

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. S. MOWLE,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 2 December, 1918.*

New South Wales.



ANNO NONO

GEORGI V REGIS.

Act No. , 1918.

An Act to amend the law relating to mining; to amend the Mining Act, 1906, and the Acts relating to Crown lands; to make further provision for mining on private lands; to deal with certain mining titles; to provide for entry into certain lands; to provide that employees may remove or sell certain buildings and improvements; to provide for the resumption of land for mining villages; and for other purposes.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of 5 the same, as follows:—

1. This Act shall be construed with the Mining Short title Act, 1906, hereinafter called the Principal Act, and may be cited as the "Mining (Amendment) Act, 1918."

Mining (Amendment).

PART I.

AMENDMENTS OF THE PRINCIPAL ACT.

2. Subsection four of section thirty-five, subsection two of section sixty-four, subsection three of section ninety-four, section one hundred and fifteen, and subsections one and two of section one hundred and sixteen of the Principal Act are hereby repealed.

3. The Principal Act is amended as follows:—

Section three, paragraph (f): After “conditional purchase lease” insert “or application for any such lease, settlement lease, special lease for other than pastoral purposes, Crown lease not expressly limited to grazing, residential lease, homestead farm, additional homestead farm, suburban holding, additional suburban holding, irrigation farm, irrigation lease, week-end lease, lease under any Act hereby repealed”

After the definition of “small coal” insert:—

“Street, road, or highway,” includes any street, road, or lane, whether vested in His Majesty, or under the control of any municipal or shire council, or forming part of any subdivision of private land.

Section fourteen, subsection one: Omit paragraph (b).

Subsection three: Omit “as aforesaid” and insert

“for mining or mining purposes, or for residence under any miner’s right, or for business purposes under any business license.”

Section sixteen: Insert at the end of subsection three:—

“The holder of a residence area may erect any building or structure upon the land so occupied, and may remove or dispose of the same during occupation, or at any time within one month or within such further time, not exceeding six months, as the warden may order and direct, after ceasing to occupy such residence area.”

Section

Repeal.

Amendment
of sections of
Principal Act.
Section 3.

Section 14 (1).

Section 14 (3).

Section 16 (3).

Mining (Amendment).

Section twenty-three, subsection two: Omit para- Section 23 (2).
graphs (c) and (d), and insert:—

(d) Mining leases of auriferous alluvial
Crown land shall only be granted—

(a) if in the opinion of the Minister—

(i) the land has been worked and
abandoned; or

(ii) it is necessary that leases be
granted, owing to the diffi-
culties and cost attending the
construction of mine works
upon or of mining such land;
or

(b) if the land is exempted from
occupation under miner's right.

Section twenty-eight: Add the following proviso at Section 28.
the end of the section:—

“Provided that such rights as aforesaid shall
not accrue to any applicant for a mining lease
of any street, road, or highway, or any Crown
land reserved or dedicated for and in actual use
for any public purpose.”

Section thirty-five: Insert the following subsection Section 35 (4).
in lieu of subsection four hereby repealed:—

(4) Except as hereinafter provided, the area
of a lease for mining for opal shall not exceed
one hundred and fifty feet square: Provided
that a lease of any area not exceeding ten acres
may be granted if the prospecting board cer-
tifies that a greater area than aforesaid is
necessary by reason of the difficulties and cost
attending the construction of mine works upon
or of mining such land.

Section thirty-six, subsection one: After “this Section 36 (1).
Part” insert “before the commencement of
the Mining (Amendment) Act, 1918.”

Section thirty-six:—

Insert the following subsections next after
subsection two:—

(2A) The annual rent for a gold-mining
lease or a mineral lease granted under this
Part

Mining (Amendment).

Part, after the commencement of the Mining (Amendment) Act, 1918, shall be one shilling per acre, or portion of an acre.

5 (2B) A royalty shall be paid of one per centum of the value of all gold and minerals (other than coal or shale) won from the land demised by lease so granted after such commencement: Provided that
10 the lessee shall not be required to pay royalty in any one year if the gross output does not exceed five hundred pounds in value during such year.

15 (2c) A royalty shall be paid of sixpence per ton on all shale or coal won from land demised by lease so granted after such commencement.

Section thirty-six:—

Section 36.

- (a) In subsection three omit "so granted," insert "granted under this Part."
20 (b) Omit in subsection four the words "in all cases" and insert "in respect of a gold-mining lease or mineral lease."
25 (c) Insert the following words at the end of subsection five:—"For the purposes of this subsection, leases amalgamated in accordance with the provisions of this Act, or any Act hereby repealed, shall be regarded as one lease."

30 The following new section is inserted next after section thirty-nine:—

35 39A. A lease of Crown lands granted under any Act hereby repealed, the term of which has been renewed, may be renewed for a further term not exceeding twenty years, subject to such rents, royalties and other covenants and conditions as the Governor may prescribe.

Renewal of Crown lands lease for further term.

Section forty-four: Insert the following subsection after subsection three:—

40 (4) Any tailings, ore, minerals, or stone left upon Crown land held under lease under any Act hereby repealed, and remaining upon such land

Tailings, &c., on land held under repealed Acts.

Mining (Amendment).

land after the expiration of six months from the date of determination of such lease, shall become the absolute property of the Crown, and shall form part of the land.

5 Section forty-five: In the definition of "owner," Section 45. omit "conditional lessee," and insert "lessee from the Crown."

10 Omit "In this Part the word 'minerals' shall not include coal or shale, nor shall coal or shale be included within the substances which may be declared minerals by proclamation of the Governor."

15 Section fifty, subsection one: Insert at the end of Section 50(1). the subsection:—"An authority to enter may be granted in respect of an area comprising lands held by two or more owners, provided that such lands are adjoining or separated only by a street, road or stream."

20 Section fifty, subsection two: Insert at the end of Section 50(2). the subsection:

(c) If the applicant fails to attend after notice of inquiry under section fifty-one has been served upon him.

25 The following new section and short heading are New s. 50A. inserted next after section fifty:—

Interim authority to enter.

30 50A. (1) Upon receipt of any application for Interim authority to enter and search for gold upon any authority. private lands, or for authority to enter and search for any mineral other than gold upon lands which within his knowledge are open to mining under this Part for all minerals, the warden or warden's clerk may, at the request of the applicant, issue in the prescribed form an interim authority to enter such lands, upon payment by the applicant of such sum, not exceeding ten shillings, as the warden or warden's clerk may consider necessary to cover rent and compensation for surface damage.

(2)

Mining (Amendment).

(2) Upon payment of such sum the warden or warden's clerk shall forthwith, in the presence of the applicant, mark out, or cause to be marked out by the warden's bailiff, the area required by the applicant.

(3) Such interim authority shall be for such period, not exceeding one month, as the warden or warden's clerk may think necessary, pending the holding of the inquiry prescribed by section fifty-one of this Act.

(4) Such interim authority shall entitle the holder to enter upon the land therein described during the period therein named, and do all such acts and things as may be necessary for prospecting the said land, but shall not entitle the holder to apply for a lease of the subject land.

(5) An interim authority to enter shall not be granted in respect of land the subject of any title under this Part, or of a pending application for authority to enter, lodged by any person other than the applicant for such interim authority. The warden's decision as to whether the area applied for is or is not the subject of any pending application shall be final.

Section fifty-seven: insert the following proviso Section 57 (1). after subsection one:—

Provided that the holder of two or more authorities to enter upon adjoining lands may apply for a lease of the whole or any part of the lands included in such authorities, not exceeding the extent prescribed by section sixty-three.

The following new section and short heading are New s. 57A. inserted next after section fifty-seven:—

Conditional purchase, or lease not confirmed.

