

New South Wales



ANNO VICESIMO QUINTO

**ELIZABETHÆ II REGINÆ**

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**Act No. 27, 1976.**

An Act to amend the Mining Act, 1973, so as to make further provision in relation to the disposal of certain applications under that Act, to provide for the conduct of tourist activities in mining areas and mining purposes areas, and in certain other respects; and to validate certain matters. [Assented to, 1st April, 1976.]

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*Mining (Amendment).*

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**B**E 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:—

1. This Act may be cited as the "Mining (Amendment) Act, 1976". Short title.

2. (1) This section and sections 1, 3 and 6 shall commence on the date of assent to this Act. Commencement.

(2) Section 4 shall, in its application to a provision of Schedules 1–13, commence or be deemed to have commenced on the day on which that provision commences or is deemed to have commenced, as the case may require.

(3) Section 5 and Schedules 4 (4) and 10 (1) shall be deemed to have commenced on 29th March, 1974.

(4) Schedule 13 shall be deemed to have commenced on 14th April, 1975.

(5) Section 7 and the several provisions of Schedules 1–12, except Schedules 4 (4) and 10 (1), shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. This Act contains the following Schedules:— Schedules.

SCHEDULE 1.—AMENDMENTS TO PART I OF THE MINING ACT, 1973.

SCHEDULE 2.—AMENDMENTS TO PART III OF THE MINING ACT, 1973.

SCHEDULE 3.—AMENDMENTS TO PART IV OF THE MINING ACT, 1973.

SCHEDULE

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*Mining (Amendment).*


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SCHEDULE 4.—AMENDMENTS TO PART V OF THE MINING ACT, 1973.

SCHEDULE 5.—AMENDMENT TO PART VIII OF THE MINING ACT, 1973.

SCHEDULE 6.—AMENDMENTS TO PART IX OF THE MINING ACT, 1973.

SCHEDULE 7.—AMENDMENTS TO PART X OF THE MINING ACT, 1973.

SCHEDULE 8.—AMENDMENTS TO PART XI OF THE MINING ACT, 1973.

SCHEDULE 9.—AMENDMENT TO THE FIRST SCHEDULE TO THE MINING ACT, 1973.

SCHEDULE 10.—AMENDMENTS TO THE SECOND SCHEDULE TO THE MINING ACT, 1973.

SCHEDULE 11.—AMENDMENTS TO THE PUBLIC WORKS ACT, 1912.

SCHEDULE 12.—AMENDMENT TO THE LOCAL GOVERNMENT ACT, 1919.

SCHEDULE 13.—AMENDMENT TO THE MINING (AMENDMENT) ACT, 1975.

Amendment of Act No. 42, 1973.      4. (1) The Mining Act, 1973, is amended in the manner set forth in Schedules 1–10.

Amendment of Act No. 45, 1912.      (2) The Public Works Act, 1912, is amended in the manner set forth in Schedule 11.

Amendment of Act No. 41, 1919.      (3) The Local Government Act, 1919, is amended in the manner set forth in Schedule 12.

Amendment of Act No. 23, 1975.      (4) The Mining (Amendment) Act, 1975, is amended in the manner set forth in Schedule 13.

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*Mining (Amendment).*

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5. The grant, under the Mining Act, 1906, of Special Mining Lease of Private Lands No. 125 registered in the Department of Mines shall not be invalid by reason of any failure to comply with section 58 (5) of that Act. Validation of lease.

6. The requirements of section 43 (1) (d) of the Mining Act, 1973, shall be deemed not to have been or be contravened in respect of an application for a prospecting licence, mining lease or mining purposes lease lodged between 1st June, 1975, and 30th June, 1976, or on either of those dates, if the requirement of that paragraph as in force immediately before 1st June, 1975, has been or is complied with in respect of the application. Validation of certain applications.

7. (1) Where a person who has been issued with a fossicking licence under section 26 (6) of the Mining Act, 1973, before the commencement of Schedule 2 (1), presents the licence within 12 months of the date of its issue to— Transitional provisions.

