

No. 81, 1973

(3) An objection under subsection (1) (d) shall be made by—

- (a) lodging with the Under Secretary an instrument in writing stating the objection and giving particulars of the land claimed to be agricultural land; and
- (b) serving on the registered holder of the authorisation or the exploration permit a copy of the instrument so lodged.

(4) Where an objection is made under this section the Under Secretary shall refer to the Director-General of Agriculture for decision the question whether or not the land to which the objection relates is agricultural land.

(5) The Director-General of Agriculture shall decide any question referred to him under this section in accordance with the provision of the First Schedule and his decision shall be final.

(6) For the purposes of subsection (1) the prescribed period is—

- (a) in the case of an objection under subsection (1) (a), the period of thirty days after the date on which notification is published in the Gazette pursuant to section 17 (1) (a) of the lodging of the application under section 30;
- (b) in the case of an objection under subsection (1) (b), the period of thirty days after the date on which notification is published in the Gazette pursuant to section 31 of the notice of intention to invite tenders; and
- (c) in the case of an objection under subsection (1) (c), the period of thirty days after the date on which notification is published in the Gazette pursuant to section 31 of the notice of intention to invite the application.

Coal Mining.

84. (1) Subject to subsections (3), (4) and (6), where an objection is made under section 83 (1) (a), (b) or (c) and the question whether or not the land to which the objection relates is agricultural land is referred under section 83 (4) to the Director-General of Agriculture for decision, the coal lease concerned shall not be granted, or the invitation concerned published under section 32 or served under section 34, as the case may be—

No. 81, 1973
 Restriction
 on grant of
 coal lease,
 etc., over
 agricultural
 land.

- (a) until the Director-General of Agriculture decides the question referred to him; or
- (b) over or in respect of any land which the Director-General of Agriculture decides to be agricultural land, except with the consent of the owner and occupier of that land.

(2) Any consent given for the purposes of subsection (1) (b) shall be given by instrument in writing and shall be irrevocable.

(3) A coal lease may be granted beneath the surface of agricultural land at such depths as the Minister may, after full inquiry, deem to be sufficient to prevent damage to the surface.

(4) Subject to subsection (5), a coal lease may be granted over any part of any land notwithstanding that the Director-General of Agriculture decides that it is agricultural land if the Minister considers that the granting of the lease over that part is necessary to give access to coal.

(5) Before a coal lease is granted in any case referred to in subsection (4) the warden shall assess the amount to be paid as compensation for any loss of or damage to any crop on the land concerned.

(6) In any case where a coal lease could be granted over any land by reason of subsection (3) or (4), the Minister may invite tenders under section 32 or an application under section 34, for the grant of a coal lease over that land.

85.

Coal Mining.

No. 81, 1973 **85.** (1) Subject to subsection (3), where an objection is made under section 83 (1) (d) and the question whether or not the land to which the objection relates is agricultural land is referred under section 83 (4) to the Director-General of Agriculture for decision the registered holder of the authorisation or the exploration permit concerned shall not exercise any right under the authorisation or the permit—

Restriction on exercise of rights under authorisation, etc., in agricultural land.

- (a) in the land to which the objection relates until the Director-General of Agriculture decides the question referred to him; or
- (b) over any land which the Director-General of Agriculture decides to be agricultural land, except with the consent of the owner and occupier of that land.

(2) Any consent given for the purposes of subsection (1) (b) shall be given by instrument in writing and shall be irrevocable.

(3) If the Minister permits him to do so the registered holder of an authorisation or an exploration permit may exercise such rights in agricultural land subject to the authorisation or the permit as the Minister may specify at such depths as the Minister may, after full inquiry, deem to be sufficient to prevent damage to the surface.

PART VI.

OBJECTIONS TO GRANTING COAL LEASES, AND REFERENCES OF APPLICATIONS TO GOVERNMENT DEPARTMENTS AND OTHER AUTHORITIES.

Objection to grant of coal lease, etc. **86.** (1) Subject to subsection (11), within thirty days after the date on which a notice is published in the Gazette pursuant to section 31 stating that the Minister intends to invite—

- (a) under section 32, tenders for the grant of a coal lease over the land comprised in any block or blocks; or

(b)

Coal Mining.

- (b) under section 34, a person to apply for the grant of a coal lease over land comprised in any block or blocks, No. 81, 1973

any person may, by instrument in writing, object to the Minister's inviting under section 32 or 34 tenders or the application, as the case may be, for the grant of the coal lease.

(2) Subject to subsections (10) and (11), within thirty days after the date on which notification is published in the Gazette pursuant to section 17 (1) (a) that an application for a coal lease has been lodged, any person may, by instrument in writing, object to the granting of the lease applied for.

(3) An objection under subsection (1) or (2) shall—

- (a) be lodged with the Under Secretary;
- (b) set out the name and address of the person making the objection and the grounds for the objection; and
- (c) be accompanied by the prescribed fee.

(4) Subject to subsection (7), the Minister shall refer an objection made under and in accordance with subsections (1) and (3) or subsections (2) and (3) to the warden for inquiry and report.

(5) The Minister may cancel under section 31 (2) a notice published under section 31 (1) notwithstanding that an objection under subsection (1) has not been referred to the warden for inquiry and report, or that the warden has not inquired into or reported on an objection referred to him.

(6) The Governor may refuse an application for the grant of a coal lease notwithstanding that an objection under subsection (2) has not been referred to the warden for inquiry and report, or that the warden has not inquired into or reported on an objection referred to him.

(7)

*Coal Mining.***No. 81, 1973**

(7) If the Minister cancels under section 31 (2) a notice published under section 31 (1), or the Governor refuses an application for a coal lease—

- (a) the requirements of subsection (4) shall cease to have effect in relation to any objection under subsection (1) or subsection (2), as the case may be, that has not been referred under subsection (4) to the warden;
- (b) the warden may discontinue any inquiry commenced by him in relation to any objection referred to him under subsection (4); and
- (c) the Minister may cause any fee accompanying any objection not referred to the warden or in relation to which the warden has not completed an inquiry or made a report to be returned to the person making the objection.

(8) The Minister shall not invite under section 32 or 34 tenders or an application for the grant of a coal lease until the warden has inquired into and reported on any objection made under and in accordance with subsections (1) and (3).

(9) The Governor shall not grant a coal lease until the warden has inquired into and reported on any objections made under and in accordance with subsections (2) and (3).

(10) Subsection (2) does not apply to an application under section 35 for the grant of a coal lease.

(11) A person entitled under section 87 or 89 to lodge an objection, or an authority (as defined in section 90) entitled to consent to the use of land, to which an application or a tender relates or will relate, for the purpose of obtaining coal, is not entitled to lodge an objection under subsection (1) or (2).

(12) At the conclusion of an inquiry conducted pursuant to this section by the warden, the warden shall

announce

Coal Mining.

announce in open court his findings and the purport of his report to the Minister and shall transmit to the Minister the evidence and documents relating thereto and his findings and report. No. 81, 1973

87. (1) Subject to subsection (2), where an application for the grant of a coal lease is lodged and the Minister is of opinion that a Government Department or a statutory authority will be materially affected by the granting of the coal lease he shall cause to be served on that Department or authority a notice— Notice of application, etc.

- (a) stating that the application for the grant of the lease has been lodged;
- (b) containing a description or a plan of the area of land over which the lease is sought; and
- (c) stating that objections to the granting of the lease, or proposals for the inclusion in the lease of any condition, may be made to the Minister within the period specified in the notice.

(2) Subsection (1) does not apply to an application under section 35 for the grant of a coal lease.

(3) Where the Minister is of opinion that a Government Department or a statutory authority will be materially affected by the granting of a coal lease pursuant to any tender that may be lodged under section 33, or pursuant to an application that may be lodged under section 35, he shall, before the invitation to tender for the grant of the coal lease is published in the Gazette pursuant to section 32, or before the invitation to apply for the grant of the coal lease is served pursuant to section 34, as the case may be, cause to be served on that Department or authority a notice—

- (a) stating his intention to invite tenders or an application, as the case may be, for the grant of a coal lease;
- (b) describing the block or blocks to which that invitation will relate; and

(c)

Coal Mining.

No. 81, 1973

(c) stating that objection to the granting of the lease, or proposals for the inclusion in the lease of any condition, may be made to the Minister within the period specified in the notice.

(4) A Government Department or a statutory authority served with a notice pursuant to subsection (1) or (3) may, within the period specified in the notice, by instrument in writing lodged with the Under Secretary—

(a) object to the granting of a coal lease; or

(b) propose that the conditions specified in the instrument be included in the lease, if granted.

(5) The Minister may take, or cause to be taken, such steps as he deems appropriate in connection with any objection or proposal made under subsection (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 to him under subsection (5) the Premier shall give such decision as he 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.

(8) The Minister may, by order published in the Gazette, designate a corporation established by an Act as a statutory authority for the purposes of this section.

(9) For the purposes of this section "statutory authority" means any corporation designated by the Minister under subsection (8).

Coal Mining.

88. (1) Where a notice is served on a Government Department or a statutory authority pursuant to section 87 (1) and that Government Department or statutory authority lodges an objection under section 87 (4) to the granting of a coal lease, the coal lease shall not be granted unless the objection is withdrawn or otherwise resolved, or rejected in a decision given by the Premier under section 87 (6). ^{Granting of coal lease, etc., if objection made under sec. 87.}

(2) Where a notice is served on a Government Department or a statutory authority pursuant to section 87 (3) and that Government Department or statutory authority lodges an objection under section 87 (4) to the granting of a coal lease, an invitation to tender for the grant of the coal lease shall not be published pursuant to section 32, or an invitation to apply for the grant of the coal lease shall not be served pursuant to section 34, as the case may be, unless the objection is withdrawn or otherwise resolved, or rejected in a decision given by the Premier under section 87 (6).

(3) A coal lease shall include—

- (a) a condition proposed under section 87 (4) unless the proposal for the inclusion of the condition is withdrawn, or rejected by the Premier in a decision given under section 87 (6), or, if the condition is modified, the condition as so modified; and
- (b) any condition directed to be included in the lease by the Premier in a decision given under section 87 (6).

(4) The failure to include a condition in a coal lease pursuant to subsection (3) shall not affect the validity of the lease, but the Minister may, by instrument in writing served on the registered holder of the lease, amend the lease so as to include the condition omitted.

(5)

Coal Mining.

No. 81, 1973 (5) Nothing in section 87 or in this section shall be construed as preventing the Governor from refusing at any time an application for a coal lease.

Notice of application, etc., to be sent to councils in certain cases.

89. (1) Subject to subsection (2), where an application for the grant of a coal lease is lodged and the land to which the application relates is not affected by a scheme (as defined in section 90), the Minister shall cause to be served on the council within whose local government area the land is situated a notice—

- (a) stating that an application for the grant of the coal lease has been lodged;
- (b) containing a description or a plan of the area of land over which the lease is sought; and
- (c) stating that objection to the granting of the lease, or proposals for the inclusion in the lease of any condition, may be made to the Minister within the period specified in the notice.

(2) Subsection (1) does not apply to an application under section 35 for the grant of a coal lease.

(3) Where the land comprised in any block or blocks over which a coal lease may be granted pursuant to any tender that may be lodged under section 33, or pursuant to an application that may be lodged under section 35, is not affected by a scheme (as defined in section 90), the Minister shall, before the invitation to tender for the grant of the coal lease is published in the Gazette pursuant to section 32, or before the invitation to apply for the grant of the coal lease is served pursuant to section 34, as the case may be, cause to be served on the council within whose local government area the land comprised in the block or blocks is situated, a notice—

- (a) stating his intention to invite tenders or an application, as the case may be, for the grant of a coal lease;

(b)

Coal Mining.

- (b) describing the land comprised in the block or blocks No. 81, 1973 to which that invitation will relate; and
- (c) stating that objection to the granting of the lease, or proposals for the inclusion in the lease of any condition, may be made to the Minister within the period specified in the notice.

(4) A council served with a notice pursuant to subsection (1) or (3) may, within the period specified in the notice, by instrument in writing lodged with the Under Secretary—

- (a) object to the granting of a coal lease; or
- (b) propose that the conditions specified in the instrument be included in the coal lease, if granted.

(5) In deciding whether or not to invite under section 32 or 34 tenders or an application for the grant of a coal lease or to grant a coal lease the Minister or the Governor, as the case may be, shall take into account any objection or proposal made under subsection (4).