57A. (1) Where application for authority to enter has been lodged, or authority to enter under this Part has been granted in respect of

Applicant for authority to enter to be deemed in certain cases to be in possession.

Mining (Amendment).

5 of land the subject of an application for conditional purchase, or for any lease, under the Crown Lands Acts, and any such conditional purchase or lease application is refused, the applicant for or holder of such authority to enter shall be deemed to be in possession of the subject land, and to be entitled to apply for a lease of such land as Crown land—

10 (a) where an authority to enter has not been granted, within one month after the date of refusal as aforesaid ;

(b) where an authority to enter has been granted, at any time during the currency of such authority:

15 Provided that no extension of any such authority shall be granted by the warden, and any rent payable under such authority after the date of refusal shall be paid to the warden's clerk on behalf of the Crown.

20 (2) If the applicant for or holder of an authority to enter as aforesaid fails to apply for a lease within the time prescribed his title shall lapse.

25 Section sixty, subsection one : Omit "to the holder of any lease under this Act, or to any person carrying on mining operations," and insert in lieu thereof "to any person." Section 60(1).

Section sixty-one: Insert the following proviso at the end of the section :— Section 61.

30 Provided that where the surface and the land to a specified depth below the surface is excepted from any land held under lease under this Part, such excepted surface and the land to the specified depth shall be open to application by any person for authority to enter or lease under this Part.

35 Section sixty-three: Omit all words after "twenty-five acres" to the end of the first paragraph, and insert the words "to mine for opal shall not exceed one hundred and fifty feet square, to mine for coal or shale shall not exceed six hundred
40 hundred

Mining (Amendment).

hundred and forty acres, and to mine for any mineral other than gold, coal, shale, or opal shall not exceed eighty acres."

5 Section sixty-four, subsection one: After the word "lease" first appearing insert "(except a lease under section sixty)," and in lieu of subsection two hereby repealed, insert the following:—

10 (2) The Minister may direct the warden to assess compensation to be paid by the applicant to the owner or occupier in addition to the compensation already paid in respect of the authority to enter.

15 The following new section and short heading are inserted next after section sixty-seven:—

Tailings, &c., on determined leases.

20 67A. Any tailings, ore, minerals, or stone left upon private lands formerly held under lease under this Act or any Act hereby repealed, and remaining upon such land, shall be and be deemed to be part of the said land—

25 (a) in the case of a lease under any Act hereby repealed, after the expiration of twelve months from the date of determination of such lease;

(b) in the case of a lease under this Act, after the expiration of thirty days from the date of determination of such lease.

Section sixty-eight: Omit subsection three.

30 Section eighty-two, subsection one: After "minerals" first appearing insert "except coal or shale."

Subsection two: Omit the subsection, insert—

35 (2) A royalty shall be paid of sixpence per ton on all coal or shale obtained from any land held under an authority to enter or a lease under this Part.

Subsection four: Insert the following words at the end of the subsection:—"For the purposes of

Mining (Amendment).

5 of this subsection, leases of private lands amal-
gamated in accordance with the provisions of
this Act or any Act hereby repealed shall be
regarded as one lease; but where a lease of
Crown lands is amalgamated with a lease of
private lands, the lessee shall not be entitled to
deduct the rent paid in respect of such lease
of Crown lands from the royalty payable in
respect of the gold or mineral won from such
private lands."

10 Section ninety-eight, subsection two: Insert the Section 98 (2).
following words at the end of the subsec-
tion:—"For the purposes of this subsec-
tion, dredging leases amalgamated in accord-
15 ance with the provisions of this Act shall be
regarded as one lease: Provided that the
lessee shall not be entitled to deduct the rent
paid in respect of any dredging lease granted
under any Act hereby repealed from the
20 royalty payable in respect of such amalgamated
leases."

The following subsection is inserted next after sub- Section 111.
section four of section one hundred and
eleven:—

25 (5) Every such authority shall be and
remain in force for the period stated therein,
notwithstanding that the claim or lease upon
which the authority operates has determined
during such period; but the holder of such
30 authority may at any time surrender the
same.

The following section is inserted in lieu of section New s. 115.
one hundred and fifteen hereby repealed:—

35 115. (1) Every holder of a lease, or other
title to mine, subject to the payment of any
sum by way of royalty to the Crown, granted
under this Act, or any Act hereby repealed,
shall, during the first fourteen days of the
month of January in each year, furnish to the
Minister a full and proper return, verified by
40 statutory declaration, showing the quantity and
value

Return to be
furnished by
holder of
lease, &c.

Mining (Amendment).

value of gold or minerals including coal and shale won from the land held under lease, or other title to mine during the preceding year ending the thirty-first day of December.

5 (2) Every such return shall be in the form prescribed, and if the holder of such lease or other title to mine is a public company such return shall be furnished by the manager or person acting in the management, or by the
10 secretary of the company.

(3) Any such holder or any such manager, person, or secretary who fails to furnish such return within the prescribed time or in the prescribed form shall be liable to a
15 penalty not exceeding fifty pounds, and to a further penalty not exceeding five pounds for every day after the expiration of the said fourteen days during which he fails to furnish such return.

20 The following subsection is inserted in lieu of sub- Section 116 sections one and two of section one hundred (1) and (2). and sixteen hereby repealed :—

116. (1) If the Minister is not satisfied with
25 any return furnished in accordance with the last preceding section, he may require the person furnishing the same to furnish further particulars of the gold or minerals won, or may, whether any return has been furnished or not, appoint any officer of his department or
30 other person to make all necessary inquiries in relation to such gold or minerals. The officer or person so appointed may make all such inquiries, and may require such holder, or his clerk, or the manager, secretary, or clerk of
35 any such company to produce for his inspection at the office of such holder or company any books, accounts, documents, writings, papers, or instruments in his possession or under his control that such officer or person may consider
40 necessary to enable him to ascertain the quantity of gold or minerals won, and may make copies of

Further
particulars
and inquiries.

Mining (Amendment).

of any entries or matters contained in such books, accounts, documents, writings, papers, or instruments, and upon completion of such inquiries, such officer or person shall report thereon to the Minister.

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Section one hundred and eighteen, subsection one: Omit "adjoining" before the word "dredging" and insert at the end of the subsection "any amalgamation of dredging leases not adjoining which has been authorised by the Minister before the commencement of the Mining (Amendment) Act, 1918, shall be and be deemed to have been duly authorised."

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Section one hundred and twenty: After subsection three, insert the following subsection:—

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(4) Any geological surveyor may enter any private lands in the performance of his duties.

The following new section is inserted next after section one hundred and twenty-two:—

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122A. (1) The Sludge Abatement Board, for the purpose of conducting any investigation under the authority of this Act, shall have the same powers and authority to summon witnesses and receive evidence as are conferred upon commissioners by letters patent by the Royal Commissioners Evidence Act, 1901; and all the provisions of the last-mentioned Act shall apply to witnesses so summoned, and evidence so received and given, as completely and effectually as if such witnesses had been summoned, and such evidence had been received or given by virtue or under the authority of the Act lastly hereinbefore cited.

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(2) The Minister, upon the recommendation of the Sludge Abatement Board, may, by notice in writing under his hand, require any person carrying on any sluicing, dredging, or other mining operations to erect such works or take such steps as the board may deem necessary to prevent the discharge of

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Section 118 (1).

Section 120.

New s. 122A.

Powers of board to take evidence.

Notice by Minister to erect works to prevent discharge of water.

Mining (Amendment).

5 of water from the place where any such sluicing, dredging, or other mining operations are being carried on into any river, stream, watercourse, lake, or reservoir, notwithstanding that the water so discharged does not contain solid matter in the total proportion of more than eight hundred grains to one gallon.

10 (3) Every such notice shall specify Works to be specified. the works to be erected or the steps to be taken by such person, and shall state a time within which the required action is to be completed.