- (a) the mining registrar;
- (b) an honorary ranger;
- (c) an authorised officer appointed under section 14 (2) of that Act;
- (d) a person authorised by the Minister under section 26 (6A) of that Act; or
- (e) an inspector appointed under section 183 (1) of that Act,

the person to whom the licence is presented shall endorse on the licence—

- (f) where a fee of \$2 has been paid for the issue of the licence—the name of the person to whom the licence was issued; or

(g)

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*Mining (Amendment).*

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- (g) where a fee of \$4 has been paid for the issue of the licence—the names of the members of the family group in respect of which the licence was issued, and the licence shall, on and from the date of commencement of Schedule 2 (1), and for the remaining part of the period of 12 months from the date of its issue, be deemed to have been issued under section 26 of that Act as—
- (h) a personal fossicking licence—where it has been endorsed in accordance with paragraph (f); or
- (i) a family fossicking licence—where it has been endorsed in accordance with paragraph (g).

(2) Section 82 of the Mining Act, 1973, as amended by Schedule 4 (18), applies to and in respect of the grant of an exploration licence whether the application for the licence was made before, or is made after, the commencement of Schedule 4 (18).

Sec. 4 (1).

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SCHEDULE 1.

AMENDMENTS TO PART I OF THE MINING ACT, 1973.

- (1) (a) Section 2—  
From the matter relating to Part III, omit “26”, insert instead “26A”.
- (b) Section 2—  
From the matter relating to Division 5 of Part V, omit “94”, insert instead “94B”.
- (c) Section 2—  
From the matter relating to Part X, omit “194”, insert instead “194A”.

SCHEDULE

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*Mining (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE MINING ACT, 1973—  
*continued.*

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

After the definition of “conditions”, insert :—

“copy”, in relation to a notice published in a newspaper pursuant to this Act, means so much of the newspaper as contains—

- (a) the notice; and
- (b) the name and date of the newspaper;

(b) Section 6 (1), definition of “date of publication”—

After the definition of “Crown lease for pastoral purposes”, insert :—

“date of publication”, in relation to a notice published in a newspaper pursuant to this Act, means the date of the newspaper in which the notice is published;

(c) Section 6 (1), definition of “mining purposes area”—

After the definition of “mining purpose”, insert :—

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

SCHEDULE

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*Mining (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO PART I OF THE MINING ACT, 1973—  
*continued.*

## (3) Section 7 (2)—

Omit “document by certified mail”, insert instead :—  
document—

(a) by certified mail, in a case where the person serving the document is not the Minister, the warden or a mining registrar or another officer referred to in section 14 (1) or an authorised officer referred to in section 14 (2); or

(b) by certified mail or any other form of post, in any other case,

## (4) (a) Section 8 (2)—

Omit “An application”, insert instead “Applications”.

## (b) Section 8 (2)—

After “manner”, insert “, on such days of the week and during such periods of time”.

## (c) Section 8 (3)—

After section 8 (2), insert :—

(3) In this section, “application” does not include an application to a court.

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*Mining (Amendment).*

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SCHEDULE 2.

Sec. 4 (1).

AMENDMENTS TO PART III OF THE MINING ACT, 1973.

(1) (a) Section 26 (6B), (6C)—

After section 26 (6A), insert :—

(6B) Two classes of fossicking licences may be issued, namely a personal fossicking licence and a family fossicking licence.

(6C) Where a person issues—

- (a) a personal fossicking licence, he shall endorse on the licence the name of the person to whom it is issued; or
- (b) a family fossicking licence, he shall endorse on the licence the names of the members of the family group in respect of which the licence is issued.

(b) Section 26 (7A)—

Omit the subsection.

(c) Section 26 (8), definition of “holder”—

After the definition of “gemstones”, insert :—

“holder”, in relation to a fossicking licence, means a person whose name is endorsed on the licence pursuant to subsection (6C);

(2) Section 26A—

After section 26, insert :—

26A. No person shall be entitled to make or prosecute any claim for damages or take any other proceedings against the Crown, the Government of New South Wales, the Minister or any person Certain claims for damages prohibited.

SCHEDULE



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*Mining (Amendment).*


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SCHEDULE 2—*continued.*AMENDMENTS TO PART III OF THE MINING ACT, 1973—  
*continued.*

administering this Act (including a mining registrar, an honorary ranger and a person authorised under section 26 (6A)) arising out of any injury or loss suffered or incurred in, or in relation to, a fossicking area by any person who enters the area pursuant to a right conferred by section 26 (1) or (2).

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 Sec. 4 (1).

## SCHEDULE 3.

## AMENDMENTS TO PART IV OF THE MINING ACT, 1973.

## (1) Section 28 (5) (c)—

After “applies to”, insert “any part or all of”.

## (2) Section 29 (2)–(5)—

At the end of section 29, insert :—

(2) Any purported registration of a claim in contravention of subsection (1) is a nullity.