(6) Subject to subsections (7) and (8), where the provisions of subsection (1) or (3) are complied with and a coal lease is granted then—

- (a) for the purposes of the Local Government Act, 1919, and any ordinance in force under that Act, the registered holder of the coal lease shall be deemed to be entitled to use the mining area for the purpose of obtaining coal or any mineral to which the lease applies by reason of a direction given by the Minister under section 72 (3) (a); and
- (b) nothing in or done under Part XIIA of the Local Government Act, 1919, or an ordinance, order or proclamation made for the purpose of that Part, shall operate so as to prevent the registered holder of the coal lease from carrying on mining operations

in

*Coal Mining.*No. 81, 1973

in the mining area, and to the extent that anything in, or done under, that Part or such an ordinance, order or proclamation would so operate, it shall be of no force or effect in relation to the mining area or the registered holder of the coal lease.

(7) Subsection (6) does not operate so as to exempt the registered holder of a coal lease from obtaining any consent which he is required to obtain in connection with the erection of buildings, the opening of roads or the subdivision of lands.

(8) Subsection (6) shall cease to apply in the case of a coal lease where mining operations under that lease have not been commenced within five years from the date on which the lease has effect, as provided in section 48 (2).

Interpre-
tation.

90. For the purposes of sections 91 and 92—

“authority” means the authority or body empowered to consent to the use of land for the purpose of obtaining coal;

“prescribed condition” means a condition concerning—

- (a) the preparation of land for mining;
- (b) mining methods to be employed;
- (c) the reinstatement of land either during the carrying on of mining operations or after they have ceased;
- (d) safety measures to be adopted either before mining operations are commenced, while they are being carried on or after they have ceased; or
- (e) guarantee deposits to be made with regard to the performance of any matter referred to in paragraph (a), (b), (c) or (d);

“scheme”

Coal Mining.

“scheme” means—

No. 81, 1973

- (a) a scheme prescribed under section 342KD of the Local Government Act, 1919;
- (b) an interim development order made under section 342U of that Act; or
- (c) an ordinance made under Division 7 of Part XIIA of that Act, as in force immediately prior to the coming into force of the Local Government (Town and Country Planning) Amendment Act, 1962, that is still in force.

91. (1) Where the consent of an authority is necessary under a scheme to the use of land for the purpose of obtaining coal the Minister shall, before a coal lease over the land is granted to a person to whom this section applies, by instrument in writing served—

Grant of coal lease applied for over land subject to a scheme.

- (a) on that person, require him, within such time as is specified in the instrument, to make the appropriate application to the appropriate authority for that consent; and
- (b) on the authority concerned, notify the authority that that person has been required to apply for the consent of the authority and state, in the instrument, the conditions proposed to be included in the coal lease, if granted.

(2) Any requirement that an application for the consent of an authority to the use of land for the purpose of obtaining coal be accompanied by the consent of the owner of the land shall not apply when the application for the consent is made pursuant to a requirement by the Minister under subsection (1) (a).

(3) 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, the

consent

No. 81, 1973 consent given to a person applying for that consent pursuant to a requirement by the Minister under subsection (1) (a), is void and the consent to the use of the land concerned for the purpose of obtaining coal shall be deemed to have been given free of the condition.

(4) Subject to subsection (5), where—

- (a) pursuant to a requirement of the Minister under subsection (1) (a), a person applying therefor obtains the consent of an authority, or of a body hearing an appeal from an authority, to the use of land for the purpose of obtaining coal; and
- (b) the coal lease is granted over the land to that person,

nothing in or done under Part XIII A of the Local Government Act, 1919, or an ordinance, order or proclamation made for the purposes of that Part, shall operate so as to prevent the registered holder of the coal lease from carrying on mining operations in the mining area, and to the extent that anything in, or done under, that Part or such an ordinance, order or proclamation would so operate, it shall be of no force or effect in relation to the mining area or the registered holder of the coal lease.

(5) Subsection (4) does not operate so as to exempt the registered holder of a coal lease—

- (a) from obtaining any consent which he is required to obtain in connection with the erection of buildings, the opening of roads or the subdivision of lands; or
- (b) from complying with any condition (not being a prescribed condition) subject to which the consent to use the land for the purpose of obtaining coal was given.

(6) Nothing in this section shall operate so as to prevent the Governor from rejecting at any time an application or a tender for the grant of a coal lease.

(7)

Coal Mining.

(7) Subsection (4) shall cease to apply in the case No. 81, 1973 of a coal lease where mining operations under that lease have not been commenced within five years from the date on which the consent was given to the use of the land (subject to the lease) for the purpose of obtaining coal.

(8) Where an authority, or a body hearing an appeal from an authority, does not give its consent to the use of land for the purpose of obtaining coal to a person applying for that consent pursuant to a requirement by the Minister under subsection (1) (a), the Governor shall refuse the application or tender, as the case may be, of that person for the grant of the coal lease over that land.

(9) This section applies to—

- (a) a person applying under section 30 for the grant of a coal lease; and
- (b) a person to whom the Minister is prepared to recommend the grant of a coal lease pursuant to a tender by that person for the grant of the lease.

92. (1) Where the Minister intends to invite under section 34 an application for the grant of a coal lease and the consent of an authority is necessary under a scheme, to the use of the land (to which the invitation will relate) for the purposes of obtaining coal, the Minister shall, before the invitation to apply for the grant of the coal lease is served pursuant to section 34, cause the appropriate application to be made by the Under Secretary in the name of the Department to the authority for that consent. Procedure in case of application under sec. 34 for coal lease over land subject to scheme, etc.

(2) Any requirement that an application for the consent of an authority to the use of land for the purpose of obtaining coal be accompanied by the consent of the owner of the land shall not apply when the application is made pursuant to subsection (1).

(3)

Coal Mining.

No. 81, 1973

(3) 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, the consent given on an application made pursuant to subsection (1), is void and the consent to the use of the land concerned for the purpose of obtaining coal shall be deemed to have been given free of that condition.

(4) Subject to subsections (5) and (6), where—

- (a) on an application made under subsection (1) an authority, or a body hearing an appeal from an authority, gives its consent to the use of land for the purpose of obtaining coal;
- (b) the Minister invites under section 34 an application for the grant of a coal lease over the land; and
- (c) pursuant to that invitation a coal lease is granted to an applicant,

nothing in or done under Part XIIA of the Local Government Act, 1919, or an ordinance, order or proclamation made for the purpose of that Part, shall operate so as to prevent the registered holder of the coal lease from carrying on mining operations in the mining area, and to the extent that anything in, or done under, that Part or such an ordinance, order or proclamation would so operate, it shall be of no force or effect in relation to the mining area or the registered holder of the coal lease.

(5) Subsection (4) does not operate so as to exempt the registered holder of a coal lease—

- (a) from obtaining any consent which he is required to obtain in connection with the erection of buildings, the opening of roads or the subdivision of lands; or
- (b) from complying with any condition (not being a prescribed condition) subject to which the consent to use the land for the purpose of obtaining coal was given to the Under Secretary on behalf of the Department.

(6)

Coal Mining.

(6) Subsection (4) shall cease to apply in the case No. 81, 1973 of a coal lease where mining operations under that lease have not been commenced within five years from the date on which the consent was given to the use of the land (subject to the lease) for the purpose of obtaining coal.

(7) The Minister shall not invite under section 34 an application for the grant of a coal lease over any land if the consent of an authority under a scheme to use that land for the purposes of obtaining coal is necessary, unless that consent has been obtained pursuant to this section, but nothing in this section shall operate so as to prevent an application for that consent being made on more than one occasion.

PART VII.

PROTECTION OF THE ENVIRONMENT.

93. In deciding whether or not to invite tenders or an application for the granting of, or to grant, a concession the Minister or the Governor, as the case may be, shall take into account the need to conserve and protect the flora, fauna, fish, fisheries and scenic attractions, and features of architectural, archaeological, historical or geological interest, in or on the land over which the concession is sought.

Need to protect natural resources, etc., to be taken into account.

94. There may be included in a concession conditions relating to the conservation and protection of the flora, fauna, fish, fisheries and scenic attractions, and features of architectural, archaeological, historical or geological interest, in or on the land subject to the concession.

Inclusion in a concession of conditions for protection of environment.

95. (1) There may be included in a coal lease such conditions relating to—

Rehabilitation, etc., of area damaged by mining.

- (a) the reinstatement, levelling, regrassing, reforesting and contouring of any part of the mining area that may have been damaged or deleteriously affected by mining operations; and

(b)

No. 81, 1973

(b) the filling in, sealing or fencing off, of excavations, shafts and tunnels,

as may be prescribed, or as the Governor may, in any particular case, determine.

(2) Where any condition is to be included in a coal lease pursuant to subsection (1) the Minister shall require the person to whom it is proposed to grant the lease to lodge with him, within such time as he may require, security for the performance of the condition in such amount and form as he deems appropriate.

Direction to comply with conditions of concession for protection of environment.

96. (1) Where a concession is cancelled or otherwise ceases to have effect, whether wholly or partly, over any land, the Minister may, by instrument in writing served on the person who is or was, as the case may be, the registered holder of the concession, direct him to take such steps within such time as may be specified in the instrument, to give effect, in relation to the land, to any conditions included in the concession pursuant to section 94 or 95.

(2) A person to whom a direction is given under subsection (1) shall comply with the direction.

Penalty : \$2,000.

(3) If a person to whom a direction is given under subsection (1) does not comply with the direction the Minister may cause to be taken any steps specified in the instrument in which the direction was given.

(4) Costs and expenses incurred under subsection (3) in taking any steps referred to in that subsection are a debt due to the Crown by the person to whom the direction was given and are recoverable in a court of competent jurisdiction.

(5) In any proceedings instituted for the recovery from a person to whom a direction was given under subsection

(1)

Coal Mining.

(1) of a debt due by that person to the Crown under subsection (4), a certificate of the Minister that a specified amount is the amount of the debt so due shall be evidence of that fact. No. 81, 1973

(6) A debt due by any person to the Crown under subsection (4) is recoverable notwithstanding that that person is convicted of an offence under subsection (2).

(7) A person to whom a direction is given under subsection (1) or any person authorised by the Minister may enter on or remain on any land for the purpose of complying with that direction.

PART VIII.

COMPENSATION.

97. (1) Where an authorisation or a concession is granted—
- (a) the occupier of any Crown lands, and the owner and occupier of any private lands, subject to the authorisation or the concession; and
 - (b) the owner and occupier of any private lands, and the occupier of any Crown lands, not being lands subject to the authorisation or the concession.

Entitlement to compensation in respect of operations under an authorisation or a concession.

are entitled to compensation for any loss referred to in section 98 (1) (b) suffered, or likely to be suffered, by them as a result of the grant of the authorisation or the concession or the exercise of the rights conferred by this Act or the authorisation or the concession on the registered holder of the authorisation or the concession.

(2) The registered holder of an authorisation or a concession may treat and agree with an owner or an occupier as to the amount of compensation payable, but an agreement reached is not valid unless it is in writing, signed by the parties thereto, or their agents, and lodged with the Under Secretary or, where the Under Secretary on behalf of the Department is the registered holder of the authorisation, with the Minister.

(3)

No. 81, 1973

(3) If a valid agreement is not entered into pursuant to subsection (2) within such period as may be prescribed the registered holder of an authorisation or a concession, or an owner or occupier of land, may apply to the warden to assess the amount of compensation payable, and the warden shall assess the compensation payable.

(4) The registered holder of an authorisation or a concession shall not commence any prospecting or mining operations in any part of the land subject to the authorisation or the concession unless the amount of any compensation payable to an owner or occupier pursuant to subsection (1) (a) in respect of that part of the land is the subject of a valid agreement or has been assessed by the warden.

(5) Where any land (hereinafter in this section called "the excluded land") ceases to be subject to a coal lease by reason of an alteration in size under section 42 (3) (a), and the registered holder of the lease concerned, prior to the alteration, entered upon or occupied the excluded land, he is liable to pay compensation—

- (a) in respect of loss caused by the occupation or interference with the user of such part of the excluded land—
 - (i) as is Crown lands—to the Crown and to any person lawfully occupying those lands; and
 - (ii) as is private lands—to the owner and any occupier of those lands; and
- (b) in respect of damage to coal or minerals in, or the removal of coal or minerals from, the excluded land—
 - (i) in the case of coal or minerals owned by or reserved to the Crown—to the Crown; and
 - (ii) in the case of coal or minerals not so owned or reserved—to the owner of the minerals.

(6) The compensation referred to in subsection (5) shall be assessed by the warden.

Coal Mining.

98. (1) Where compensation is by this Act directed to be assessed by the warden the assessment—

Assessment
of com-
pensation.