15 (4) When notice is given to two or more neighbouring persons, the Minister may, Apportionment of cost of works. on the recommendation of the board, determine what proportions of the cost of the works shall be borne by such persons respectively.

20 (5) Where by reason of the carrying Pollution of water. on of any sluicing, dredging, or other mining operations in the bed of any river, stream, watercourse, lake, or reservoir, the water of such river, stream, watercourse, lake, or reservoir becomes charged with any poisonous or noxious matter, or any earthy or other insoluble mineral substance, so as, in the opinion of the board, to pollute or tend to pollute such water, notwithstanding that such water does not contain solid matter in the total proportion of more than eight hundred grains to one gallon, the Minister, on the recommendation of the board, may, as hereinbefore prescribed, require the persons carrying on such sluicing, dredging, or other mining operations, to take such steps as the board may deem necessary to prevent or reduce such pollution.

35 (6) Any person who neglects or fails Penalties. to comply with the requirements of any notice given under this section within the time therein stated shall be guilty of an offence, and shall be liable to a penalty not exceeding twenty-five pounds, and to a further penalty not exceeding
40 five

Mining (Amendment).

five pounds for every day after the expiry of such time during which he shall fail to comply with the requirements of such notice.

5 The following new section and short heading are New s. 124A.
inserted next after section one hundred and twenty-four:—

Complaint as to non-compliance with labour conditions.

10 121A. (1) Any person may give notice in writing by complaint to the Minister in the prescribed form of non-compliance with the labour conditions by the lessee of any lease granted under this Act or any Act hereby repealed, and may at the same time apply for a lease of the land comprised in such lease, or any part thereof in the event of such lease being cancelled. Such complaint and application shall be lodged at the Department of Mines, Sydney, and the Minister shall forthwith cause a notice to be served upon the lessee, informing him of such complaint and application. Within fourteen days of service of such notice upon him, the lessee may in the manner prescribed enter an appearance to such complaint and apply for a hearing.

25 (2) If the lessee enters an appearance within the prescribed time, the Minister shall notify the complainant and require him to lodge, within seven days, the sum of five pounds to abide the costs of the hearing.

30 (3) The Minister may, whether the lessee has or has not entered an appearance, direct a warden to hear the complaint.

35 (4) Upon receipt of such direction, the warden shall fix a day for hearing the complaint and application, and shall give not less than fourteen clear days' notice of such hearing to the complainant and the lessee. On the day fixed, the warden may take evidence on oath in open court as to the subject matter of the complaint, and shall forward a copy of such evidence to the Minister, together with his report and recommendation. (5)

Mining (Amendment).

(5) The warden may recommend to the Minister— Finding and recommendation.

(i) if he finds the complaint proved—

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(a) that the lease be cancelled and that a lease of the subject land or any part thereof be granted to the complainant or be not so granted;

(ii) if he finds the complaint not proved or that it is disproved—

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(b) that the complaint be disallowed;

(iii) in either case—

(c) that costs be allowed to the successful party.

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The warden shall announce in open court the purport of his report and recommendation to the Minister.

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(6) Either party may within seven days after such announcement appeal in writing to the Minister against the warden's recommendation, and the Minister may direct a warden to hold a further inquiry, or may, if he considers the appeal to be frivolous or vexatious, refuse to entertain the same.

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(7) At the expiration of seven days after receipt of the warden's report and recommendation, or, where there is an appeal to the Minister, after the determination of such appeal, the Minister may— Minister's powers.

30

(a) recommend to the Governor that the lease be cancelled;

(b) recommend to the Governor that a lease of the subject land, or any part thereof, be granted to the complainant;

(c) disallow the complaint.

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(8) Where the lessee has entered an appearance, he shall, if the complaint is disallowed, be entitled to costs to be awarded by the warden, but not exceeding the amount deposited by the complainant. Costs.

(9)

Mining (Amendment).

(9) Upon the cancellation of any lease Lease to complainant.
upon complaint as aforesaid, the complainant
shall be entitled to a lease of the subject land,
or any part thereof he may have specified in his
5 application, and the Governor may grant such
lease in the same manner as if possession of
the land had been taken and application lodged
in accordance with the provisions of this Act
relating to a lease of the same class as the
10 cancelled lease. The notification that such
lease has been granted shall be published at
the same time as the notification of cancellation
of the cancelled lease.

The following new section is inserted next after New s. 125A.
15 section one hundred and twenty-five :—

125A. The lessee of any lease of Crown Removal of improve-
ments.
land granted under this Act or any Act hereby
repealed shall permit any employee who has
erected or purchased any building or other
20 improvement on the said land to remove such
building or improvement at any time during
his employment or within six months after the
determination of such employment, or to sell
such building or improvement to any other
25 person employed on or about the said land.

The following new section is inserted next after New s. 128A.
section one hundred and twenty-eight :—

128A. The title of any applicant for a lease Title not to
vitiating for
non-perform-
ance if caused
by warden.
or authority under this Act shall not be
30 vitiated by reason of the non-performance of
any act, matter, or thing required to be done
by or for the applicant for or holder of such
lease or authority if the non-performance was
caused by the fault, neglect, or absence of any
35 warden or warden's clerk.

Section one hundred and thirty-eight, subsection Section
138 (4).
four: After "made to appear" insert "to
the warden sitting in chambers."

The

Mining (Amendment).

The following subsection is inserted next after sub- Section 145.
 section five of section one hundred and forty-
 five :—

5 (6) In any proceedings before a warden's
 court for a declaration of forfeiture of any
 tenement, the court may order that forfeiture
 shall take effect on a date to be fixed by the
 court, of which notice in writing shall be given
 to the complainant alone.

10 Section one hundred and seventy-eight: Omit the Section 178.
 words, "and in the latter case such notice shall
 be advertised in two issues of a newspaper
 circulating in the district in which the land is
 situated."

15 **4.** The following sections and short heading are New Division
 inserted in the Principal Act next after Division 4 of ^{4A.}
 Part IV of that Act:—

DIVISION 4A.—*Mining on private land held
 without reservation of minerals.*

20 70A. (1) Except as hereinafter provided, it shall Grant of
 be lawful, on and after the first day of January, one authority to
 thousand nine hundred and nineteen, for the warden enter.
 to grant to any holder of a miner's right authority
 to enter and search for minerals in and upon any
 25 private lands alienated or in process of alienation
 without any reservation of minerals to the Crown
 or with a reservation of gold or gold and silver only.

(2) Application for any such authority to
 enter shall be made to, and such authority may be
 30 granted by the warden subject to assessment and
 payment of rent and compensation in the manner
 prescribed by Division 2 of this Part of this Act
 and the regulations thereunder in the case of autho-
 rities to enter applied for or granted thereunder.

35 (3) Every such authority shall confer the
 like rights and privileges and entail the like obliga-
 tions and penalties as are respectively prescribed by
 this Act in relation to authorities to enter granted
 under the said Division, save only that the holder
 40 shall not be required to pay any royalty to the
 Crown

Mining (Amendment).

Crown in respect of any minerals (other than gold, or other than silver, if silver is reserved to the Crown) won from the land included in such authority to enter.

5 70B. (1) Any holder of any such authority to enter who desires to obtain a lease of the land defined in such authority, or any part thereof, may make application for such lease, in the manner prescribed by section fifty-seven of this Act. Application
for lease.

10 (2) Leases may be granted by the Governor in the name and on behalf of His Majesty, and the provisions of Division 3 of this Part of this Act relating to the grant or refusal of applications for leases of private lands shall apply to applications made under this section.

15 (3) The provisions of this Act in relation to the term, rent, area, dimensions, form, and conditions of leases of private lands and the rights and duties of lessees shall apply to leases granted under this Division.