(3) Where the mining registrar has purported to issue a certificate of registration to a person under section 32 (2) in respect of the purported registration of a claim in contravention of this section, the registrar may, by instrument in writing served on that person, require the person to lodge the certificate with the registrar by a date specified in the instrument.

## SCHEDULE

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*Mining (Amendment).*

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SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE MINING ACT, 1973—  
*continued.*

(4) A person shall not, without reasonable excuse, fail to comply with a requirement made under subsection (3).

Penalty : \$100.

(5) A person shall not be convicted of an offence arising under subsection (4) if he satisfies the court before which proceedings for the offence are brought that he first received notice of the instrument to which the proceedings relate after, or less than 21 days before, the date specified in the instrument under subsection (3).

(3) (a) Section 36 (1A)—

After section 36 (1), insert :—

(1A) The mining registrar may, on the written application of the registered holder of a claim, cancel the registration of the claim.

(b) Section 36 (2A)—

Omit the subsection.

(c) Section 36 (4)—

Omit “, if effected under subsection (2A), has effect, or if the registration of the claim is cancelled under subsection (1) or (3), within fourteen days after being served with a notice pursuant to subsection (5)”, insert instead “has effect under subsection (5)”.

SCHEDULE

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*Mining (Amendment).*


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SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE MINING ACT, 1973—  
*continued.*

## (d) Section 36 (5)—

Omit the subsection, insert instead :—

(5) If the warden, the Minister or the mining registrar cancels the registration of a claim under this section he shall cause to be served on the registered holder of the claim—

(a) if the registration is cancelled under subsection (1) (a) or (1A), a notice informing him of the cancellation ; or

(b) if the registration is cancelled under subsection (1) (b), (2) or (3), a notice informing him of the cancellation and the ground therefor,

and the cancellation of the registration has effect from and including the date—

(c) specified in the notice as the date of cancellation of the claim ; or

(d) on which the notice is so served,

whichever is the later date.

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**Sec. 4 (1).**

## SCHEDULE 4.

## AMENDMENTS TO PART V OF THE MINING ACT, 1973.

## (1) (a) Section 39 (3)—

Omit the subsection.

## SCHEDULE

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*Mining (Amendment).*

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SCHEDULE 4—*continued.*

AMENDMENTS TO PART V OF THE MINING ACT, 1973—  
*continued.*

(b) Section 39 (5)—

After “after the”, insert “date of”.

(2) (a) Section 40 (1) (a)—

Omit “or”.

(b) Section 40 (1) (b)—

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

(c) Section 40 (1) (c)—

After section 40 (1) (b), insert :—

(c) at any other corner of that area if the north-eastern or northernmost corner of that area, as the case may be—

(i) is inaccessible by reason of its being, or being covered with, water ;

(ii) is in bona fide use as a garden ;

(iii) has a dwelling-house or other substantial or valuable improvement standing upon it ; or

(iv) has growing upon it shade, shelter, wind-break or edible fruit or nut bearing trees or vines.

(d) Section 40 (4)—

Omit “the land on”, insert instead “each corner of the land in respect of”.

SCHEDULE

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*Mining (Amendment).*


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 SCHEDULE 4—*continued.*


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 AMENDMENTS TO PART V OF THE MINING ACT, 1973—  
*continued.*

## (e) Section 40 (5)—

After section 40 (4), insert :—

(5) Where, in respect of any land, a datum post is required to be erected in accordance with subsection (1) (c), any—

- (a) notice served under section 41 (1);
- (b) application lodged under section 43 (1); or
- (c) notice published under section 41 (2) or 43 (3),

in respect of that land, is a nullity unless the corner of the area at which the datum post has been erected is indicated in the notice or application, as the case may require.

## (3) Section 43 (3)—

After “after the”, insert “date of”.

## (4) (a) Section 46 (1)—

Omit “If”, insert instead “Subject to subsection (2A), if”.

## (b) Section 46 (2A), (2B)—

After section 46 (2), insert :—

(2A) Subsections (1) and (2) do not apply in respect of an area of land marked out pursuant to section 44 if, in the case of the land being—

- (a) private land—every owner and occupier of the land; or

SCHEDULE

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*Mining (Amendment).*

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SCHEDULE 4—*continued.*

AMENDMENTS TO PART V OF THE MINING ACT, 1973—  
*continued.*

- (b) Crown land held under a Crown lease for pastoral purposes or a special lease for pastoral purposes—every occupier of the land,

consent or consents to the grant of the prospecting licence, mining lease or mining purposes lease in respect of which the land was so marked out.