- (a) shall be made in the manner prescribed, and after notice in the approved form is served on any person who appears to the warden to be interested in the assessment;
- (b) shall, except where the assessment is to be made for the purposes of section 97 (5), be of the loss caused or likely to be caused by—
 - (i) damage to the surface of land, and damage to the crops, trees, grasses or other vegetation on land, or damage to buildings and improvements thereon, being damage which has been caused by or which may arise from prospecting or mining operations;
 - (ii) deprivation of the possession or of the use of the surface of land or any part of the surface;
 - (iii) severance of land from other land of the owner or occupier of that land;
 - (iv) surface rights-of-way and easements;
 - (v) destruction or loss of, or injury to, or disturbance of, or interference with, stock on land; and
 - (vi) all consequential damage;
- (c) shall, where the assessment is to be made for the purposes of section 97 (5), be—
 - (i) of the loss caused by the occupation or interference with the use of the excluded land referred to in that subsection and of the damage to that land, or to any crops, buildings and improvements thereon caused by the registered holder of the coal lease; and

(ii)

Coal Mining.

No. 81, 1973

- (ii) of the value of any coal or minerals damaged or removed from that land, reduced by the amount of any royalty paid under this Act, in respect of that coal or those minerals;
- (d) shall not exceed in amount the market value for other than mining purposes of the land and the improvements thereon; and
- (e) shall, subject to the appeal to arbitration under section 101, be final.

(2) For the purposes of subsection (1) (c) (ii) coal or minerals shall be deemed to have been damaged if, as a result of any operations carried on by the registered holder of a coal lease on any excluded land referred to in section 97 (5), the subsequent recovery of that coal or those minerals is rendered more difficult or more expensive.

(3) Subject to subsection (4), the total amount of compensation so assessed shall be paid by the registered holder of an authorisation or a concession into the warden's court, and shall, from time to time, on loss or damage being caused from any reason mentioned in subsection (1), be paid out of court on the application of any person entitled thereto.

(4) If an order is made under section 141 of the Mining Act, 1973, the amount of compensation so assessed shall be paid in accordance with that order.

(5) Where, after the expiration of six months, and before the expiration of twelve months, from the date on which an authorisation or a concession ceases to have effect, the whole or any part of an amount paid into court in pursuance of subsection (3) or (4) has not been paid out and has not been ordered to be paid out, the person who paid the amount into court may apply to the warden for payment out to him of the amount or any part thereof, and the warden may order the payment to be made.

(6)

Coal Mining.

(6) Where, after the expiration of twelve months No. 81, 1973 from the date on which an authorisation or a concession ceases to have effect, any amount paid into court in accordance with subsection (3) or (4) has not been paid out, the warden may cause the amount or any part of the amount to be paid into the Treasury and carried to the Consolidated Revenue Fund.

99. (1) In making an assessment in accordance with this Part, the warden— Procedure in court on making assessment.

- (a) may make the assessment at any time and at any place;
- (b) may make the assessment in the absence of any person, interested in the assessment, who appears to the warden to have been served with a notice pursuant to section 98 (1) (a) ;
- (c) may adjourn the hearing to any time and any place, subject to such terms as to costs and otherwise as he thinks fit; and
- (d) shall have the powers of a warden's court.

(2) Where a person required by this Act to pay compensation enters into an agreement in writing with a person who is entitled to receive that compensation, and the agreement is signed by the parties thereto and lodged with the warden, the warden shall adopt as his assessment of the compensation the amount so agreed upon in writing.

100. Where, after an assessment has been made in accordance with the provisions of section 98, it is proved to the satisfaction of the warden that the whole of the amount paid into court pursuant to subsection (3) or (4) of that section has been duly paid out, and that since the date of the payment out, or the last payment out, as the case may be, Additional assessment.

further

Coal Mining.

No. 81, 1973 further loss has been caused to the land to which the assessment relates, or to other land, being loss arising from any one or more of the causes referred to in subsection (1) (b) of that section, the warden shall, subject to section 99 (2), assess that loss and order that the amount so assessed be paid by the registered holder of the authorisation or the concession, to which the assessment relates, within the time and to the persons specified in the order.

Appeal to
arbitration.

101. (1) A person dissatisfied with an assessment made by the warden in pursuance of this Part may give notice in the prescribed form and manner that he requires the assessment to be determined by arbitration under this Act.

(2) The assessment shall thereupon be made and determined by arbitrators in the manner prescribed.

(3) A notice referred to in subsection (1) shall be accompanied by a deposit of the amount prescribed, to meet any costs which the arbitrators may order to be paid.

(4) The arbitration shall be in the nature of an appeal from the assessment of the warden, and the powers of the arbitrators and the proceedings before them shall be as prescribed.

(5) The determination of the arbitrators shall be final and shall be given effect by the parties and the warden.

PART IX.

RECORDS AND REGISTRATION.

Records.

102. (1) The registrar shall cause a record to be kept of every authorisation or concession granted and of any dealings with, or affecting a concession.

(2)

Coal Mining.

(2) When an authorisation or a concession is granted the registrar shall record the name of the person to whom the authorisation or the concession is granted as the registered holder of the authorisation or the concession. No. 81, 1973

(3) The functions of the registrar under this Part may be performed by the person for the time being holding the office of deputy registrar (coal), Department of Mines, Sydney.

103. (1) A legal or equitable interest in, or affecting, a concession, is not capable of being created, assigned, affected or dealt with, whether directly or indirectly, except by instrument in writing. Interest in concession to be created by instrument in writing.

(2) The creation of a legal or equitable interest in, or affecting, a concession does not affect the liability of the registered holder of the concession for any breach of the conditions of the authority or of any of the provisions of this Act.

(3) An authorisation is not transferable.

104. (1) Unless the Minister approves— Transfer of concession to be approved by Minister.

(a) the transfer of a concession; or

(b) an instrument by which a legal or equitable interest in, or affecting, a concession is created, assigned or dealt with, whether directly or indirectly,

the transfer or the instrument is of no force.

(2) An application for the approval by the Minister under subsection (1) of a transfer or an instrument shall be made in accordance with the regulations and shall be lodged with the Under Secretary.

(3)

Coal Mining.

No. 81, 1973

(3) On application made under subsection (2) the Minister may grant or refuse to grant his approval, or grant his approval subject to such conditions as he deems necessary to impose in the public interest.

(4) An approval of any instrument referred to in subsection (1) (b) shall, if the Minister so directs, cease to have effect if any of the conditions on which the approval was given are not complied with, and thereupon the instrument shall be of no force.

(5) If the Minister gives his approval to the transfer of a concession the registrar shall record the name of the transferee as the registered holder of the concession.

**Devolution
of rights of
registered
holder of
concession.**

105. A person on whom the rights of the registered holder of a concession have devolved by operation of law may make application to the Minister to have his name recorded as the registered holder of the concession, and if the Minister is satisfied that those rights have so devolved on the applicant the registrar shall so record the name of the applicant.

Caveats.

106. (1) A person claiming an interest in a concession may lodge with the Minister a caveat in the approved form and accompanied by the prescribed fee, directing the Minister not to give his approval under section 104 to the transfer of the concession, or to an instrument referred to in that section and relating to the concession.

(2) When a caveat is lodged under subsection (1) the Minister shall not give the approval concerned until after twenty-eight days from the date on which the caveat is lodged, except where the caveat is withdrawn within that period.

(3)

Coal Mining.

(3) On the expiration of the twenty-eight days No. 81, 1973 referred to in subsection (2) the Minister may give the approval concerned unless, before the expiration of that period, the person who lodged the caveat obtained and served on the Minister an order of a competent court forbidding the Minister from giving the approval concerned.

107. (1) The Minister may require any person making application under section 104 or 105 to furnish to him in writing such information concerning the application and the matter to which it relates as the Minister considers necessary. Power of Minister to require information.

(2) A person required to furnish information under subsection (1) who furnishes information that is false or misleading in a material particular is guilty of an offence.

Penalty : \$2,000.

108. A certificate of the registrar—

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

Evidentiary provision.

shall be received by all courts and tribunals as evidence of that fact.

PART

No. 81, 1973

PART X.

LEGAL PROCEEDINGS.

Additional
jurisdiction
of warden's
court.

109. A warden's court shall have jurisdiction under the Mining Act, 1973, to hear and determine all suits and actions relating to any of the following matters—

- (a) the area, dimensions or boundaries of land subject to an authorisation or a concession;
- (b) the right to the possession or occupation of any land by virtue of an authorisation or a concession;
- (c) the right to the use and enjoyment of water for prospecting or mining and any dispute or question relating thereto;
- (d) trespass or encroachment upon, or damage to, land subject to an authorisation or a concession, or interference with, or damage to any machinery thereon used for or in connection with prospecting or mining, or any race, drain, dam or reservoir used for or in connection with prospecting or mining;
- (e) any demand for debt or damages arising out of, or specific performance of any contract relating to, prospecting or mining, or to an authorisation or a concession;
- (f) the right to any mineral or coal in, or to be taken out of, any land subject to a concession, the right to coal in, or to be taken out of, any land subject to an authorisation, and the rights under, or arising out of, any contract relating to any such mineral or coal;
- (g) any transfer or disposition of, or charge upon, land subject to a concession;

(h)

Coal Mining.

- (h) partnerships relating to authorisations or concessions, or prospecting or mining, the existence, formation and dissolution thereof, the taking of accounts connected therewith, the contributions of the partners as between themselves and the determination of all questions arising between the partners; **No. 81, 1973**
- (i) contributions by or between persons holding joint or several interests in an authorisation or a concession towards rent or other expenses in relation thereto;
- (j) trespass or encroachment upon, or damage to, land by reason of prospecting or mining, whether the land is held under this Act or otherwise;
- (k) trespass or encroachment upon, damage to, and matters affecting, roads, tramways, railways or other property of whatever kind constructed, held or occupied under this Act;
- (l) the partition, sale, disposal or division of any mining property, or the proceeds thereof, held by two or more persons having conflicting interests therein;
- (m) any question or dispute arising as to the working or management of land subject to an authorisation or a concession; and
- (n) all rights claimed in, under or in relation to an authorisation or a concession, or a purported authorisation or a concession.

- No. 81, 1973** **110.** In the application of Part IX of the Mining Act, 1973, to and in connection with the jurisdiction referred to in section 109 and proceedings in connection therewith—
- Application of Part IX of Mining Act, 1973.
- (a) the reference to “mineral” or “minerals” in sections 143, 144 and 145 of that Act shall be deemed to include a reference to coal; and
 - (b) the reference to “authority” in section 144 of that Act shall be deemed to include a reference to an authorisation and a concession.

Costs may be allowed. **111.** The costs of all proceedings under this Act before the warden (not being proceedings before a warden’s court) shall be in the discretion of the warden and the amount thereof may be determined by the warden or taxed, as the warden may direct.

Warden may authorise person or officer to perform any prescribed act. **112.** Where a warden is empowered or required by this Act to cause any act to be performed, and the mode of performing that act is not expressly provided for, it shall be lawful for any person verbally authorised by the warden and in the warden’s presence, or for any member of the police force or a peace officer authorised in writing under the hand of that warden, to perform that act, and all those members and officers shall, if so required, aid and assist a warden or a person so authorised by a warden in the performance of his duty under this Act.

Coal Mining.

PART XI.

No. 81, 1973

MISCELLANEOUS.

113. (1) If a coal lease is granted over land subject to an authorisation or an exploration permit that land ceases to be subject to the authorisation or the permit, as the case may be, when the coal lease has effect.

Circumstances in which land ceases to be part of exploration area, etc.

(2) If an authorisation or a concession is renewed as to some of the land subject to the authorisation or the concession the land in respect of which the authorisation or the concession is not renewed ceases to be subject to the authorisation or the concession, as the case may be, when the renewal of the authorisation or the concession has effect.

(3) If an authorisation or a concession is cancelled as to part of the land subject to the authorisation or the concession that part of the land ceases to be subject to the authorisation or the concession, as the case may be, when the cancellation of the authorisation or the concession has effect.

114. Where the Minister is of opinion that a survey, or a further survey, of any land subject to an application for a concession or to a concession is necessary or desirable he may, by instrument in writing, direct the applicant or the registered holder of the concession, as the case may be, to carry out at his own expense a survey of the land concerned.

Minister may direct survey to be carried out.

115. (1) This section applies where any land, or any part of any land, subject to an authorisation or a concession, ceases to be subject to the authorisation or the concession.

Removal of mining plant.

(2)

*Coal Mining.***No. 81, 1973**

(2) In any case where this section applies the person who was, or is, as the case may be, the registered holder of the authorisation or the concession—

- (a) may, within the prescribed period; and
- (b) shall, if directed to do so by the Minister by instrument in writing served on him, within the period specified in the instrument,

remove, or cause to be removed, from the land which ceased to be subject to the authorisation or the concession, mining plant brought on to, or erected on, that land by him or by any other person engaged or concerned in the operations authorised by the authorisation or the concession.

(3) Where mining plant is not removed under subsection (2) (a) within the prescribed period, or not removed pursuant to a direction given by the Minister under subsection (2) (b) within the period specified in the direction, the Minister may direct that the mining plant be sold by public auction and removed from the land concerned.