20 70c. (1) The holder of any authority, and the lessee of any lease granted under the preceding sections of this Division, shall at the times and in the manner prescribed pay to the Minister on behalf of the owner of the land included in such authority or lease a sum equal to five per centum of the net annual profits of working the mines or winning the minerals (other than gold or silver as aforesaid) in and from the said land. Percentage
of profits
payable.

25 (2) The Minister shall at the time and in the manner prescribed pay to the owner of the said land all the sums paid as aforesaid less an amount equal to one per centum, which he is hereby authorised to deduct from such sums; and the amounts so deducted shall be paid by the Minister into the Treasury and carried to the Consolidated Revenue Fund.

30 (3) Such holder or lessee shall also pay to the Crown in respect of any gold or any silver reserved to the Crown won from the said land a royalty of one per centum of the gross value of such

Mining (Amendment).

such gold and silver; such royalty shall be paid at the times and in the manner prescribed by section eighty-two of this Act.

5 70D. (1) No authority to enter, and no lease under this Division shall be granted in respect of any land in or upon which bona fide mining operations are being carried on by or with the concurrence of the owner at the time when the application is made: Provided that in the event of
10 any dispute arising as to whether bona fide mining operations are being carried on as aforesaid, or as to the area protected by this section, the question shall be determined by the Minister after inquiry and report by the warden.

Protection of land upon which mining operations are being carried on.

15 (2) The provisions of sections forty-seven and forty-eight of this Act shall apply to applications for authority to enter or lease under this Division.

5. The following short heading and section are
20 inserted next after section one hundred and eight of the Principal Act:—

New s. 108A.

Mining titles.

25 108A. Every lease, or authority, to mine for shale granted under the provisions of this Act or any Act hereby repealed, shall notwithstanding the terms or conditions of such authority or lease be subject to the following special conditions:—

Special conditions in shale leases.

(a) That if in the opinion of the Minister the shale in such mine, or its products, or any portion thereof, will at any time during the said term be required for the use of His Majesty's Australian Navy, the said Secretary for Mines shall have the right of pre-emption for such use as aforesaid of all shale, or the products thereof, won from the said land, at a price to be agreed upon between the Minister and the lessee, or, in case of dispute, to be fixed by arbitration.

(b)

Mining (Amendment).

(b) That in time of war the Minister, on behalf of the Crown, may assume control of the said land, and all plant and machinery erected thereon.

5 **6.** The following short heading and sections are New ss. 125B
inserted next after section 125A of the Principal Act :— and 125c.

Abandoned mines.

10 125B. Where any holder of a permit to mine Cancellation
for or remove minerals, granted under the provisions of permits.
of section seven of the Crown Lands Act of 1884,
has ceased for a continuous period of six months
to carry on mining operations on the land the subject
of such permit, the Minister may, upon being
15 satisfied that mining operations have ceased as
aforesaid, recommend the cancellation of, and the
Governor may cancel, such permit.

20 125c. (1) If it is proved to the satisfaction of Cancellation
the warden that any land the subject of any regis- of abandoned
tered title under a miner's right or business license tenements.
has been abandoned by the registered holder for a
continuous period of three months, the warden may,
on proceedings being taken by a mining registrar
or warden's bailiff as prescribed, cancel such regis-
tered title and direct the mining registrar to make
25 an entry to that effect in the register relating to
such title, and such title shall thereupon cease and
determine.

30 (2) If upon inspection of any land held or Cancellation
claimed to be held by virtue of any agreement of certain
registered or purporting to have been registered in agreements.
terms of section thirty-three of the Mining on
Private Lands Act of 1894, it appears that mining
operations on such land have ceased to be carried
on for a continuous period of three months, the
35 warden may, on proceedings being taken by a
mining registrar or warden's bailiff as prescribed,
declare the registration of such agreement to be
cancelled, and may direct the mining registrar to
make an entry in the register to that effect, and
40 such agreement shall thereupon become void and
determined.

Mining (Amendment).

7. The following short heading and section are inserted in the place of section one hundred and seventy-seven of the Principal Act, repealed by the Crown Lands Consolidation Act, 1913, and the short heading thereto:—

Resumption of private land for mining villages.

10 177. (1) Whenever, in the opinion of the Governor, any land is required for the purpose of a mining village, and no Crown land suitable for the purpose is available within a reasonable distance of the centre of mining operations, the Governor may, by notification in the Gazette, resume any private lands which he may deem necessary for such purpose, and such resumption may be of the land without any limitation as to depth, or of the surface and the land to any specified depth below the surface.

New s. 177.
Resumption
or surrender
of land for
mining
villages.

20 (2) Upon publication of such notification in the Gazette, such private lands shall vest in His Majesty, freed and discharged from all estates, interests, and trusts, affecting the same, and shall become Crown lands within the meaning of the Crown Lands Consolidation Act, 1913, and this Act, and may be disposed of under any such Act, but shall be reserved from sale or lease and exempted from occupation under any miner's right or business license until the Governor, by notification in the Gazette, revokes such reservation or exemption.

30 (3) Upon publication of such notification the owner of such land shall be entitled to compensation for the loss of his interest therein; and in the event of there being a tenant or rightful occupier of such land other than the owner, such tenant or occupier shall be entitled to compensation for the loss of his interest therein.

35 (4) The Minister may direct the warden or other person to assess the market value of such land and any improvements thereon at the date of resumption, reasonable allowance being made for any

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Mining (Amendment).

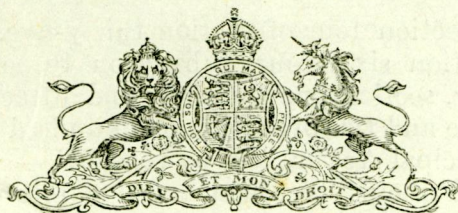
5 any damage that may be caused by severance ; and
if there is any person other than the owner having
interest in such land, the value of such interest
shall also be assessed, and such assessed value shall
be paid to the persons entitled thereto respectively.

10 (5) It shall be lawful, if the owner so desires,
for the Governor to accept a surrender of such
private lands, and to grant to the owner by way of
exchange any area of Crown lands of equal value,
and the provisions of the Crown Lands Consoli-
dation Act, 1913, relative to surrender and exchange
of lands shall apply to any such surrender or
exchange.

Sydney : William Applegate Gullick, Government Printer. —1918.

[1s. 4d.]

New South Wales.



ANNO NONO

GEORGII V REGIS.

Act No. 41, 1918.

An Act to amend the law relating to mining; to amend the Mining Act, 1906, and the Acts relating to Crown lands; to make further provision for mining on private lands; to deal with certain mining titles; to provide for entry into certain lands; to provide that employees may remove or sell certain buildings and improvements; to provide for the resumption of land for mining villages; and for other purposes. [Assented to, 18th December, 1918.]

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

1. This Act shall be construed with the Mining Act, 1906, hereinafter called the Principal Act, and may be cited as the "Mining (Amendment) Act, 1918." Short title.

A

PART

Mining (Amendment).

PART I.

AMENDMENTS OF THE PRINCIPAL ACT.

Repeal.

2. Subsection four of section thirty-five, subsection two of section sixty-four, subsection three of section ninety-four, section one hundred and fifteen, and subsections one and two of section one hundred and sixteen of the Principal Act are hereby repealed.

Amendment
of sections of
Principal Act.
Section 3.

3. The Principal Act is amended as follows :—

Section three, paragraph (f) : After “conditional purchase lease” insert “or application for any such lease, settlement lease, special lease for other than pastoral purposes, Crown lease not expressly limited to grazing, residential lease, homestead farm, additional homestead farm, suburban holding, additional suburban holding, irrigation farm, irrigation lease, week-end lease, lease under any Act hereby repealed”

After the definition of “small coal” insert :—

“Street, road, or highway,” includes any street, road, or lane, whether vested in His Majesty, or under the control of any municipal or shire council, or forming part of any subdivision of private land.