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

(5) Section 48 (1)—

Omit “and, from and including the date of the direction, that part shall be so excluded and the application shall relate only to the remaining part of that area.”, insert instead :—

and—

- (a) in a case where the Minister so specifies in the direction—that part shall be deemed to have been excluded from the application when it was lodged; and
- (b) in any other case—that part shall be excluded from the application from and including the date of the direction,

and the application shall relate and, in a case referred to in paragraph (a), shall be deemed always to have related, to the remaining part of that area.

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*Mining (Amendment).*


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SCHEDULE 4—*continued.*
**AMENDMENTS TO PART V OF THE MINING ACT, 1973—**  
*continued.*

## (6) (a) Section 52 (5) (b)—

After “subsequently”, insert “withdrawn or”.

## (b) Section 52 (6)—

After section 52 (5), insert :—

(6) Land excluded from the area of land over which an exploration licence is granted because, when the exploration licence was granted, the land was subject to a pending application—

(a) under this Act for the registration of a claim, or for a prospecting licence, a mining lease or a mining purposes lease; or

(b) under the Coal Mining Act, 1973, for an authorisation or a concession,

becomes subject to the exploration licence if the application is subsequently withdrawn or refused.

## (7) (a) Section 53 (1)—

Omit “a prospecting” wherever occurring, insert instead “one, or more than one, prospecting”.

## (b) Section 53 (1A)—

After section 53 (1), insert :—

(1A) Without affecting the generality of subsection (1), the Minister may, under subsection (1), grant one licence in respect of more than one application.

**SCHEDULE**

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*Mining (Amendment).*

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SCHEDULE 4—*continued.*

**AMENDMENTS TO PART V OF THE MINING ACT, 1973—  
*continued.***

(c) Section 53 (2)—

Omit “a mining” wherever occurring, insert instead “one, or more than one, mining”.

(d) Section 53 (2A)—

After section 53 (2), insert :—

(2A) Without affecting the generality of subsection (2), the Governor may, under subsection (2), grant one lease in respect of more than one application.

(8) (a) Section 54 (2) (a)—

Omit the paragraph, insert instead :—

(a) may differ in size or shape from the area or areas of land over which the prospecting licence or licences or the mining lease or leases was or were sought but shall not be outside the boundaries of the area or areas of land over which the licence, licences, lease or leases was or were sought; and

(b) Section 54 (3)—

Omit “over which the licence or the lease was”, insert instead “or areas over which the licence, licences, lease or leases was or were”.

(9) (a) Section 55 (1)—

Omit “a mining” wherever occurring, insert instead “one, or more than one, mining”.

SCHEDULE



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*Mining (Amendment).*


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 SCHEDULE 4—*continued.*

 AMENDMENTS TO PART V OF THE MINING ACT, 1973—  
*continued.*

## (b) Section 55 (1A)—

After section 55 (1), insert :—

(1A) Without affecting the generality of subsection (1), the Governor may, under subsection (1), grant one lease in respect of more than one application.

## (10) (a) Section 56 (1) (a)—

Omit the paragraph, insert instead :—

(a) may differ in size or shape from the area or areas of land over which the lease or leases was or were sought but shall not be outside the boundaries of the area or areas of land over which the lease or leases was or were sought; and

## (b) Section 56 (2)—

Omit “over which the lease was”, insert instead “or areas over which the lease or leases was or were”.

## (11) Section 57 (4)—

Omit “as from the date on which the instrument is so served.”, insert instead :—

from and including the date—

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

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

**SCHEDULE**

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*Mining (Amendment).*

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SCHEDULE 4—*continued.*

AMENDMENTS TO PART V OF THE MINING ACT, 1973—  
*continued.*

(12) Section 66 (4)—

Omit “an authority”, insert instead “a prospecting licence, mining lease or mining purposes lease”.

(13) (a) Section 67 (1)—(1B)—

Omit section 67 (1), insert instead :—

(1) An application under section 66 for the renewal of an exploration licence shall be in respect of—

(a) a single area; or

(b) not more than the number of areas prescribed for the purposes of this paragraph.

(1A) The size of a single area or the total size of a number of areas in an application referred to in subsection (1) shall not exceed half the size of the exploration area in respect of which the application is made.