(4) The Minister may give a direction under subsection (2) (b) notwithstanding that the prescribed period referred to in subsection (2) (a) has not in any particular case expired.

(5) There shall be deducted from the proceeds of any sale held pursuant to a direction given by the Minister under subsection (3)—

- (a) the costs of the sale and of any matter incidental thereto or connected therewith;
- (b) the costs of removing any mining plant remaining unsold after the public auction, from the land which ceased to be subject to the authorisation or the concession;
- (c) any amount owing for rent in respect of that land or in respect of compensation assessed for damage occasioned to that land; and
- (d) any amount which the Under Secretary certifies to be a deductible amount,

and

Coal Mining.

and any balance remaining shall be paid to the Treasurer as unclaimed moneys and sections 9, 10 and 11 of the Unclaimed Moneys Act, 1917, shall apply to the moneys so paid to the Treasurer. **No. 81, 1973**

(6) If the proceeds of any sale held pursuant to a direction given by the Minister under subsection (3) are insufficient to satisfy the deductions required to be made under subsection (5) the proceeds shall be applied in meeting the deductions, or any, or any part of any, of them, in such manner and order as the Minister may direct.

(7) Any mining plant remaining unsold after a public auction held pursuant to a direction given by the Minister under subsection (3) may be sold by private treaty and the provisions of subsections (5) and (6) shall apply to the proceeds of that sale as they apply to the proceeds of a sale by public auction.

(8) For the purposes of this section—

“mining plant” means any building, plant, machinery, equipment, tools or any other property, whether or not affixed to land, but does not include any timber or other material used and applied in the construction or support of any place, pit, shaft, drive, level or other excavation, drift, race, dam or other mining work;

“prescribed period” means a period of six months from the date on which the land ceasing to be subject to an authorisation or a concession so ceased, or such longer period as the Minister may, in any particular case, allow.

116. (1) The Minister may grant under section 174 of the Mining Act, 1973, a licence referred to in that section to the registered holder of a coal lease or to the registered holder of an authorisation to mine. Licence under section 174 of Mining Act, 1973.

(2)

No. 81, 1973 (2) Where a licence is granted under section 174 of the Mining Act, 1973, to the registered holder of a coal lease or to the registered holder of an authorisation to mine the reference in subsection (5) of that section to a "mining lease" shall be deemed to include a reference to a coal lease and an authorisation to mine.

Right-of-way.

117. (1) Subject to this section, the registered holder of an authorisation or a concession is entitled to right of ingress, egress and regress for the purposes of exercising the rights conferred on him by this Act or by the authorisation or the concession, by a right-of-way to be marked out in the prescribed manner from the land subject to the authorisation or the concession to the nearest practicable point of a public road.

(2) The cost of marking a right-of-way referred to in subsection (1) shall be borne by the registered holder of the authorisation or the concession, and he shall place substantial sheep-proof gates at all fences intersected by the right-of-way or rabbit-proof, marsupial-proof or dog-proof gates at all fences intersected by the right-of-way where those fences are rabbit-proof, marsupial-proof or dog-proof fences, as the case may be.

(3) The right-of-way conferred by subsection (1) shall not be exercised in respect of any land subject to an authorisation or a concession without the consent of the registered holder of the authorisation or the concession, except where the warden gives his consent.

(4) The right-of-way conferred by subsection (1) is subject to such conditions as to its exercise, or to such exceptions as to land over which it may be exercised, as may be prescribed or as may be imposed or stipulated by the warden in any particular case.

Coal Mining.

118. Where an applicant for a concession dies, becomes bankrupt or, within the meaning of the Mental Health Act, 1958, becomes a protected or an incapable person, and his legal representative or the committee or the manager of his estate or property, as the case may be, so requests, the application subsists for the benefit of the applicant's estate and may be dealt with under the Part of this Act in relation to which the application was made.

No. 81, 1973
Death of applicant for concession.

119. Where an authorisation (other than an authorisation granted to the Under Secretary on behalf of the Department) or a concession is granted the registered holder of the authorisation or the concession holds the Crown, the Minister and every officer and employee employed in connection with the administration of this Act indemnified against all claims against the Crown, the Minister or any such officer or employee arising out of anything done or omitted to be done pursuant to, or as a consequence of, the granting of that authorisation or concession, or done or omitted to be done by the registered holder of that authorisation or concession, or any of his agents or employees on or in respect of any land subject to that authorisation or concession.

Minister and certain other persons indemnified in certain circumstances.

120. (1) The Minister may direct the warden to hold an inquiry with reference to any matter arising under, or connected with, this Act, and the warden shall comply with any such direction.

Minister may direct inquiry by warden.

(2) Where, under this Act, the warden is required to inquire into, or report on, any matter, the warden may, to enable him to do so, hold such inquiry as he deems necessary.

(3) An inquiry held by the warden pursuant to a direction given under subsection (1) or which the warden decides to hold under subsection (2), shall be conducted in open court, and in holding the inquiry the warden shall have and may exercise the powers of a warden's court under the Mining Act, 1973.

(4)

No. 81, 1973

(4) The warden may inquire into any objections referred to him under section 86 either singly or jointly.

**Settlement
of certain
disputes.**

121. (1) When any dispute arises between two or more persons being the registered holders of an authorisation or a concession or persons entitled to mine under paragraph 11 of the Second Schedule, or between any such person or persons and the registered holder under the Mining Act, 1973, of a claim or an authority, or a person entitled to mine under paragraph 18 of the Second Schedule to the Mining Act, 1973, concerning their respective rights in relation to any land or minerals (including coal) any one or more of the persons concerned in the dispute may refer the dispute for decision to the Minister who shall thereupon refer the dispute to the warden for an inquiry and report.

(2) Upon receipt of the warden's report following a reference by the Minister under subsection (1) the Minister may make such order and give such directions to all or any of the persons concerned in the dispute as in the public interest or in the circumstances of the case may seem to him to be just and equitable and by the order may direct the payment by all or any of the persons concerned in the dispute of any costs and expenses incidental to the conduct of the inquiry.

(3) The registered holder of a claim, an authority, an authorisation or a concession concerned in a dispute shall comply with a direction given to him by the Minister under subsection (2) and any failure to do so shall, in the case of the registered holder of a claim or an authority be deemed to be a failure to comply with the Mining Act, 1973, and in the case of the registered holder of an authorisation or a concession, to be a failure to comply with this Act.

(4) A person entitled under paragraph 11 of the Second Schedule to mine for coal shall be deemed for the purposes of this section to be the registered holder of a concession.

Coal Mining.

122. Subject to this Act, the warden may, on the application of a person having the care and management of a public highway, railway, tramway, street or road, authorise in writing a surveyor or other person to enter and inspect any lands subject to an authorisation or a concession for the purpose of ascertaining whether the persons working, or working on, those lands are encroaching on the highway, railway, tramway, street or road, and whether any operations carried on on those lands can be continued without causing damage to that highway, railway, tramway, street or road, or to any house, building or machinery abutting thereon or adjoining thereto.

No. 81, 1973
Encroach-
ment on
highways,
streets, etc.

123. (1) The warden may, on the application of an owner or occupier of land adjoining land subject to an authorisation or a coal lease, by instrument in writing, authorise a surveyor or other person to enter and inspect any such land for the purpose of ascertaining whether persons carrying on mining operations in that land are encroaching on the adjoining land, and the person so authorised may, for that purpose—

Warden
may
authorise
inspection
of lands to
ascertain
whether
there is any
encroach-
ment on
adjoining
lands.

- (a) enter and inspect the land;
- (b) survey the land or any part of the land; and
- (c) make plans and sections of the land and of drives or works therein.

(2) A person shall not, without lawful excuse, obstruct or hinder a person, authorised by the warden under subsection (1), in the exercise of his powers under that subsection.

Penalty : \$500.

124.

Coal Mining.

No. 81, 1973

Powers of
inspectors.

124. (1) For the purposes of this Act, an inspector appointed under section 183 of the Mining Act, 1973, at all reasonable times and on production of the certificate furnished to him under that section, may—

- (a) enter any lands subject to an authorisation or a concession, or a pending application for an authorisation or a concession, or lands adjoining any such lands;
- (b) inspect any mine, works, operations, buildings, structure or place on any such lands; and
- (c) remove samples of coal, ore or other deposits from those lands.

(2) A person who is the occupier or person in charge of any mine, works, operations, buildings, structure or place shall provide an inspector with all reasonable facilities and assistance.

(3) A person shall not, without reasonable excuse, obstruct or hinder an inspector in the exercise of his powers under this section.

Penalty : \$500.

Recovery
of public
moneys
expended
on testing
for coal.

125. (1) Where public moneys have been expended in order to test any land by way of drilling or any other means for the purpose of proving whether or not any coal occurs in that land, the Minister may, where an application is lodged for the grant of a coal lease, cause to be served on the applicant for the grant of the coal lease a notice informing the applicant that he may, within the period (in this section referred to as the "prescribed period") specified in the instrument, elect—

- (a) to pay to the Minister in a lump sum the amount of public moneys so expended or such part of that amount as the Minister thinks fit; or

(b)

Coal Mining.

(b) 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 moneys so expended or such part of those moneys as the Minister thinks fit. No. 81, 1973

(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 Governor may forthwith refuse the application for the grant of a coal lease.

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

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

126. (1) The Minister shall cause to be paid to an account within the Special Deposits Account at the Treasury moneys received— **Disposal
of tender
moneys.**

- (a) in connection with tenders for a permit; and
- (b) any moneys paid under section 30 (3).

(2) From the moneys referred to in subsection (1) that have been paid to the account referred to in subsection (1) the Minister, with the concurrence of the Treasurer, shall cause to be paid—

- (a) to the unsuccessful tenderers for the grant of the permit, the fees and deposits refundable under section 28 (6);

(b)

Coal Mining.

- No. 81, 1973**
- (b) moneys directed by the Minister to be paid under section 41 (4); and
 - (c) to the Consolidated Revenue Fund—
 - (i) all fees paid by tenderers for the grant of the permit that are not refundable under section 28 (6) and are not paid pursuant to section 41 (4) to an owner of coal;
 - (ii) any fee paid under section 30 (3); and
 - (iii) all moneys received in connection with the grant of the permit that are not paid out under paragraph (a) or (b).

Payment
for grant of
lease may
be made by
instalments.

127. (1) The Minister and a person who successfully tenders for the grant of a coal lease in response to an invitation to tender under section 32 or who applies for the grant of a coal lease in response to an invitation to so apply under section 34 may enter into an agreement in writing for and in relation to the payment, by instalments, of the amount to be paid in respect of the grant of the coal lease (otherwise than by way of royalty), together with interest at such rate as the Minister may, with the concurrence of the Treasurer, determine on so much of that amount remaining from time to time unpaid.

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

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

(4) Where any instalment or interest due and payable under an agreement referred to in this section is outstanding for more than thirty days the Governor may cancel the coal lease to which the agreement relates under section 59 (2) (b).

128.

Coal Mining.

128. (1) The Minister shall cause to be paid to an account within the Special Deposits Account at the Treasury—

No. 81, 1973
Disposal
of certain
moneys.

- (a) moneys received in connection with tenders for the grant of a coal lease in response to an invitation to tender under section 32 (including any cash reserve price but not including royalties) whether paid by instalments or otherwise;
- (b) moneys paid in consideration of the grant of a coal lease pursuant to an application lodged under section 35 (not being royalties); and
- (c) interest paid pursuant to an agreement referred to in section 127.

(2) From the moneys referred to in subsection (1) that have been paid to the account so referred to, the Minister shall, with the concurrence of the Treasurer, cause to be paid—

- (a) to unsuccessful tenderers for the grant of a coal lease in response to an invitation to tender under section 32, the fees and deposits refundable to them under section 33 (8);
- (b) to the Consolidated Revenue Fund—
 - (i) fees paid by tenderers for the grant of a coal lease in response to an invitation to tender under section 32 that are not refundable under section 33 (8); and
 - (ii) moneys payable or apportioned to the Crown under subsection (3); and
- (c) moneys apportioned under subsection (3) to owners of coal not reserved to the Crown.

(3) Moneys received in connection with a coal lease granted pursuant to an invitation under section 32 or 34 to tender or apply for the grant of a coal lease, that are not payable under subsection (2) (a) or (b) (i) shall—

- (a) where the lease is a lease of coal owned by, or reserved to, the Crown, be paid to the Crown;

(b)

No. 81, 1973

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

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

Purchase of coal not owned by or reserved to Crown.

129. The Minister may, from funds appropriated by Parliament, purchase on behalf of Her Majesty seams of coal not owned by or reserved to the Crown.

Offence of prospecting, etc., without authority.

130. (1) Subject to subsections (2) and (3), a person shall not—

(a) prospect for coal except under and in pursuance of an authorisation or a concession ; or

(b) mine for coal except under and in pursuance of an authorisation to mine or a coal lease.