Section 14 (1).

Section fourteen, subsection one : Omit paragraph (b).

Section 14 (3).

Subsection three : Omit “as aforesaid” and insert “for mining or mining purposes, or for residence under any miner’s right, or for business purposes under any business license.”

Section 16 (3).

Section sixteen : Insert at the end of subsection three :—

“The holder of a residence area may erect any building or structure upon the land so occupied, and may remove or dispose of the same during occupation, or at any time within one month or within such further time, not exceeding six months, as the warden may order and direct, after ceasing to occupy such residence area.”

Section

Mining (Amendment).

Section twenty-three, subsection two: Omit paragraphs (c) and (d), and insert:—

(d) Mining leases of auriferous alluvial Crown land shall only be granted—

(a) if in the opinion of the Minister—

(i) the land has been worked and abandoned; or

(ii) it is necessary that leases be granted, owing to the difficulties and cost attending the construction of mine works upon or of mining such land; or

(b) if the land is exempted from occupation under miner's right.

Section twenty-eight: Add the following proviso at the end of the section:—

“Provided that such rights as aforesaid shall not accrue to any applicant for a mining lease of any street, road, or highway, or any Crown land reserved or dedicated for and in actual use for any public purpose.”

Section thirty-five: Insert the following subsection in lieu of subsection four hereby repealed:—

(4) Except as hereinafter provided, the area of a lease for mining for opal shall not exceed one hundred and fifty feet square: Provided that a lease of any area not exceeding ten acres may be granted if the prospecting board certifies that a greater area than aforesaid is necessary by reason of the difficulties and cost attending the construction of mine works upon or of mining such land.

Section thirty-six, subsection one: After “this Part” insert “before the commencement of the Mining (Amendment) Act, 1918.”

Section thirty-six:—

Insert the following subsections next after subsection two:—

(2A) The annual rent for a gold-mining lease or a mineral lease granted under this Part

Mining (Amendment).

Part, after the commencement of the Mining (Amendment) Act, 1918, shall be one shilling per acre, or portion of an acre.

(2B) A royalty shall be paid of one per centum of the value of all gold and minerals (other than coal or shale) won from the land demised by lease so granted after such commencement: Provided that the lessee shall not be required to pay royalty in any one year if the gross output does not exceed five hundred pounds in value during such year.

(2C) A royalty shall be paid of sixpence per ton on all shale or coal won from land demised by lease so granted after such commencement.

Section 36.

Section thirty-six:—

- (a) In subsection three omit “so granted,” insert “granted under this Part.”
- (b) Omit in subsection four the words “in all cases” and insert “in respect of a gold-mining lease or mineral lease.”
- (c) Insert the following words at the end of subsection five:—“For the purposes of this subsection, leases amalgamated in accordance with the provisions of this Act, or any Act hereby repealed, shall be regarded as one lease.”

New s. 39A.

The following new section is inserted next after section thirty-nine:—

Renewal of
Crown lands
lease for
further term.

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

Section 44.

Section forty-four: Insert the following subsection after subsection three:—

Tailings, &c.,
on land held
under re-
pealed Acts.

(4) Any tailings, ore, minerals, or stone left upon Crown land held under lease under any Act hereby repealed, and remaining upon such land

Mining (Amendment).

land after the expiration of six months from the date of determination of such lease, shall become the absolute property of the Crown, and shall form part of the land.

Section forty-five: In the definition of "owner," Section 45. omit "conditional lessee," and insert "lessee from the Crown."

Omit "In this Part the word 'minerals' shall not include coal or shale, nor shall coal or shale be included within the substances which may be declared minerals by proclamation of the Governor."

Section fifty, subsection one: Insert at the end of Section 50 (1). the subsection:—"An authority to enter may be granted in respect of an area comprising lands held by two or more owners, provided that such lands are adjoining or separated only by a street, road or stream."

Section fifty, subsection two: Insert at the end of Section 50 (2). the subsection:

(c) If the applicant fails to attend after notice of inquiry under section fifty-one has been served upon him.

The following new section and short heading are New s. 50A. inserted next after section fifty:—

Interim authority to enter.

50A. (1) Upon receipt of any application for Interim authority to enter and search for gold upon any authority. private lands, or for authority to enter and search for any mineral other than gold upon lands which within his knowledge are open to mining under this Part for all minerals, the warden or warden's clerk may, at the request of the applicant, issue in the prescribed form an interim authority to enter such lands, upon payment by the applicant of such sum, not exceeding ten shillings, as the warden or warden's clerk may consider necessary to cover rent and compensation for surface damage.

(2)

Mining (Amendment).

(2) Upon payment of such sum the warden or warden's clerk shall forthwith, in the presence of the applicant, mark out, or cause to be marked out by the warden's bailiff, the area required by the applicant.

(3) Such interim authority shall be for such period, not exceeding one month, as the warden or warden's clerk may think necessary, pending the holding of the inquiry prescribed by section fifty-one of this Act.

(4) Such interim authority shall entitle the holder to enter upon the land therein described during the period therein named, and do all such acts and things as may be necessary for prospecting the said land, but shall not entitle the holder to apply for a lease of the subject land.

(5) An interim authority to enter shall not be granted in respect of land the subject of any title under this Part, or of a pending application for authority to enter, lodged by any person other than the applicant for such interim authority. The warden's decision as to whether the area applied for is or is not the subject of any pending application shall be final.

Section 57 (1).

Section fifty-seven: insert the following proviso after subsection one:—

Provided that the holder of two or more authorities to enter upon adjoining lands may apply for a lease of the whole or any part of the lands included in such authorities, not exceeding the extent prescribed by section sixty-three.

New s. 57A.

The following new section and short heading are inserted next after section fifty-seven:—

Conditional purchase, or lease not confirmed.

57A. (1) Where application for authority to enter has been lodged, or authority to enter under this Part has been granted in respect of

Applicant for authority to enter to be deemed in certain cases to be in possession.

Mining (Amendment).

of land the subject of an application for conditional purchase, or for any lease, under the Crown Lands Acts, and any such conditional purchase or lease application is refused, the applicant for or holder of such authority to enter shall be deemed to be in possession of the subject land, and to be entitled to apply for a lease of such land as Crown land—

- (a) where an authority to enter has not been granted, within one month after the date of refusal as aforesaid ;
- (b) where an authority to enter has been granted, at any time during the currency of such authority :

Provided that no extension of any such authority shall be granted by the warden, and any rent payable under such authority after the date of refusal shall be paid to the warden's clerk on behalf of the Crown.

(2) If the applicant for or holder of an authority to enter as aforesaid fails to apply for a lease within the time prescribed his title shall lapse.

Section sixty, subsection one : Omit "to the holder of any lease under this Act, or to any person carrying on mining operations," and insert in lieu thereof "to any person." Section 60(1).

Section sixty-one : Insert the following proviso at the end of the section :— Section 61.

Provided that where the surface and the land to a specified depth below the surface is excepted from any land held under lease under this Part, such excepted surface and the land to the specified depth shall be open to application by any person for authority to enter or lease under this Part.

Section sixty-three : Omit all words after "twenty-five acres" to the end of the first paragraph, and insert the words "to mine for opal shall not exceed one hundred and fifty feet square, to mine for coal or shale shall not exceed six hundred" Section 63.

Mining (Amendment).

hundred and forty acres, and to mine for any mineral other than gold, coal, shale, or opal shall not exceed eighty acres."

Section 64 (1).