(1B) The area or areas in an application referred to in subsection (1) shall be in such form, and have such relation to the boundaries of the exploration area in respect of which the application is made, as may be prescribed.

(b) Section 67 (2)—

Omit “subsection (1) (a)”, insert instead “subsection (1A)”.

SCHEDULE

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*Mining (Amendment).*


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 SCHEDULE 4—*continued.*

 AMENDMENTS TO PART V OF THE MINING ACT, 1973—  
*continued.*

## (14) Section 69 (9)—

After section 69 (8) insert—

(9) The Minister may renew an exploration licence or a prospecting licence and the Governor may renew a mining lease or a mining purposes lease notwithstanding that the applicant has not in every respect complied with the requirements of the regulations or the regulations under the Mining Act, 1906.

## (15) Section 72 (2)—

After “subsection (1)”, insert “or section 72A,”.

## (16) Section 72A—

After section 72, insert :—

72A. If an application for a prospecting licence made by a registered holder of an exploration licence pursuant to the exclusive right conferred on him by section 50 (2) is not finally dealt with before the date on which the exploration licence would, but for this section, cease to have effect, the exploration licence continues, under this section, to have effect in relation to the land the subject of the application until the date on which—

- (a) notification of the withdrawal of the application is published in the Gazette under section 20;
  - (b) notification of refusal of the application is published in the Gazette under section 20;
- or

Certain  
exploration  
licences  
continued.

SCHEDULE

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*Mining (Amendment).*

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SCHEDULE 4—*continued.*

AMENDMENTS TO PART V OF THE MINING ACT, 1973—  
*continued.*

- (c) the prospecting licence has effect, as provided in section 64 (1),  
unless the exploration licence is sooner cancelled under section 75.
- (17) (a) Section 79 (1) (a)—  
Omit “or an orchard,”.
- (b) Section 79 (2)—  
Omit “orchard,”.
- (18) Section 82—  
Omit the section, insert instead :—
82. An exploration licence shall not be granted in respect of any land if, at any time within the period of 30 days immediately preceding the date on which the application therefor is lodged, an exploration licence over that land and relating to the group of minerals to which the application relates was in force. Restriction on grant of exploration licence over certain land.
- (19) Sections 94A, 94B—  
After section 94, insert :—
- 94A. (1) In this section— Tourist activities.  
“lease” means a mining lease or a mining purposes lease;  
“tourist activity” means an activity related to tourism and specified or described in an instrument referred to in subsection (2).

SCHEDULE

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*Mining (Amendment).*

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SCHEDULE 4—*continued.*AMENDMENTS TO PART V OF THE MINING ACT, 1973—  
*continued.*

(2) Subject to subsection (5), the Minister may, by instrument in writing, grant the registered holder of a lease a permission to carry on a tourist activity in his mining area or mining purposes area, as the case may be, and may, by the same instrument, attach such conditions to the permission as the Minister thinks fit.

(3) Where the registered holder of a lease carries on a tourist activity in accordance with a permission granted under subsection (2), the carrying on of that activity while the permission is in force does not—

- (a) constitute a failure to comply with any condition of the holder's lease relating to the exclusive purposes for which his area may be used; or
- (b) give rise to a ground on which the lease may be cancelled under section 75 (4).

(4) If any condition attached to a permission under subsection (2) is breached, the Minister may revoke the permission by causing a written notice of revocation of the permission to be served on the registered holder of the lease in respect of which the permission was granted and the revocation has effect from and including the date on which the notice is so served.

SCHEDULE

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*Mining (Amendment).*

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SCHEDULE 4—*continued.*

AMENDMENTS TO PART V OF THE MINING ACT, 1973—  
*continued.*

(5) The Minister shall not, under subsection (2), grant a permission to carry on a tourist activity on the surface of any land that is—

- (a) private land—without the consent, given by instrument in writing, of every owner and occupier of the land;
- (b) Crown land held under a Crown lease for pastoral purposes or a special lease for pastoral purposes—without the consent, given by instrument in writing, of every occupier of the land;
- (c) within a catchment area within the meaning of the Metropolitan Water, Sewerage, and Drainage Act, 1924—without the consent, given by instrument in writing, of The Metropolitan Water Sewerage and Drainage Board; or
- (d) within a national park, a historic site, a nature reserve, an Aboriginal area, a protected archaeological area, a wildlife district, a wildlife refuge, a game reserve or an Aboriginal place within the meaning of the National Parks and Wildlife Act, 1974—without the consent, given by instrument in writing, of the Director of National Parks and Wildlife.