Penalty : \$2,000 for each day on which the offence continues.

(2) It is a sufficient defence to a prosecution under subsection (1) if the person carrying on prospecting or mining operations proves that he is entitled to do so by virtue of a legal instrument approved by the Minister under section 104 (1) (b) and registered by the registrar.

(3) Subsection (1) does not apply to a person prospecting or mining for coal in the circumstances referred to in paragraph 10 or 11 of the Second Schedule.

131.

Coal Mining.

131. (1) Subject to subsection (2), the provisions of this Act relating to an applicant for, or the holder of, a concession, apply to and in respect of an applicant for, or the holder of, a concession over private lands of which he is the owner or occupier, unless the provisions would have no effective operation by reason of his ownership or occupancy of that land. Provisions of Act to apply to owner of private lands. **No. 81, 1973**

(2) Where a concession over private lands is transferred under this Act by the registered holder of the concession, being the owner or occupier of those lands, to a person other than the owner or occupier of those lands, the provisions of this Act relating to the assessment or payment of compensation or rent apply to the person to whom the concession is transferred.

132. A person shall not, without reasonable excuse, obstruct or hinder the registered holder of an authorisation or a concession from doing any act which that holder is authorised to do by this Act or the authorisation or the concession. Obstruction, etc., of registered holder of concession.

Penalty : \$500.

133. (1) Where an offence is committed by a person by reason of his failure to comply, within the period specified in a direction given to him under this Act, with the requirements specified in the direction, the offence, for the purposes of subsection (3), shall be deemed to continue so long as any requirement specified in the direction remains undone, notwithstanding that the period has elapsed. Continuing offences.

(2) Where an offence is committed by a person by reason of his failure to comply with a requirement made by this Act, the offence, for the purposes of subsection (3), shall be deemed to continue so long as that failure continues, notwithstanding that the period within which the requirement was to be complied with has elapsed.

(3)

No. 81, 1973 (3) Where under subsection (1) or (2), an offence is to be deemed to continue, the person who committed the offence commits an additional offence against this Act on each day during which the offence is to be deemed to continue and is liable, upon conviction for such an additional offence, to a fine not exceeding \$1,000.

Offences
committed
by
corporation.

134. Where an offence which has been committed by a corporation is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the corporation, or any person who was purporting to act in any such capacity, he, as well as the corporation, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

PART XII.

REGULATIONS.

Regulations **135.** (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, but without limiting the generality of subsection (1), the regulations may include provision for or with respect to—

- (a) prospecting for coal and the carrying on of operations, and the execution of works, for that purpose, the methods which may or may not be used for that purpose and the duties of specified persons in relation to prospecting operations;

(b)

Coal Mining.

-
- (b) mining for coal and the carrying on of operations, **No. 81, 1973** and the execution of works, for that purpose, the methods which may or may not be used for that purpose and the duties of specified persons in relation to mining operations;
- (c) the labour or expenditure conditions to be performed by the registered holder of an authorisation or a concession, and the conditions on which exemption therefrom may be applied for, and granted;
- (d) the cutting, construction, use and maintenance of races, dams or reservoirs upon Crown lands in cases where a coal lease has not been granted;
- (e) the amalgamation of coal leases and the cancellation of any such amalgamation;
- (f) the conditions on which exemption from conditions requiring the expenditure of money may be applied for, and granted;
- (g) preventing the accumulation of, and the removal to a suitable place of, sludge, tailings and other refuse matter escaping, oozing or flowing from or connected with any Crown lands or private lands held or occupied under this Act and worked by any machines, and preventing the accumulation of waste water, and making such channels as may be necessary for preventing such accumulation and otherwise regulating such accumulation, escape or oozing;
- (h) the protection from damage, destruction and unlawful removal of any machinery on any land held or occupied for the purposes of mining or prospecting and of pegs, posts, fences and notices, and any plant or appliances used for or in connection with mining or prospecting under this Act and the protection from obstruction of channels, drains, creeks and rivers used for such mining or prospecting;

(i)

Coal Mining.

No. 81, 1973

- (i) the construction and keeping in good repair of suitable bridges or other crossings over races, channels or drains, and making proper approaches to such bridges or crossings, and for determining the width of such bridges, crossings or approaches;
- (j) making and keeping in good repair, and regulating the width and formation of, private ways and passages over claims or races, on any Crown lands or private lands used for mining purposes, or for or in connection with mining, and regulating and imposing conditions on the right to change the route or direction of any such way or passage, and the protection of such a way from damage or obstruction;
- (k) securing the baling of water from mines so as to prevent injury from such water to any mining workings;
- (l) preventing the defiling or wasting of water used under this Act for domestic purposes, and determining whether any and what waterhole, spring or other depository of water shall be reserved for the domestic use of persons holding or occupying lands under this Act, and the mode of effecting that reservation;
- (m) the procedure to be followed in, or in connection with, any inquiry held or to be held by a warden under this Act;
- (n) the circumstances in which fees paid under this Act may be refunded;
- (o) the compilation of mining statistics and the furnishing of information for that purpose by or to such persons as may be prescribed;
- (p) the keeping of records of coal and minerals won and books of account, and the furnishing of returns and records for the purposes prescribed, by the persons specified in the regulations, and the inspection of, and the taking of extracts from, records or books so kept, by such persons as may be specified in the regulations;

(q)

Coal Mining.

- (q) the making of searches in connection with authorisations, or concessions or interests created therein, the granting of certificates in connection therewith, and the effect of any such certificates; No. 81, 1973
- (r) the circumstances in which the Department may charge fees and the amount of any such fees; and
- (s) such incidental or supplementary matters as are necessary or expedient.

(3) The regulations may provide, in respect of an offence against the regulations, for the imposition of—

- (a) a fine not exceeding \$500; or
- (b) a fine not exceeding that amount for each day on which the offence occurs.

136. (1) The power under section 135 to make regulations may be exercised— Exercise of
power
under
sec. 135.

- (a) either in relation to all cases to which the power extends, or in relation to all of those cases subject to specified exceptions, or in relation to any specified cases or class of cases; and
- (b) so as to make, as respects the cases in relation to which it is exercised—
- (i) the same provision for all cases in relation to which the power is exercised, a different provision for different cases or classes of cases, or different provisions as respects the same cases or classes of cases for different purposes of this Act; or
- (ii) any such provision either unconditionally or subject to any specified condition.

(2) A purpose which is connected or associated with, or incidental to, mining or mining operations, or connected or associated with, or incidental to, the transporting of minerals (including coal) or of any other matter for the purpose of mining, or connected or associated with, or incidental to, the treatment, manufacture or preparation for

sale

No. 81, 1973 sale of any mineral (including coal), may be prescribed as a mining purpose, and may be so prescribed whether or not the purpose is to be carried out on or in, or in the vicinity of, land subject to an authorisation or a concession.

PART XIII.

TRANSITIONAL PROVISIONS, SAVINGS AND REPEALS.

Transitional provisions and savings. **137.** The transitional provisions and savings in the Second Schedule shall have effect.

Repeals and amendments. **138.** (1) Each Act mentioned in the Third Schedule is repealed to the extent stated in that Schedule.

(2) Each Act specified in Column 1 of the Fourth Schedule is amended in the manner set forth opposite that Act in Column 2 of that Schedule.

Amendment of Mining Act, 1973. **139.** (1) Section 200 of the Mining Act, 1973, and the Third Schedule to that Act are repealed.

(2) Each section of the Mining Act, 1973, specified in Column 1 of Part A of the Fifth Schedule is amended to the extent set forth opposite that section in Column 2 of that Part of that Schedule.

(3) The First Schedule to the Mining Act, 1973, is amended by inserting in paragraph 1 the following subparagraph :—

(2) For the purposes of paragraphs (a) and (b) of the definition of “agricultural land”, land shall not be treated as having been sown with a crop of an annual species unless, in the opinion of the Director, the crop sown was carried through to a successful use.

(4) Each paragraph of the Second Schedule to the Mining Act, 1973, specified in Column 1 of Part B of the Fifth Schedule is amended to the extent set forth opposite that paragraph in Column 2 of that Part of that Schedule.

SCHEDULES.

Coal Mining.

SCHEDULES.

No. 81, 1973

FIRST SCHEDULE.

Sec. 83.

AGRICULTURAL LAND.

1. (1) In this Schedule—

Interpreta-
tion.

“agricultural land” means—

- (a) land sown with not less than two crops of an annual species during the period of ten years immediately preceding the relevant date;
- (b) land sown with one crop of an annual species during the period of ten years immediately preceding the relevant date if the Director is satisfied that—
 - (i) having regard to the date on which the land was brought under cultivation, it would not be reasonable to expect more than one such crop to have been sown; and
 - (ii) that there was a sufficient reason for not having brought the land under cultivation at an earlier date;
- (c) land on which, at any time during the period of ten years immediately preceding the relevant date, trees, lucerne for cutting, perennial vines, or any other perennial crop approved by the Director, have been planted;
- (d) pastures—
 - (i) sown with seed of a species and at a rate of application; or
 - (ii) treated with fertilizer of a composition and at a rate of application, satisfactory to the Director; and
 - (iii) which have, as a result of that sowing or treatment, maintained a level of pasture production that is substantially above that which might be expected of natural pastures;
- (e) land used, to an extent acceptable to the Director, for the production of grass seed and pasture legume, hay or silage; or
- (f) land with a preponderance of improved species of pasture grasses;

FIRST

No. 81, 1973

FIRST SCHEDULE—*continued.*

“the Director” means the Director-General of Agriculture;

“the relevant date” means the date or dates with reference to which the Director is required under paragraph 2 to decide whether or not any land is agricultural land.

(2) For the purposes of paragraphs (a) and (b) of the definition of “agricultural land”, land shall not be treated as having been sown with a crop of an annual species unless, in the opinion of the Director, the crop sown was carried through to a successful use.

Decision
by the
Director
as to
whether
or not
land is
agricultural
land.

2. (1) Subject to subparagraph (2), when the Director is required to decide whether or not any land is agricultural land he shall do so—

- (a) in the case of an objection under section 83 (1) (a), by deciding whether or not the land was agricultural land on the date on which the application for a coal lease (to which the objection relates), was lodged;
- (b) in the case of an objection under section 83 (1) (b) or (c), by deciding whether or not the land was agricultural land on the date on which a notice relating to that land was published in the Gazette pursuant to section 31 (1); and
- (c) in the case of an objection under section 83 (1) (d), by deciding whether or not the land was agricultural land on the date on which the application for the concession was lodged or on which the notice inviting tenders for the grant of the exploration permit concerned was published pursuant to section 27 (2) in the Gazette, as the case may be.

(2) If the Under Secretary, when referring under section 83 (4) a question for decision, certifies a date pursuant to paragraph 3, the Director shall not decide pursuant to subparagraph (1) (a), that the land concerned is agricultural land unless he is also satisfied that it was agricultural land on the date so certified.

Date to be
certified
by Under
Secretary.

3. When referring a question for decision under section 83 (4) the Under Secretary shall—

- (a) if the applicant for the grant of a coal lease over any land was, when he lodged his application, the registered holder of an authorisation over that land, so inform the Director and certify a date which shall be the date on which the application for the grant of that authorisation was lodged; or
- (b) if the applicant for the grant of a coal lease over any land was, when he lodged his application, the registered holder of an exploration permit over that land, so inform the Director and certify a date which shall be the date on which the notice inviting tenders for the grant of that permit was published pursuant to section 27 (2) in the Gazette.

FIRST

*Coal Mining.*FIRST SCHEDULE—*continued.*

No. 81, 1973

4. Where the Director is required to decide whether or not any land is agricultural land nothing in this Act shall operate so as to prevent him from deciding that a part only of the land is agricultural land.
- Director may decide that part only of any land is agricultural land.

SECOND SCHEDULE.

TRANSITIONAL PROVISIONS AND SAVINGS.

Sec. 137.

1. In this Schedule—
- “the commencement” means the date upon which section 137 commences;
- “the 1906 Act” means the Mining Act, 1906.
2. An interest (whether legal or equitable) created before the commencement in any authority, license, permit, lease or title, that is affected by any of the provisions of this Schedule shall continue to have the like force and effect on and after the commencement as it had before the commencement.
3. (1) Any compensation assessed, agreed upon or paid under the 1906 Act before the commencement in connection with any authority to mine, exploration license, mining lease, coal and shale lease or consent to mine, that is affected by any of the provisions of this Schedule, shall be deemed to have been assessed, agreed upon or paid under this Act.
- (2) Nothing in this Act shall be construed as conferring on any person a right to compensation in respect of any thing done or omitted to be done, or in respect of any damage suffered, before the commencement, if that person would not have been entitled under the 1906 Act to compensation in respect of that thing or damage.
4. Any register or record kept, registration or record made, certificate issued, permit, permission, authority, notice or information given, or return made, for the purposes of or in connection with any authority to mine, exploration license, mining lease, coal and shale lease or consent to mine, affected by any of the provisions of this Schedule, that immediately before the commencement, was in force or had effect, shall continue in force and have effect as if kept, made, issued or given under the corresponding provisions of this Act.
- Interpretation.
- Savings of legal or equitable interest.
- Compensation.
- Registers, etc., to continue to have effect.