Section sixty-four, subsection one: After the word "lease" first appearing insert "(except a lease under section sixty)," and in lieu of subsection two hereby repealed, insert the following:—

(2) The Minister may direct the warden to assess compensation to be paid by the applicant to the owner or occupier in addition to the compensation already paid in respect of the authority to enter.

New s. 67A.

The following new section and short heading are inserted next after section sixty-seven:—

Tailings, &c., on determined leases.

Tailings, &c.,
left after
expiry of
lease.

67A. Any tailings, ore, minerals, or stone left upon private lands formerly held under lease under this Act or any Act hereby repealed, and remaining upon such land, shall be and be deemed to be part of the said land—

- (a) in the case of a lease under any Act hereby repealed, after the expiration of twelve months from the date of determination of such lease;
- (b) in the case of a lease under this Act, after the expiration of thirty days from the date of determination of such lease.

Section 68 (3).

Section sixty-eight: Omit subsection three.

Section 82 (1).

Section eighty-two, subsection one: After "minerals" first appearing insert "except coal or shale."

Subsection two: Omit the subsection, insert—

(2) A royalty shall be paid of sixpence per ton on all coal or shale obtained from any land held under an authority to enter or a lease under this Part.

Subsection four: Insert the following words at the end of the subsection:—"For the purposes of

Mining (Amendment).

of this subsection, leases of private lands amalgamated in accordance with the provisions of this Act or any Act hereby repealed shall be regarded as one lease; but where a lease of Crown lands is amalgamated with a lease of private lands, the lessee shall not be entitled to deduct the rent paid in respect of such lease of Crown lands from the royalty payable in respect of the gold or mineral won from such private lands."

Section ninety-eight, subsection two: Insert the following words at the end of the subsection:—"For the purposes of this subsection, dredging leases amalgamated in accordance with the provisions of this Act shall be regarded as one lease: Provided that the lessee shall not be entitled to deduct the rent paid in respect of any dredging lease granted under any Act hereby repealed from the royalty payable in respect of such amalgamated leases." Section 98 (2).

The following subsection is inserted next after subsection four of section one hundred and eleven:— Section 111.

(5) Every such authority shall be and remain in force for the period stated therein, notwithstanding that the claim or lease upon which the authority operates has determined during such period; but the holder of such authority may at any time surrender the same.

The following section is inserted in lieu of section one hundred and fifteen hereby repealed:— New s. 115.

115. (1) Every holder of a lease, or other title to mine, subject to the payment of any sum by way of royalty to the Crown, granted under this Act, or any Act hereby repealed, shall, during the first fourteen days of the month of January in each year, furnish to the Minister a full and proper return, verified by statutory declaration, showing the quantity and value Return to be furnished by holder of lease, &c.

Mining (Amendment).

value of gold or minerals including coal and shale won from the land held under lease, or other title to mine during the preceding year ending the thirty-first day of December.

(2) Every such return shall be in the form prescribed, and if the holder of such lease or other title to mine is a public company such return shall be furnished by the manager or person acting in the management, or by the secretary of the company.

(3) Any such holder or any such manager, person, or secretary who fails to furnish such return within the prescribed time or in the prescribed form shall be liable to a penalty not exceeding fifty pounds, and to a further penalty not exceeding five pounds for every day after the expiration of the said fourteen days during which he fails to furnish such return.

Section 116
(1) and (2).

Further
particulars
and inquiries.

The following subsection is inserted in lieu of subsections one and two of section one hundred and sixteen hereby repealed :—

116. (1) If the Minister is not satisfied with any return furnished in accordance with the last preceding section, he may require the person furnishing the same to furnish further particulars of the gold or minerals won, or may, whether any return has been furnished or not, appoint any officer of his department or other person to make all necessary inquiries in relation to such gold or minerals. The officer or person so appointed may make all such inquiries, and may require such holder, or his clerk, or the manager, secretary, or clerk of any such company to produce for his inspection at the office of such holder or company any books, accounts, documents, writings, papers, or instruments in his possession or under his control that such officer or person may consider necessary to enable him to ascertain the quantity of gold or minerals won, and may make copies of
of

Mining (Amendment).

of any entries or matters contained in such books, accounts, documents, writings, papers, or instruments, and upon completion of such inquiries, such officer or person shall report thereon to the Minister.

Section one hundred and eighteen, subsection one: Omit "adjoining" before the word "dredging" and insert at the end of the subsection "any amalgamation of dredging leases not adjoining which has been authorised by the Minister before the commencement of the Mining (Amendment) Act, 1918, shall be and be deemed to have been duly authorised." Section 118 (1).

Section one hundred and twenty: After subsection three, insert the following subsection:— Section 120.

(4) Any geological surveyor may enter any private lands in the performance of his duties.

The following new section is inserted next after section one hundred and twenty-two:— New s. 122A.

122A. (1) The Sludge Abatement Board, for the purpose of conducting any investigation under the authority of this Act, shall have the same powers and authority to summon witnesses and receive evidence as are conferred upon commissioners by letters patent by the Royal Commissioners Evidence Act, 1901; and all the provisions of the last-mentioned Act shall apply to witnesses so summoned, and evidence so received and given, as completely and effectually as if such witnesses had been summoned, and such evidence had been received or given by virtue or under the authority of the Act lastly hereinbefore cited. Powers of board to take evidence.

(2) The Minister, upon the recommendation of the Sludge Abatement Board, may, by notice in writing under his hand, require any person carrying on any sluicing, dredging, or other mining operations to erect such works or take such steps as the board may deem necessary to prevent the discharge of Notice by Minister to erect works to prevent discharge of water.

Mining (Amendment).

of water from the place where any such sluicing, dredging, or other mining operations are being carried on into any river, stream, watercourse, lake, or reservoir, notwithstanding that the water so discharged does not contain solid matter in the total proportion of more than eight hundred grains to one gallon.

Works to be specified.

(3) Every such notice shall specify the works to be erected or the steps to be taken by such person, and shall state a time within which the required action is to be completed.

Apportionment of cost of works.

(4) When notice is given to two or more neighbouring persons, the Minister may, on the recommendation of the board, determine what proportions of the cost of the works shall be borne by such persons respectively.

Pollution of water.

(5) Where by reason of the carrying on of any sluicing, dredging, or other mining operations in the bed of any river, stream, watercourse, lake, or reservoir, the water of such river, stream, watercourse, lake, or reservoir becomes charged with any poisonous or noxious matter, or any earthy or other insoluble mineral substance, so as, in the opinion of the board, to pollute or tend to pollute such water, notwithstanding that such water does not contain solid matter in the total proportion of more than eight hundred grains to one gallon, the Minister, on the recommendation of the board, may, as hereinbefore prescribed, require the persons carrying on such sluicing, dredging, or other mining operations, to take such steps as the board may deem necessary to prevent or reduce such pollution.

Penalties.

(6) Any person who neglects or fails to comply with the requirements of any notice given under this section within the time therein stated shall be guilty of an offence, and shall be liable to a penalty not exceeding twenty-five pounds, and to a further penalty not exceeding five

Mining (Amendment).

five pounds for every day after the expiry of such time during which he shall fail to comply with the requirements of such notice.

The following new section and short heading are New s. 124A.
inserted next after section one hundred and twenty-four:—

Complaint as to non-compliance with labour conditions.

124A. (1) Any person may give notice in writing by complaint to the Minister in the prescribed form of non-compliance with the labour conditions by the lessee of any lease granted under this Act or any Act hereby repealed, and may at the same time apply for a lease of the land comprised in such lease, or any part thereof in the event of such lease being cancelled. Such complaint and application shall be lodged at the Department of Mines, Sydney, and the Minister shall forthwith cause a notice to be served upon the lessee, informing him of such complaint and application. Within fourteen days of service of such notice upon him, the lessee may in the manner prescribed enter an appearance to such complaint and apply for a hearing.