(6) Where, in accordance with this section, the Minister has granted to a lessee a permission to carry on a tourist activity in a mining area or a mining purposes area, neither the lessee nor any other person shall be entitled to make or prosecute any claim for

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*Mining (Amendment).*


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 SCHEDULE 4—*continued.*

 AMENDMENTS TO PART V OF THE MINING ACT, 1973—  
*continued.*

damages or take any other proceedings against the Crown, the Government of New South Wales or the Minister arising out of any injury or loss suffered or incurred by any person who enters the mining area or mining purposes area pursuant to the permission.

Notice of application for permission to be sent to Government Departments.

94B. (1) Where the Minister is of the opinion that a Government Department or a statutory authority within the meaning of section 113 would be materially affected if a permission were to be granted under section 94A (2), he shall cause to be served on that Department or authority a notice—

- (a) stating that an application for the permission has been lodged;
- (b) containing a description or a plan of the mining area or mining purposes area in respect of which the permission is sought; and
- (c) stating that objections to the granting of the permission, or proposals for the attaching to the permission of any condition, may be made to the Minister within the period specified in the notice.

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

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

**SCHEDULE**

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*Mining (Amendment).*

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SCHEDULE 4—*continued.*

AMENDMENTS TO PART V OF THE MINING ACT, 1973—  
*continued.*

(3) In deciding whether or not to grant a permission under section 94A (2) the Minister shall take into account any objection or proposal made under subsection (2).

(20) (a) Section 95 (1), (2)—

Omit the subsections, insert instead :—

(1) Subject to subsections (3), (4) and (6), where the area of land subject to a prospecting licence, a mining lease or a mining purposes lease includes the surface of any Crown land, the licence or lease, as the case may be, shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated at the rate of rent prescribed for the purposes of this subsection—

(a) at the time the amount is required to be paid; and

(b) in respect of the class of licences or leases to which the licence or lease belongs,

for each hectare, or portion of a hectare, of that surface.

(2) Subject to subsections (3), (4) and (6), where the area of land subject to a prospecting licence, mining lease or a mining purposes lease includes the surface of any private land, the licence or lease, as the case may be, shall be deemed to reserve annual amounts of rent, each

SCHEDULE



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*Mining (Amendment).*


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SCHEDULE 4—*continued.*
**AMENDMENTS TO PART V OF THE MINING ACT, 1973—**  
*continued.*

amount of which shall be calculated at the rate of rent prescribed for the purposes of this subsection—

- (a) at the time the amount is required to be paid; and
- (b) in respect of the class of licences or leases to which the licence or lease belongs,

for each hectare, or portion of a hectare, of that surface.

## (b) Section 95 (7)—

After “section”, insert “, in respect of a prospecting licence, mining lease or mining purposes lease,”.

## (c) Section 95 (7)—

Omit “prescribed”, insert instead “set forth in the prospecting licence, mining lease or mining purposes lease, as the case may be”.

## (d) Section 95 (8)—

After section 95 (7), insert :—

(8) No rent is payable under this section by The Electricity Commission of New South Wales in respect of the surface of any land that is—

- (a) vested in that Commission; and
- (b) subject to a mining purposes lease granted after 30th June, 1970, to that Commission.

## SCHEDULE

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*Mining (Amendment).*

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SCHEDULE 4—*continued.*

**AMENDMENTS TO PART V OF THE MINING ACT, 1973—  
*continued.***

**(21) Section 95A—**

After section 95, insert :—

95A. (1) Subject to subsection (2)—

(a) any provision in—

- (i) a prospecting licence;
- (ii) a mining lease;
- (iii) a mining purposes lease; or
- (iv) an instrument (other than a regulation made under this Act) made, issued or given under or for the purposes of the Mining Act, 1906, or this Act,

in force or having effect on the date of commencement of this section, shall, in so far as it relates to an amount of rent that becomes payable on or after that date in respect of a prospecting licence, mining lease or mining purposes lease, be deemed, on and from that date, not to have any force or effect; and

(b) rent that becomes payable on or after that date under the prospecting licence, mining lease or mining purposes lease is payable in accordance with section 95.

(2) Subsection (1) does not apply to or in respect of—

(a) a provision of an agreement referred to in section 95 (3), or rent reserved in accordance with that subsection; or

Variation of liability for rent in respect of certain authorities.