SECOND

No. 81, 1973

SECOND SCHEDULE—*continued.*

Land set
apart under
section
83AB of the
1906 Act.

5. Any land set apart under section 83AB (2) of the 1906 Act and remaining so set apart at the commencement shall be deemed to be land set aside under section 20 (5) of this Act.

Authorisa-
tion under
section
83AB of the
1906 Act.

6. An authorisation granted by the Minister under section 83AB (3) of the 1906 Act that is in force immediately before the commencement shall be deemed to be an authorisation granted on the commencement under section 20 of this Act on the same conditions as those on which the authorisation was so granted by the Minister, and for the unexpired term (as at the commencement) of the authorisation so granted by the Minister.

Authorisa-
tion under
section
83Y of the
1906 Act.

7. (1) An authorisation granted by the Minister under section 83Y (2) of the 1906 Act, allowing any person to prospect for coal, that is in force immediately before the commencement, shall be deemed to be an authorisation granted on the commencement under section 21 of this Act on the same conditions as those on which the authorisation was so granted by the Minister, and for the unexpired term (as at the commencement) of the authorisation so granted by the Minister.

(2) Subject to this paragraph, the provisions of Part III that apply to an authorisation (other than an authorisation to mine) shall apply to an authorisation deemed under subparagraph (1) to be an authorisation granted under section 21.

(3) An authorisation granted by the Minister under section 83Y (2) of the 1906 Act, allowing any person to mine for coal, that is in force immediately before the commencement, shall be deemed to be an authorisation to mine granted on the commencement under section 21 of this Act on the same conditions as those on which the authorisation was so granted by the Minister, and for the unexpired term (as at the commencement) of the authorisation so granted by the Minister.

(4) Subject to this paragraph, the provisions of Part III that apply to an authorisation to mine shall apply to an authorisation deemed under subparagraph (3) to be an authorisation granted under section 21.

(5) Nothing in this paragraph shall prejudice any right which an owner of coal would have had if this Act had not been enacted against any person prospecting or mining for that coal with the owner's concurrence pursuant to section 83Y of the 1906 Act.

SECOND

*Coal Mining.*SECOND SCHEDULE—*continued.*

No. 81, 1973

(6) The provisions of section 26 (2) shall not apply to an authorisation deemed under subparagraph (3) to be an authorisation granted under section 21, except in a case where any such authorisation is renewed under section 25.

8. (1) An authority to prospect or an exploration license granted under the 1906 Act in respect of coal that is in force immediately before the commencement shall be deemed to be an exploration permit granted on the commencement under section 39 of this Act on the same conditions as those of the authority to prospect or the exploration license, as the case may be, in force immediately before the commencement, and for the unexpired term (as at the commencement) of that authority or license. Authority to prospect and prospecting license under 1906 Act.

(2) In the case of an authority to prospect or an exploration license granted under the 1906 Act in respect of coal and any mineral, that is in force immediately before the commencement, subparagraph (1) applies to the authority or license only in so far as it relates to coal and does not affect the authority or license in so far as it relates to the mineral.

(3) Where the registered holder of an authority to prospect or an exploration license deemed under subparagraph (1) to be an exploration permit granted under section 39 applies under section 30 for a coal lease the provisions of section 30 (2) (e) shall apply except where the Minister permits the registered holder to apply for a coal lease over an area of land that does not comply with the requirements of section 30 (2) (e).

(4) The provisions of section 62 (8) (a) and paragraphs 2 (1) (c) and 3 (b) of the First Schedule apply to an authority to prospect or an exploration license, deemed under subparagraph (1) to be an exploration permit granted under section 39, as if the reference in section 62 (8) (a) and paragraphs 2 (1) (c) and 3 (b) of the First Schedule to the date on which the notice inviting tenders for the grant of the exploration permit concerned was published pursuant to section 27 (2) in the Gazette were a reference to the date on which the application for the authority to prospect or the exploration license was lodged.

(5) An application, duly made under the 1906 Act, for the renewal of an authority to prospect or an exploration license granted under that Act in respect of coal, that is pending at the commencement shall be deemed to be an application, duly lodged under this Act, for the renewal under this Act of an exploration permit (the authority to prospect and the exploration license being treated as an

SECOND

Coal Mining.

No. 81, 1973

SECOND SCHEDULE—*continued.*

exploration permit granted under this Act) and the provisions of this Act apply to the application, subject to such variations as may be prescribed.

Coal and shale leases, etc., under the 1906 Act.

9. (1) In this paragraph "lease" means—

- (a) an authority to mine granted under the Mining Act 1874; and
- (b) a mining lease, a special lease or a coal and shale lease granted under the 1906 Act (including a lease granted under that Act as read with the Oakdale State Coal Mine (Sale) Act, 1968, or as read with the Electricity Commission (State Coal Mines) Act, 1973),

in respect of coal that is in force immediately before the commencement.

(2) A lease shall be deemed to be a coal lease granted on the commencement under section 41 on the same conditions as those of the lease in force immediately before the commencement, and for the unexpired term (as at the commencement) of that lease.

(3) In the case of a lease that, in addition to coal, relates to a mineral, subparagraph (2) applies to the lease only in so far as it relates to coal and does not affect the lease in so far as it relates to the mineral.

(4) Any requirement that the holder of an authority to mine granted under the Mining Act 1874 be the holder of a miner's right shall cease to have effect on the commencement.

(5) In a case of a lease deemed under subparagraph (2) to be a coal lease granted under section 41—

- (a) the royalty payable in respect of coal won shall be payable at the rate which would have been applicable if this Act had not been enacted, except where and to the extent that a different rate is fixed under section 77;
- (b) the reference in section 77 (5) (a) to the date on which a coal lease had effect shall be deemed to be a reference to the commencement; and
- (c) the rent (if any) under the lease may be increased or decreased as provided in section 75.

SECOND

*Coal Mining.*SECOND SCHEDULE—*continued.*

No. 81, 1973

(6) Where a lease deemed under subparagraph (2) to be a coal lease granted under section 41 of this Act was, immediately before the commencement, subject to variation under section 108E of the 1906 Act but had not been so varied, the lease shall remain subject to variation after the commencement and the provisions of section 42 of this Act shall apply to the lease.

(7) An application, duly made under the 1906 Act, for a lease in respect of coal that is pending at the commencement shall be deemed to be an application, duly lodged under this Act, for a coal lease and, subject to this paragraph, the provisions of this Act apply to the application.

(8) Where an application deemed under subparagraph (7) to be an application for a coal lease was lodged before the 20th November, 1970, the royalty payable in respect of coal won from land subject to any coal lease granted pursuant to the application shall be payable at the rate which would have been applicable if this Act had not been enacted, except where and to the extent that a different rate is fixed under section 77.

(9) The provisions of Part V apply to an application deemed under subparagraph (7) to be an application for a coal lease, subject to such variations as may be prescribed.

(10) The provisions of Part VI do not apply to an application deemed under subparagraph (7) to be an application for a coal lease.

(11) The provisions of sections 32, 33 and 34 of the 1906 Act apply in the case of an application deemed under subparagraph (7) to be an application for a coal lease as if the application were an application under the 1906 Act for a coal and shale lease.

(12) An application, duly made under the 1906 Act, for the renewal of a lease that is pending at the commencement shall be deemed to be an application, duly lodged under this Act, for the renewal under this Act of a coal lease (the lease granted under the 1906 Act being treated as a coal lease granted under this Act) and the provisions of this Act apply to the application.

10. Nothing in this Act affects the right of a person to mine for coal that is not reserved to the Crown and is within the boundaries (as defined immediately before the commencement of Part IVc of the 1906 Act) of a colliery holding if he—

Owner of colliery holding may mine for coal.

- (a) is the owner of the coal and the colliery holding; or
- (b) mines for the coal with the concurrence of the owner of the coal and is the owner of the colliery holding.

SECOND

Coal Mining.

No. 81, 1973

SECOND SCHEDULE—*continued.*Consents
to mine.

11. (1) Subject to subparagraph (3), a consent entitling any person to mine for coal given under section 28, 57 (5) or 83AU of the 1906 Act that is in force at the commencement shall have the same force and effect as if this Act had not been enacted.

(2) In the case of a consent, given under any of the sections referred to in subparagraph (1), that entitles any person to mine coal and a mineral, subparagraph (1) applies to the consent only in so far as it relates to coal.

(3) The Minister may, by instrument in writing served on any person entitled to mine pursuant to a consent given under section 28, 57 (5) or 83AU of the 1906 Act, revoke the consent or vary the conditions on which it was given.

(4) For the purposes of this Schedule a person entitled to mine under the 1906 Act for coal during the pendency of an application for a lease shall be deemed to have been given a consent to so mine for coal under the 1906 Act, and the provisions of this paragraph (except subparagraph (3) in so far as it relates to the revocation of a consent) shall apply.

Right-
of-way.

12. A right-of-way marked out under section 83 of the 1906 Act from any land subject to an authorisation, authority, license, lease, consent or application, affected by this Schedule, and in existence at the commencement shall be deemed to be a right-of-way marked out under section 117 of this Act.

Warden's
court.

13. A warden's court established under section 131 of the 1906 Act and in being at the commencement shall be deemed to have been established under section 128 of the Mining Act, 1973.

Application
treated
as having
been duly
made.

14. (1) For the purposes of this Schedule, an application shall be treated as having been duly made under the 1906 Act notwithstanding that when the land to which the application relates was marked out the applicant, or intending applicant, did not hold a permit under section 48A of that Act.

(2) For the purposes of this Schedule, a lease (as defined in paragraph 9 (1)) shall be treated as having been duly granted under the 1906 Act notwithstanding that when the land to which the lease relates was marked out the applicant, or intending applicant, for the lease did not hold a permit under section 48A of that Act.

(3) Nothing in this paragraph affects application No. 243 by the Muswellbrook Coal Company Pty Limited for a mining lease.

 THIRD

Coal Mining.

THIRD SCHEDULE.

No. 81, 1973

REPEAL OF ACTS.

Sec. 138 (1).

Year and number of Act	Short title of Act	Extent of Repeal
1953, No. 27..	Coal Mines Regulation (Amendment) Act, 1953.	Section 5
1964, No. 19..	Coal Mines Regulation (Amendment) Act, 1964.	Section 6
1906, No. 49..	Mining Act, 1906	The whole
1907, No. 18..	Mining (Amendment) Act, 1907	The whole
1918, No. 41..	Mining (Amendment) Act, 1918	The whole
1921, No. 7 ..	Mining (Amendment) Act, 1921	The whole
1924, No. 68..	Mining (Amendment) Act, 1924	The whole
1935, No. 15..	Mining (Amendment) Act, 1935	The whole
1946, No. 53..	Mining (Amendment) Act, 1946	The whole
1952, No. 7 ..	Mining (Amendment) Act, 1952	The whole
1963, No. 57..	Mining (Amendment) Act, 1963	Sections 1 (2) (a) and (3), 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14 and 15
1967, No. 67..	Mining (Amendment) Act, 1967	The whole
1969, No. 22..	Mining (Amendment) Act, 1969	The whole
1970, No. 65..	Mining (Amendment) Act, 1970	The whole
1967, No. 88..	Mining (Further Amendment) Act, 1967.	The whole
1970, No. 88..	Mining (Further Amendment) Act, 1970.	The whole
1916, No. 74..	Mining Leases Cancellation (Validation) Act, 1916.	The whole
1924, No. 2 ..	Mining Leases (Validation) Act, 1924	The whole
1961, No. 59..	Mining (Renewal of Leases) Amendment Act, 1961.	Sections 1 (2) and (3), 2, 4, 5, 6, 7 and 8
1967, No. 35..	National Parks and Wildlife Act, 1967	Section 55
1950, No. 27..	War Service Land Settlement and Closer Settlement (Amendment) Act, 1950.	Section 5 (3)

FOURTH

Coal Mining.

No. 81, 1973

FOURTH SCHEDULE.

Sec. 138 (2).

AMENDMENT OF ACTS.