Complaint as to non-compliance with labour conditions.

(2) If the lessee enters an appearance within the prescribed time, the Minister shall notify the complainant and require him to lodge, within seven days, the sum of five pounds to abide the costs of the hearing.

Deposit.

(3) The Minister may, whether the lessee has or has not entered an appearance, direct a warden to hear the complaint.

Direction for hearing.

(4) Upon receipt of such direction, the warden shall fix a day for hearing the complaint and application, and shall give not less than fourteen clear days' notice of such hearing to the complainant and the lessee. On the day fixed, the warden may take evidence on oath in open court as to the subject matter of the complaint, and shall forward a copy of such evidence to the Minister, together with his report and recommendation.

Hearing.

(5)

Mining (Amendment).

Finding and
recommendation.

(5) The warden may recommend to the Minister—

- (i) if he finds the complaint proved—
 - (a) that the lease be cancelled and that a lease of the subject land or any part thereof be granted to the complainant or be not so granted;
- (ii) if he finds the complaint not proved or that it is disproved—
 - (b) that the complaint be disallowed;
- (iii) in either case—
 - (c) that costs be allowed to the successful party.

The warden shall announce in open court the purport of his report and recommendation to the Minister.

Appeal.

(6) Either party may within seven days after such announcement appeal in writing to the Minister against the warden's recommendation, and the Minister may direct a warden to hold a further inquiry, or may, if he considers the appeal to be frivolous or vexatious, refuse to entertain the same.

Minister's
powers.

(7) At the expiration of seven days after receipt of the warden's report and recommendation, or, where there is an appeal to the Minister, after the determination of such appeal, the Minister may—

- (a) recommend to the Governor that the lease be cancelled;
- (b) recommend to the Governor that a lease of the subject land, or any part thereof, be granted to the complainant;
- (c) disallow the complaint.

Costs.

(8) Where the lessee has entered an appearance, he shall, if the complaint is disallowed, be entitled to costs to be awarded by the warden, but not exceeding the amount deposited by the complainant.

(9)

Mining (Amendment).

(9) Upon the cancellation of any lease upon complaint as aforesaid, the complainant shall be entitled to a lease of the subject land, or any part thereof he may have specified in his application, and the Governor may grant such lease in the same manner as if possession of the land had been taken and application lodged in accordance with the provisions of this Act relating to a lease of the same class as the cancelled lease. The notification that such lease has been granted shall be published at the same time as the notification of cancellation of the cancelled lease.

Lease to
complainant

The following new section is inserted next after section one hundred and twenty-five:—

125A. The lessee of any lease of Crown land granted under this Act or any Act hereby repealed shall permit any employee who has erected or purchased any building or other improvement on the said land to remove such building or improvement at any time during his employment or within six months after the determination of such employment, or to sell such building or improvement to any other person employed on or about the said land.

Removal of
improve-
ments.

The following new section is inserted next after section one hundred and twenty-eight:—

128A. The title of any applicant for a lease or authority under this Act shall not be vitiated by reason of the non-performance of any act, matter, or thing required to be done by or for the applicant for or holder of such lease or authority if the non-performance was caused by the fault, neglect, or absence of any warden or warden's clerk.

Title not to be
vitiated for
non-perform-
ance if caused
by warden.

Section one hundred and thirty-eight, subsection four: After "made to appear" insert "to the warden sitting in chambers."

Section
138 (4).

The

Mining (Amendment).

Section 145.

The following subsection is inserted next after subsection five of section one hundred and forty-five :—

(6) In any proceedings before a warden's court for a declaration of forfeiture of any tenement, the court may order that forfeiture shall take effect on a date to be fixed by the court, of which notice in writing shall be given to the complainant alone.

Section 178.

Section one hundred and seventy-eight: Omit the words, "and in the latter case such notice shall be advertised in two issues of a newspaper circulating in the district in which the land is situated."

New Division
4A.

4. The following sections and short heading are inserted in the Principal Act next after Division 4 of Part IV of that Act :—

DIVISION 4A.—*Mining on private land held
without reservation of minerals.*

Grant of
authority to
enter.

70A. (1) Except as hereinafter provided, it shall be lawful, on and after the first day of January, one thousand nine hundred and nineteen, for the warden to grant to any holder of a miner's right authority to enter and search for minerals in and upon any private lands alienated or in process of alienation without any reservation of minerals to the Crown or with a reservation of gold or gold and silver only.

(2) Application for any such authority to enter shall be made to, and such authority may be granted by the warden subject to assessment and payment of rent and compensation in the manner prescribed by Division 2 of this Part of this Act and the regulations thereunder in the case of authorities to enter applied for or granted thereunder.

(3) Every such authority shall confer the like rights and privileges and entail the like obligations and penalties as are respectively prescribed by this Act in relation to authorities to enter granted under the said Division, save only that the holder shall not be required to pay any royalty to the Crown

Mining (Amendment).

Crown in respect of any minerals (other than gold, or other than silver, if silver is reserved to the Crown) won from the land included in such authority to enter.

70B. (1) Any holder of any such authority to enter who desires to obtain a lease of the land defined in such authority, or any part thereof, may make application for such lease, in the manner prescribed by section fifty-seven of this Act.

Application
for lease.

(2) Leases may be granted by the Governor in the name and on behalf of His Majesty, and the provisions of Division 3 of this Part of this Act relating to the grant or refusal of applications for leases of private lands shall apply to applications made under this section.

(3) The provisions of this Act in relation to the term, rent, area, dimensions, form, and conditions of leases of private lands and the rights and duties of lessees shall apply to leases granted under this Division.

70C. (1) The holder of any authority, and the lessee of any lease granted under the preceding sections of this Division, shall at the times and in the manner prescribed pay to the Minister on behalf of the owner of the land included in such authority or lease a sum equal to five per centum of the net annual profits of working the mines or winning the minerals (other than gold or silver as aforesaid) in and from the said land.

Percentage
of profits
payable.

(2) The Minister shall at the time and in the manner prescribed pay to the owner of the said land all the sums paid as aforesaid less an amount equal to one per centum, which he is hereby authorised to deduct from such sums; and the amounts so deducted shall be paid by the Minister into the Treasury and carried to the Consolidated Revenue Fund.

(3) Such holder or lessee shall also pay to the Crown in respect of any gold or any silver reserved to the Crown won from the said land a royalty of one per centum of the gross value of

B

such

Mining (Amendment).

such gold and silver; such royalty shall be paid at the times and in the manner prescribed by section eighty-two of this Act.

Protection of land upon which mining operations are being carried on.

70D. (1) No authority to enter, and no lease under this Division shall be granted in respect of any land in or upon which bona fide mining operations are being carried on by or with the concurrence of the owner at the time when the application is made: Provided that in the event of any dispute arising as to whether bona fide mining operations are being carried on as aforesaid, or as to the area protected by this section, the question shall be determined by the Minister after inquiry and report by the warden.

(2) The provisions of sections forty-seven and forty-eight of this Act shall apply to applications for authority to enter or lease under this Division.

New s. 108A.

5. The following short heading and section are inserted next after section one hundred and eight of the Principal Act:—

Mining titles.

Special conditions in shale leases.

108A. Every lease, or authority, to mine for shale granted under the provisions of this Act or any Act hereby repealed, shall notwithstanding the terms or conditions of such authority or lease be subject to the following special conditions:—

(a) That if in the opinion of the Minister the shale in such mine, or its products, or any portion thereof, will at any time during the said term be required for the use of His Majesty's Australian Navy, the said Secretary for Mines shall have the right of pre-emption for such use as aforesaid of all shale, or the products thereof, won from the said land, at a price to be agreed upon between the Minister and the lessee, or, in case of dispute, to be fixed by arbitration.