**SCHEDULE**

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*Mining (Amendment).*


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**SCHEDULE 4—*continued.***
**AMENDMENTS TO PART V OF THE MINING ACT, 1973—  
*continued.***

(b) a provision of a consent entitling a person to mine given under section 28, 57 (5), 60 or 101 of the Mining Act, 1906, or rent payable under a condition of any such consent.

(22) (a) Section 97 (5)—

Omit “after” where thirdly occurring, insert instead “from, or in respect of a period after,”.

(b) Section 97 (5A)—

Omit “the date on which the notice is served,” insert instead :—

the date—

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

(b) on which the notice is so served,

whichever is the later date.

(23) (a) Section 107 (2)—

After “accordance with”, insert “subsection (2A) and”.

(b) Section 107 (2A)—

After section 107 (2), insert :—

(2A) An application in respect of a transfer or an instrument referred to in subsection (2) shall be accompanied by the fee prescribed for the purposes of this subsection in respect of the transfer or instrument if it is lodged within the period of 90 days after the date of its execution and an additional fee, if it is not so lodged,

**SCHEDULE**

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*Mining (Amendment).*

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SCHEDULE 4—*continued.*

AMENDMENTS TO PART V OF THE MINING ACT, 1973—  
*continued.*

calculated at the rate of 100 per centum of the firstmentioned fee for each month or part thereof between the expiration of that period and the date of lodgment.

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SCHEDULE 5.

Sec. 4 (1).

AMENDMENT TO PART VIII OF THE MINING ACT, 1973.

Section 126A—

After section 126, insert :—

126A. (1) Where the warden considers that the owner or occupier of any land may be entitled to compensation under this Part in respect of a claim or an authority, he may, by instrument in writing served on the registered holder of the claim or authority, direct the holder to furnish him, in writing verified by statutory declaration under the hand of the holder or his agent, with the name and address of the owner or occupier of the land at the time, or within the period of time, specified in the instrument.

Directions  
to furnish  
names and  
addresses.

(2) An instrument served under subsection (1) shall specify a date on or before which compliance with the direction contained in the instrument is required.

(3) For the purposes of sections 36 (1) (b) and 75 (2) (b), a direction given to a person by the warden under this section, requiring the person to furnish the warden with information on or before a specified date, is deemed to be a requirement or provision of this Act with which the person is obliged or required to comply.

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SCHEDULE

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*Mining (Amendment).*


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Sec. 4 (1).

## SCHEDULE 6.

## AMENDMENTS TO PART IX OF THE MINING ACT, 1973.

## (1) Section 135 (1A)—

After section 135 (1), insert :—

(1A) Where one, but not both, of the parties to a complaint consents thereto and the warden is satisfied that the other party to the complaint is aware—

- (a) of the nature of the complaint;
- (b) that he is entitled to be heard by the warden in relation to the complaint; and
- (c) of the time and place at which the complaint is to be heard,

the warden may hear and determine **the complaint** summarily in the presence of the consenting party or both of the parties and without requiring formal proceedings to be taken in a warden's court.

## (2) Section 135 (2)—

After "subsection (1)", insert "or (1A)".

## (3) Section 135 (2)—

Omit "parties", insert instead "party or parties consenting".

## (4) Section 135 (3)—

After "subsection (1)", insert "or (1A)".

## (5) Section 135 (4)—

After "given", insert "under subsection (1) or (1A)".

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SCHEDULE

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*Mining (Amendment).*

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SCHEDULE 7.

Sec. 4 (1).

**AMENDMENTS TO PART X OF THE MINING ACT, 1973.**

(1) Section 177A—

After section 177, insert :—

177A. No proceedings lie against any officer administering this Act for anything done or omitted to be done by him in good faith in connection with the administration of this Act. Certain actions prohibited.

(2) Section 178A—

After section 178, insert :—

178A. (1) The registrar may refer to the warden the question of whether section 29 (1) has been contravened by the purported registration of a claim. Registrar may request inquiry by warden.

(2) The warden may hold an inquiry in relation to a reference to him under subsection (1).

(3) Any inquiry held by the warden under this section 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.

(4) After the conclusion of any inquiry held by him under this section, the warden shall make his finding which shall be communicated in writing to the registrar.