Column 1		Column 2
Year and number of Act	Short title of Act	Amendment
1938, No. 20..	Broken Hill Water and Sewerage Act, 1938	Section 3— In the definition of "Lease" after "thereof" insert ", and in relation to a claim registered under Part IV of the Mining Act, 1973, includes the occupancy thereof". Section 47— (a) Omit subsection (4) (b), insert instead the following paragraph:— (b) to grant an authority under the Mining Act, 1973, or an authorisation or a concession under the Coal Mining Act, 1973; or. (b) In subsection (4) omit "lease, permission or franchise," insert instead "authority, authorisation, concession, permission or franchise,". (c) In subsection (5) omit "lease", insert instead "authority, authorisation, concession".
1912, No. 37..	Coal Mines Regulation Act, 1912	Sections 35 (1), (1A); 38A (2), (3), (6); 38B (3); 53BA (3)— Omit "Mining Act, 1906," wherever occurring, insert instead "Mining Act, 1973, or the Coal Mining Act, 1973,". Section 35A (3) (b)— Omit "Mining Act, 1906-1952," insert instead "Mining Act, 1973, or the Coal Mining Act, 1973,".
1901, No. 30..	Companies (Death Duties) Act, 1901	Sections 7 (a); 10 (1) (a)— Omit "or other minerals as defined in the Mining Act, 1906," wherever occurring, insert instead ", coal or shale, or any substance prescribed as a mineral under the Mining Act, 1973,".
1919, No. 6 ..	Conveyancing Act, 1919	Section 6 (2)— Omit "Mining Act, 1906," insert instead "Mining Act, 1973, Coal Mining Act, 1973,". Schedule III— Omit "Mining Act, 1906," insert instead "Mining Act, 1973, or the Coal Mining Act, 1973,".

FOURTH

Coal Mining.

FOURTH SCHEDULE—*continued.*

No. 81, 1973

AMENDMENT OF ACTS—*continued.*

Column 1		Column 2
Year and number of Act	Short title of Act	Amendment
1913, No. 7 . .	Crown Lands Consolidation Act, 1913	<p>Section 2— Omit “Mining Act, 1906”, insert instead “Mining Act, 1973, and the Coal Mining Act, 1973”.</p> <p>Section 4— Omit “Irrigation Act, 1912—or”, insert instead— “Irrigation Act, 1912— Mining Act, 1973— Coal Mining Act, 1973—or”.</p> <p>Sections 24 (3); 28 (3); 52; 57 (1); 63 (1A); 81 (2); 85 (4); 107; 123A (4); 134; 136K (2), (4); 139 (4); 142 (9); 142B (8); 144 (2); 144A (3); 144E (8); 192; 307 (1)— Omit “Mining Act, 1906,” wherever occurring, insert instead “Mining Act, 1973, or the Coal Mining Act, 1973.”</p> <p>Sections 254; 323 (2)— Omit “Mining Act, 1906” wherever occurring, insert instead “Mining Act, 1973, or the Coal Mining Act, 1973”.</p>
1948, No. 47 . .	Fauna Protection Act, 1948	<p>Section 10— (a) Omit subsection (1), insert instead the following subsection:— (1) A claim shall not be registered under Part IV of the Mining Act, 1973, over any land within a nature reserve. (b) In subsection (2) omit “Mining Act, 1906-1946,” insert instead “Mining Act, 1973, or the Coal Mining Act, 1973.”</p>
1916, No. 55 . .	Forestry Act, 1916	<p>Section 21— Omit “Mining Act, 1906”, insert instead “Mining Act, 1973, the Coal Mining Act, 1973,”.</p>
1938, No. 11 . .	Hunter District Water, Sewerage and Drainage Act, 1938	<p>Section 55 (5) (b)— Omit “Mining Act, 1906-1935”, insert instead “Mining Act, 1973, or the Coal Mining Act, 1973”.</p>
1912, No. 73 . .	Irrigation Act, 1912	<p>Section 25— Omit “Mining Act, 1906,” insert instead “Mining Act, 1973, or the Coal Mining Act, 1973.”</p>

FOURTH

Coal Mining.

No. 81, 1973

FOURTH SCHEDULE—*continued.*AMENDMENT OF ACTS—*continued.*

Column 1		Column 2
Year and number of Act	Short title of Act	Amendment
1919, No. 41..	Local Government Act, 1919	<p>Section 4—</p> <p>(a) In the definition of "Lease" next before the definition of "Lessee", omit "and a tenement under the Mining Act, 1906, as amended by subsequent Acts," insert instead "and a claim registered under Part IV of the Mining Act, 1973,";</p> <p>(b) In the definition of "Lessee", omit "and a person in lawful occupation under a miner's right or business license of a tenement under the Mining Act, 1906, as amended by subsequent Acts," insert instead "and the registered holder of a claim under the Mining Act, 1973,".</p> <p>Section 54 (1) (c)— Omit "a miner's right or business license under the Mining Act, 1906, or any Act amending or consolidating the same", insert instead "paragraph 13 (1) of the Second Schedule to the Mining Act, 1973, or a claim registered under Part IV of that Act".</p>
1935, No. 47..	Maritime Services Act, 1935	<p>Section 13c (2)— Omit "Mining Act, 1906," insert instead "Mining Act, 1973, or the Coal Mining Act, 1973,".</p> <p>Section 13h— Omit "minerals as defined in section three of the Mining Act, 1906", insert instead "coal or shale or any substance prescribed as a mineral under the Mining Act, 1973".</p> <p>Section 13j (3)— Omit "Mining Act, 1906," insert instead "Mining Act, 1973, or the Coal Mining Act, 1973,".</p> <p>Section 13yb— Omit "Mining Act, 1906," insert instead "Mining Act, 1973, or the Coal Mining Act, 1973,".</p>

FOURTH

Coal Mining.**FOURTH SCHEDULE—continued.****No. 81, 1973****AMENDMENT OF ACTS—continued.**

Column 1		Column 2
Year and number of Act	Short title of Act	Amendment
1935, No. 47— <i>continued</i>	Maritime Services Act, 1935— <i>continued</i>	Section 13yc (1)— Omit “paragraph (b) of subsection one of section twenty-three of the Mining Act, 1906,” insert instead “paragraph (a) of subsection (1) of section 55 of the Mining Act, 1973.” Section 13yc (2) (a)— Omit “Mining Act, 1906, for a lease for mining purposes referred to in paragraph (b) of subsection one of section twenty-three of that Act”, insert instead “Mining Act, 1973, for a mining purposes lease”. Section 13z (1)— Omit “Mining Act, 1906,” insert instead “Mining Act, 1973, or the Coal Mining Act, 1973.”
1924, No. 50..	Metropolitan Water, Sewerage, and Drainage Act, 1924	Section 55 (5) (b)— Omit “Mining Act, 1906”, insert instead “Mining Act, 1973, or the Coal Mining Act, 1973”.
1901, No. 75..	Mines Inspection Act, 1901	Sections 4 (1); 50 (5); 54 (3)— Omit “Mining Act, 1906” wherever occurring, insert instead “Mining Act, 1973”.
1967, No. 35..	National Parks and Wildlife Act, 1967	Section 22 (1)— (a) After “authority” where firstly occurring insert “, authorisation”. (b) After “authority” where secondly occurring insert “, authorisation”. Section 22 (3)— Omit “Mining Act, 1906,” insert instead “Mining Act, 1973, the Coal Mining Act, 1973.” Section 24 (2) (a)— (a) Omit “An authority over, or lease of, land within a national park, state park or historic site, being an authority or lease under the Mining Act, 1906, or the Petroleum Act, 1955,” insert instead “An authority (other than an

FOURTH

Coal Mining.

No. 81, 1973

FOURTH SCHEDULE—*continued.*AMENDMENT OF ACTS—*continued.*

Column 1		Column 2
Year and number of Act	Short title of Act	Amendment
1967, No. 35— <i>continued</i>	National Parks and Wildlife Act, 1967— <i>continued</i>	<p>exploration licence) under the Mining Act, 1973, or an authorisation or a coal lease under the Coal Mining Act, 1973, or an authority or lease under the Petroleum Act, 1955, over land within a national park, state park or historic site.”.</p> <p>(b) Omit “and such an authority or lease”, insert instead “and such an authority, authorisation or lease”.</p> <p>Section 24 (2) (b)— Omit “authority or lease under the Mining Act, 1906, or the Petroleum Act, 1955,”, insert instead “authority (other than an exploration licence), authorisation or lease under the Mining Act, 1973, the Coal Mining Act, 1973, or the Petroleum Act, 1955,”.</p>
1955, No. 28..	Petroleum Act, 1955	<p>Section 4 (1)— Omit “Mining Act, 1906, as amended by subsequent Acts,”, insert instead “Mining Act, 1973,”.</p> <p>Section 41 (1)— (a) Omit paragraph (a), insert instead the following paragraph:— (a) any claim registered, or authority granted, under the Mining Act, 1973; or. (b) Omit paragraph (b), insert instead the following paragraph:— (b) any authorisation or concession granted under the Coal Mining Act, 1973; or.</p> <p>Section 56 (1)— Omit “one hundred and fifty-eight of the Mining Act, 1906, as amended by subsequent Acts,”, insert instead “127 of the Mining Act, 1973,”.</p> <p>Section 57— Omit the section, insert instead the following section:— Wardens’ courts. 57. Wardens’ courts under the Mining Act, 1973, shall be wardens’ courts for the purposes</p>

FOURTH

Coal Mining.

FOURTH SCHEDULE—*continued.*

No. 81, 1973

AMENDMENT OF ACTS—*continued.*

Column 1		Column 2
Year and number of Act	Short title of Act	Amendment
1955, No. 28 <i>continued</i>	Petroleum Act, 1955— <i>continued</i>	of this Act and the provisions of Part IX of the Mining Act, 1973, shall apply accordingly. Schedule— Omit so much of the Schedule as amends Act No. 49, 1906.
1924, No. 31..	Prickly-pear Act, 1924	Section 3— Omit the definition of “Minerals”, insert instead the following definition:— “Minerals” means coal and shale and any substance prescribed as a mineral under the Mining Act, 1973. Section 16 (6)— Omit “1906”, insert instead “1973”. Section 16 (7)— Omit “1906, and Acts amending the same, shall be deemed to be Crown lands within the meaning of those Acts”, insert instead “1973, shall be deemed to be Crown lands within the meaning of that Act”.
1920, No. 47..	Stamp Duties Act, 1920	Section 3 (1)— In the definition of “Mining company” omit “1906 (except coal)”, insert instead “1973”. Second Schedule— In paragraph (10) under the heading “Lease or Promise of an Agreement for Lease or Hire” omit “Mining Act, 1906, as amended”, insert instead “Mining Act, 1973, as amended, Coal Mining Act, 1973, as amended,”.
1912, No. 70..	State Coal Mines Act, 1912	Section 1 (2)— (a) In the definition of “Crown lands” omit “section three of the Mining Act, 1906”, insert instead “section 6 of the Mining Act, 1973”. (b) Omit the definition of “Mining Act, 1906,”. (c) In the definition of “Private lands” omit “the Mining Act, 1906”, insert instead “section 6 of the Mining Act, 1973”.

FOURTH

Coal Mining.

No. 81, 1973

FOURTH SCHEDULE—*continued.*AMENDMENT OF ACTS—*continued.*

Column 1		Column 2
Year and number of Act	Short title of Act	Amendment
1912, No. 70— <i>continued</i>	State Coal Mines Act, 1912— <i>continued</i>	<p>Section 2 (2)— Omit the subsection, insert instead the following subsection:— (2) Upon publication of any such proclamation, the lands so set apart shall be exempted from alienation under the Crown Lands Acts, and from the leasing provisions of any Act for the time being in force relating to mining, and a claim shall not be registered over any such lands under Part IV of the Mining Act, 1973.</p> <p>Section 7 (3)— Omit “the Mining Act, 1906, and from occupation under any miner’s right or business license”, insert instead “any Act for the time being in force relating to mining, and a claim shall not be registered over the land so described under Part IV of the Mining Act, 1973”.</p> <p>Section 10 (1)— Omit “Part IV of the Mining Act, 1906,”, insert instead “Parts IV and V of the Mining Act, 1973,”.</p> <p>Section 10 (2)— Omit “Mining Act, 1906, Part VII, Division five”, insert instead “Part VIII of the Coal Mining Act, 1973”.</p> <p>Section 15 (5)— (a) Omit “the Mining Act, 1906,”, insert instead “the Coal Mining Act, 1973,”. (b) Omit “or use any Crown lands or private lands, as aforesaid and any such right or title may, subject to the provisions of that Act be granted to the authority”, insert instead “or, with the approval of the Minister, apply under the Mining Act, 1973, for any right or title under that Act to so use any Crown lands or private lands, and any such right or title may, subject to the provisions of the Coal Mining Act, 1973, or the Mining Act, 1973, as the case may be, be granted to the authority”.</p>

FOURTH

*Coal Mining.*FOURTH SCHEDULE—*continued.*

No. 81, 1973

AMENDMENT OF ACTS—*continued.*

Column 1		Column 2
Year and number of Act	Short title of Act	Amendment
1912, No. 70— <i>continued</i>	State Coal Mines Act, 1912— <i>continued</i>	Section 21A— Omit "Mining Act, 1906," insert instead "Coal Mining Act, 1973,".
1925, No. 14..	Trustee Act, 1925	Section 9 (3A)— Omit "Mining Act, 1906-1935," insert instead "Mining Act, 1973, or the Coal Mining Act, 1973,".
1912, No. 21..	Trustees Audit Act, 1912	Schedule 2— Omit the first two paragraphs of the Schedule.
1901, No. 70..	Western Lands Act, 1901	Section 3— Omit the definition of "Minerals", insert instead the following definition:— "Minerals" means coal and shale and any substance prescribed as a mineral under the Mining Act, 1973. Section 18e (2) (c)— Omit "Mining Act, 1906", insert instead "Mining Act, 1973, or the Coal Mining Act, 1973". Section 24 (4) (c), (6)— Omit "Mining Act, 1906," wherever occurring, insert instead "Mining Act, 1973, or the Coal Mining Act, 1973,".