SCHEDULE

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*Mining (Amendment).*


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 SCHEDULE 7—*continued.*

 AMENDMENTS TO PART X OF THE MINING ACT, 1973—  
*continued.*

## (3) Section 194A—

After section 194, insert :—

**Resump-  
tion, etc.,  
not to  
affect  
mining  
lease.**

194A. Notwithstanding the provisions of any other Act, the taking, resumption or appropriation of land under any other Act after the commencement of this section does not affect a mining lease or any rights thereunder granted pursuant to this Act.

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## Sec. 4 (1).

## SCHEDULE 8.

## AMENDMENTS TO PART XI OF THE MINING ACT, 1973.

## (1) Section 195 (2) (f)—

After “purposes leases”, insert “, or mining leases with mining purposes leases,”.

## (2) Section 195 (2) (m1)—

After section 195 (2) (m), insert :—

(m1) the regulation of tourist activities carried on in a mining area or mining purposes area under a permission granted under section 94A;

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SCHEDULE

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*Mining (Amendment).*

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**SCHEDULE 9.**

**Sec. 4 (1).**

**AMENDMENT TO THE FIRST SCHEDULE TO THE MINING ACT,  
1973.**

**Paragraph 1 (1), definition of "agricultural land"—**

Omit paragraph (c), insert instead :—

(c) land on which—

- (i) at the relevant date, shade, shelter or wind-break trees are growing; or
- (ii) at any time during the period of 10 years immediately preceding the relevant date, edible fruit or nut bearing trees, vines or any other perennial crop approved by the Director have or has been growing;

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**SCHEDULE 10.**

**Sec. 4 (1).**

**AMENDMENTS TO THE SECOND SCHEDULE TO THE MINING  
ACT, 1973.**

**(1) (a) Paragraph 10—**

Omit "The land", insert instead "Subject to subparagraph (2), the land".

**(b) Paragraph 10 (2)—**

At the end of paragraph 10, insert :—

(2) Subparagraph (1) does not apply to or in respect of land that, immediately before the commencement, was exempt from occupation—

- (a) for residence under a miner's right; or

**SCHEDULE**



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*Mining (Amendment).*


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**SCHEDULE 10—continued.**
**AMENDMENTS TO THE SECOND SCHEDULE TO THE MINING ACT, 1973—continued.**

(b) for business purposes under a business license,  
under section 14 of the 1906 Act.

**(2) Paragraph 14 (3A)—**

After paragraph 14 (3), insert :—

(3A) A prospecting licence may be granted over the surface of land in contravention of section 79 (1) in respect of an application for an authority to prospect or an authority to enter that is deemed under subparagraph (3) to be an application for a prospecting licence, but a licence so granted shall be deemed not to extend to the surface of any land referred to in section 79 (1) (a), (b) or (c) without the consent referred to in section 79 (1) (a), (b) or (c).

**(3) Paragraph 21A—**

After paragraph 21, insert :—

21A. Where—

(a) by reason of this Schedule—

- (i) an authority to prospect;
- (ii) an authority to enter;
- (iii) an exploration license;
- (iv) a mining lease; or
- (v) a mining purposes lease,

is deemed to be a licence or lease granted under this Act; and

Certain conditions deemed to have been imposed under this Act.

**SCHEDULE**

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*Mining (Amendment).*

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SCHEDULE 10—*continued.*

AMENDMENTS TO THE SECOND SCHEDULE TO THE MINING ACT, 1973—*continued.*

(b) the licence or lease includes a condition that could have been included—

(i) in any case—under section 118; or

(ii) in the case of a mining lease—under section 119,

if the licence or lease, as the case may be, had been granted under this Act,

the condition shall, for the purposes of section 120, be deemed to have been so included.

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SCHEDULE 11.

Sec. 4 (2).

AMENDMENTS TO THE PUBLIC WORKS ACT, 1912.

(1) Section 1—

From the matter relating to Division 4 of Part VIII, omit “141”, insert instead “140A”.

(2) Section 140A—

Before section 141, insert :—

140A. This Act is subject to the Mining Act, 1973.

Act subject  
to Mining  
Act, 1973.

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SCHEDULE

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*Mining (Amendment).*

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Sec. 4 (3).

## SCHEDULE 12.

## AMENDMENT TO THE LOCAL GOVERNMENT ACT, 1919.

Section 531 (3)—

After section 531 (2), insert :—

(3) This Part is subject to the Mining Act, 1973.

Sec. 4 (4).

## SCHEDULE 13.

## AMENDMENT TO THE MINING (AMENDMENT) ACT, 1975.

Section 8 (o) (ii)—

Omit "has", insert instead "shall have".

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