FIFTH

Coal Mining.

No. 81, 1973

Sec. 139 (2)
and (3).

FIFTH SCHEDULE.

AMENDMENT OF MINING ACT, 1973.

Part A.

Section.	Extent of Amendment.
6 (1)	After the definition of "approved" insert the following new definition:— "authorisation" means an authorisation granted under section 20 or 21 of the Coal Mining Act, 1973; After the definition of "colliery holding" insert the following new definition:— "concession" means an exploration permit or a coal lease granted under the Coal Mining Act, 1973; In paragraph (b) of the definition of "exempted area" before "under" insert "held". In paragraph (b) of the definition of "registered holder" omit "means". In the definition of "registrar" omit "the registrar" and insert instead "the registrar (minerals)".
12 (2)	Omit "or not" where firstly occurring.
13	After "land" where firstly occurring insert " , or over the surface of any land".
14 (1)	After "Act" insert "and the Coal Mining Act, 1973".
24 (2)	In paragraph (b) after "authority" insert " , an authorisation or a concession".
24 (3)	Omit "or an authority" and insert instead " , an authority, an authorisation or a concession".
24	Insert after subsection (3) the following new subsection:— (4) In an order constituting any lands as a reserve the Governor may stipulate that the reserve shall extend only to the surface of the lands, or to the surface of the lands and the soil of those lands below the surface, or to the surface of the lands and the soil of those lands to a specified depth below the surface, or over the soil of the lands between or below any specified depth or depths below the surface, and if he does so the extent of the reserve shall be so limited.
25	Insert after subsection (6) the following new subsection:— (7) In an order made under subsection (1) the Governor may stipulate that the fossicking area to which the order relates shall extend only to the soil of the lands constituting the fossicking area to a specified depth below the surface of those lands, and if he does so the extent of the fossicking area shall be so limited.
29	In paragraph (b) after "authority" insert "or for an authorisation or a concession under the Coal Mining Act, 1973". In paragraph (d) after "area" insert "or an area subject to an authorisation or a concession".

FIFTH

Coal Mining.

FIFTH SCHEDULE—*continued.*
 AMENDMENT OF MINING ACT, 1973—*continued.*
 Part A—*continued.*

No. 81, 1973

Section.	Extent of Amendment.
32	Insert after subsection (3) the following new subsection:— (4) When registering or renewing the registration of a claim the mining registrar may impose a condition limiting the lands over which the claim is registered to a specified depth beneath the surface of those lands.
42 (1)	After “Crown lands” insert “held under a Crown lease for pastoral purposes or a special lease for pastoral purposes”.
42	Insert after subsection (5) the following new subsection:— (6) This section shall not operate so as to prevent a person or his agent from entering any private lands with the consent of the owner or occupier thereof, or lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes with the consent of the occupier thereof, for the purpose of erecting a datum post either on those lands or on any other lands.
43 (1)	In paragraph (d) after “by” insert “a copy of”.
52	Omit subsection (5) and insert instead the following subsection:— (5) Land excluded from the area of land over which an exploration licence is granted because, when the exploration licence is granted, it is subject to a claim, an authority, an authorisation or a concession, becomes subject to the exploration licence— (a) if the claim, authority, authorisation or concession ceases to have effect over the land; and (b) when it does so, the land is not subject to pending application under this Act for a prospecting licence, a mining lease, or a mining purposes lease, or to a pending application under the Coal Mining Act, 1973, for a coal lease or, if it is then subject to such an application, the application is subsequently refused.
55	Insert after subsection (4) the following new subsection:— (5) A mining purposes lease may be granted under this section for a mining purpose prescribed under this Act or under the Coal Mining Act, 1973.
66 (7)	After “authority” where firstly occurring insert “(other than an exploration licence)”. Omit “an authority” where secondly occurring and insert instead “the authority”.
68	Omit “, or some of the lands, being adjacent lands, in the area subject to the licence or the lease” and insert instead “subject to the licence or the lease, or in respect of a single area subject to the licence or the lease”.
75 (7)	After “exploration licence” insert “, or an exploration permit granted under the Coal Mining Act, 1973,”.

FIFTH

Coal Mining.

No. 81, 1973

FIFTH SCHEDULE—*continued.*AMENDMENT OF MINING ACT, 1973—*continued.*Part A—*continued.*

Section.	Extent of Amendment.
78	<p>Omit the section and insert instead the following section:—</p> <p>Power to grant authority subject to rights of other persons.</p> <p>78. The power to grant an authority to any person over any land is subject to the rights conferred—</p> <p>(a) by this Act on any other person, being the registered holder of a claim or an authority, over that land; and</p> <p>(b) by the Coal Mining Act, 1973, on any other person, being the registered holder under that Act of an authorisation or a coal lease, over that land,</p> <p>but nothing in this section shall operate so as to prevent an authority being granted over any land to a person applying therefor if a person referred to in paragraph (a) or (b) and having rights in the land consents to the application.</p>
84 (1)	In paragraph (a) omit subparagraph (i) and renumber subparagraphs (ii) and (iii) as (i) and (ii) respectively.
84	<p>Omit subsection (5) and insert instead the following subsection:—</p> <p>(5) In this section the reference to an exploration licence includes a reference to an exploration permit granted under the Coal Mining Act, 1973.</p>
92 (6)	Omit “not less than fourteen days after lodging an application” and insert instead “either before, or within fourteen days after, lodging his application”.
95 (4)	After “any period when” insert “the licence or”.
95 (6)	After “Governor” insert “or the Minister, as the case may be,”.
95	<p>Insert after subsection (6) the following new subsection:—</p> <p>(7) Rent referred to in this section shall be paid—</p> <p>(a) in the case of rent in respect of Crown lands, to the Crown; and</p> <p>(b) in the case of rent in respect of private land, to the owner of the land,</p> <p>at the times, and in the manner, prescribed.</p>
105 (3)	After “deputy registrar” insert “(mining)”.
111	In paragraph (c) after “is” insert “, or was on a day specified in the certificate,”.
115 (6)	Omit “was granted” and insert instead “has effect, as provided in section 64 (2)”.
119 (2)	Omit “Under Secretary” and insert instead “Minister”.

FIFTH

Coal Mining.

FIFTH SCHEDULE—*continued.*
 AMENDMENT OF MINING ACT, 1973—*continued.*
 Part A—*continued.*

No. 81, 1973

Section.	Extent of Amendment.
171	Omit the section and insert instead the following section:— Minister 171. Where the Minister is of opinion that a may direct survey, or a further survey, of any land subject to survey of an application for an authority or to an authority land to be is necessary or desirable he may, by instrument in carried writing, direct the applicant or the registered holder out. of the authority, as the case may be, to carry out at his own expense a survey of the land concerned.
175 (4)	After “prescribed” insert “or as may be imposed or stipulated by the warden in any particular case”.
179	Insert after subsection (3) the following new subsection:— (4) A person entitled under paragraph 18 of the Second Schedule to mine for a mineral shall be deemed for the purposes of this section to be the registered holder of an authority.
182 (1)	After “Act” insert “or the Coal Mining Act, 1973”.
184 (1)	In paragraph (a) after “any lands” insert “in a fossicking area”.
189	Omit the section and insert instead the following section:— Offence of 189. (1) Subject to subsections (2) and (3), a pros- person shall not— pecting, (a) prospect for a mineral except under and in etc., (a) pursuant of— without (i) a claim, of which he is the registered authority. (i) holder, or an authority authorising him to prospect for that mineral; or (ii) a coal lease granted under the Coal Mining Act, 1973, which applies to that mineral by reason of a direction given by the Minister under section 72 (3) (a) of that Act; or (b) mine for a mineral except under and in pursuant of— (i) a claim, of which he is the registered holder, or a mining lease authorising him to mine for that mineral; or (ii) a coal lease granted under the Coal Mining Act, 1973, which applies to that mineral by reason of a direction given by the Minister under section 72 (3) (a) of that Act. (2) It is a sufficient defence to a prosecution under subsection (1) if the person carrying out prospecting or mining operations proves that he is entitled to do so by virtue of a legal instrument approved by the Minister under section 107 (1)

FIFTH

Coal Mining.

No. 81, 1973

FIFTH SCHEDULE—*continued.*
 AMENDMENT OF MINING ACT, 1973—*continued.*
 Part A—*continued.*

Section	Extent of Amendment.
189 <i>continued</i>	(b) and registered by the registrar, or approved by the Minister under section 104 (1) (b) of the Coal Mining Act, 1973, and registered by the registrar under that Act. (3) Subsection (1) shall not apply to a person mining or prospecting for coal in the circumstances referred to in paragraph 18 of the Second Schedule.
195 (2)	In paragraph (n) omit "any inquiry" and insert instead " , or in connection with, any inquiry held or to be held". In paragraph (q) after "regulations" insert " , and the inspection of, and the taking of extracts from, records or books so kept, by such persons as may be specified in the regulations".
196	Insert the following new subsection:— (2) A purpose which is connected or associated with, or incidental to, mining or mining operations, or connected or associated with, or incidental to, the transporting of minerals or any other matter for the purpose of mining, or connected or associated with, or incidental to, the treatment, manufacture or preparation for sale of any mineral, may be prescribed as a mining purpose, and may be so prescribed whether or not the purpose is to be carried out on or in, or in the vicinity of, land subject to an authority.
199	Omit the section.

Part B.

Paragraph.	Extent of Amendment.
1	Insert the following new subparagraphs:— (2) For the purposes of this Schedule, an application shall be treated as having been duly made under the 1906 Act notwithstanding that when the land to which the application relates was marked out the applicant, or intending applicant, did not hold a permit under section 48A of that Act. (3) For the purposes of this Schedule, an authority to enter, a mining lease, a special lease, or a mining purposes lease shall be treated as having been duly granted under the 1906 Act, notwithstanding that when the land to which the authority or the lease relates was marked out the applicant, or intending applicant, for the authority or lease did not hold a permit under section 48A of that Act.
10	In paragraph (b) after "mining lease" insert " , coal lease". In paragraph (c) after "mining lease" insert " , coal lease".

FIFTH

Coal Mining.

FIFTH SCHEDULE—continued.
AMENDMENT OF MINING ACT, 1973—continued.
Part B—continued.

No. 81, 1973

Paragraph.	Extent of Amendment.
16	<p>Insert after subparagraph (10) the following new subparagraph:—</p> <p>(11) The reference in this paragraph to a mining lease granted under the 1906 Act includes a reference to a special lease granted under that Act.</p>
17	<p>Insert after subparagraph (7) the following new subparagraph:—</p> <p>(8) Subparagraph (1) applies to a lease purporting to be a lease granted under the 1906 Act for a mining purpose notwithstanding that the purpose for which the lease was granted was not, for the purposes of the 1906 Act, a mining purpose, if the purpose for which the lease was granted could be prescribed as a mining purpose under this Act or the Coal Mining Act, 1973.</p>
18	<p>Insert after subparagraph (3) the following new subparagraph:—</p> <p>(4) For the purposes of this Schedule a person entitled to mine under the 1906 Act for a mineral during the pendency of an application for a lease shall be deemed to have been given a consent to so mine under the 1906 Act, and the provisions of this paragraph (except subparagraph (3) in so far as it relates to the revocation of a consent) shall apply.</p>
19	Omit "and 43" and insert instead " , 43, 59, 59A, 60 (1A) and 99 (4)".
21	After "the 1906 Act" insert "from any land subject to an authority, license, lease, consent or application affected by this Schedule".
22	<p>Insert the following new subparagraph:—</p> <p>(2) An authority granted under section 110 or 111 of the 1906 Act and in force at the commencement shall be deemed to be a licence granted on the commencement under section 174 of this Act on the same conditions as those of the authority in force immediately before the commencement.</p>

ELECTRICITY