(b)

Mining (Amendment).

- (b) That in time of war the Minister, on behalf of the Crown, may assume control of the said land, and all plant and machinery erected thereon.

6. The following short heading and sections are inserted next after section 125A of the Principal Act :— New ss. 125B and 125C,

Abandoned mines.

125B. Where any holder of a permit to mine for or remove minerals, granted under the provisions of section seven of the Crown Lands Act of 1884, has ceased for a continuous period of six months to carry on mining operations on the land the subject of such permit, the Minister may, upon being satisfied that mining operations have ceased as aforesaid, recommend the cancellation of, and the Governor may cancel, such permit. Cancellation of permits.

125C. (1) If it is proved to the satisfaction of the warden that any land the subject of any registered title under a miner's right or business license has been abandoned by the registered holder for a continuous period of three months, the warden may, on proceedings being taken by a mining registrar or warden's bailiff as prescribed, cancel such registered title and direct the mining registrar to make an entry to that effect in the register relating to such title, and such title shall thereupon cease and determine. Cancellation of abandoned tenements.

(2) If upon inspection of any land held or claimed to be held by virtue of any agreement registered or purporting to have been registered in terms of section thirty-three of the Mining on Private Lands Act of 1894, it appears that mining operations on such land have ceased to be carried on for a continuous period of three months, the warden may, on proceedings being taken by a mining registrar or warden's bailiff as prescribed, declare the registration of such agreement to be cancelled, and may direct the mining registrar to make an entry in the register to that effect, and such agreement shall thereupon become void and determined. Cancellation of certain agreements.

Mining (Amendment).

New s. 177.

7. The following short heading and section are inserted in the place of section one hundred and seventy-seven of the Principal Act, repealed by the Crown Lands Consolidation Act, 1913, and the short heading thereto :—

Resumption of private land for mining villages.

Resumption
or surrender
of land for
mining
villages.

177. (1) Whenever, in the opinion of the Governor, any land is required for the purpose of a mining village, and no Crown land suitable for the purpose is available within a reasonable distance of the centre of mining operations, the Governor may, by notification in the Gazette, resume any private lands which he may deem necessary for such purpose, and such resumption may be of the land without any limitation as to depth, or of the surface and the land to any specified depth below the surface.

(2) Upon publication of such notification in the Gazette, such private lands shall vest in His Majesty, freed and discharged from all estates, interests, and trusts, affecting the same, and shall become Crown lands within the meaning of the Crown Lands Consolidation Act, 1913, and this Act, and may be disposed of under any such Act, but shall be reserved from sale or lease and exempted from occupation under any miner's right or business license until the Governor, by notification in the Gazette, revokes such reservation or exemption.

(3) Upon publication of such notification the owner of such land shall be entitled to compensation for the loss of his interest therein; and in the event of there being a tenant or rightful occupier of such land other than the owner, such tenant or occupier shall be entitled to compensation for the loss of his interest therein.

(4) The Minister may direct the warden or other person to assess the market value of such land and any improvements thereon at the date of resumption, reasonable allowance being made for
any

Mining (Amendment).

any damage that may be caused by severance; and if there is any person other than the owner having interest in such land, the value of such interest shall also be assessed, and such assessed value shall be paid to the persons entitled thereto respectively.

(5) It shall be lawful, if the owner so desires, for the Governor to accept a surrender of such private lands, and to grant to the owner by way of exchange any area of Crown lands of equal value, and the provisions of the Crown Lands Consolidation Act, 1913, relative to surrender and exchange of lands shall apply to any such surrender or exchange.

By Authority :

WILLIAM APPEGATE GULLICK, Government Printer, Sydney, 1918.

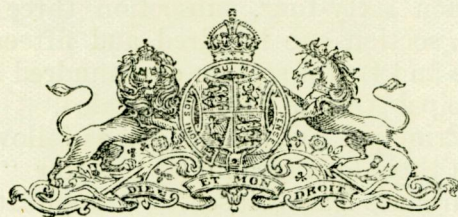
[10d.]

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. S. MOWLE,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 5 December, 1918.*

New South Wales.



ANNO NONO

GEORGII V REGIS.

Act No. 41, 1918.

An Act to amend the law relating to mining; to amend the Mining Act, 1906, and the Acts relating to Crown lands; to make further provision for mining on private lands; to deal with certain mining titles; to provide for entry into certain lands; to provide that employees may remove or sell certain buildings and improvements; to provide for the resumption of land for mining villages; and for other purposes. [Assented to, 18th December, 1918.]

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

1. This Act shall be construed with the Mining ^{Short title.} Act, 1906, hereinafter called the Principal Act, and may be cited as the "Mining (Amendment) Act, 1918."

PART

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

DANIEL LEVY,
Chairman of Committees of the Legislative Assembly.

Mining (Amendment).

PART I.

AMENDMENTS OF THE PRINCIPAL ACT.

Repeal.

2. Subsection four of section thirty-five, subsection two of section sixty-four, subsection three of section ninety-four, section one hundred and fifteen, and subsections one and two of section one hundred and sixteen of the Principal Act are hereby repealed.

Amendment
of sections of
Principal Act.
Section 3.

3. The Principal Act is amended as follows :—

Section three, paragraph (f) : After “conditional purchase lease” insert “or application for any such lease, settlement lease, special lease for other than pastoral purposes, Crown lease not expressly limited to grazing, residential lease, homestead farm, additional homestead farm, suburban holding, additional suburban holding, irrigation farm, irrigation lease, week-end lease, lease under any Act hereby repealed”

After the definition of “small coal” insert :—

“Street, road, or highway,” includes any street, road, or lane, whether vested in His Majesty, or under the control of any municipal or shire council, or forming part of any subdivision of private land.

Section 14 (1).

Section fourteen, subsection one : Omit paragraph (b).

Section 14 (3).

Subsection three : Omit “as aforesaid” and insert “for mining or mining purposes, or for residence under any miner’s right, or for business purposes under any business license.”

Section 16 (3).

Section sixteen : Insert at the end of subsection three :—

“The holder of a residence area may erect any building or structure upon the land so occupied, and may remove or dispose of the same during occupation, or at any time within one month or within such further time, not exceeding six months, as the warden may order and direct, after ceasing to occupy such residence area.”

Section

Mining (Amendment).

Section twenty-three, subsection two: Omit paragraphs (c) and (d), and insert:—

(d) Mining leases of auriferous alluvial Crown land shall only be granted—

(a) if in the opinion of the Minister—

(i) the land has been worked and abandoned; or

(ii) it is necessary that leases be granted, owing to the difficulties and cost attending the construction of mine works upon or of mining such land; or

(b) if the land is exempted from occupation under miner's right.

Section twenty-eight: Add the following proviso at the end of the section:—

“Provided that such rights as aforesaid shall not accrue to any applicant for a mining lease of any street, road, or highway, or any Crown land reserved or dedicated for and in actual use for any public purpose.”

Section thirty-five: Insert the following subsection in lieu of subsection four hereby repealed:—

(4) Except as hereinafter provided, the area of a lease for mining for opal shall not exceed one hundred and fifty feet square: Provided that a lease of any area not exceeding ten acres may be granted if the prospecting board certifies that a greater area than aforesaid is necessary by reason of the difficulties and cost attending the construction of mine works upon or of mining such land.

Section thirty-six, subsection one: After “this Part” insert “before the commencement of the Mining (Amendment) Act, 1918.”

Section thirty-six:—

Insert the following subsections next after subsection two:—

(2A) The annual rent for a gold-mining lease or a mineral lease granted under this Part

Mining (Amendment).

Part, after the commencement of the Mining (Amendment) Act, 1918, shall be one shilling per acre, or portion of an acre.

(2B) A royalty shall be paid of one per centum of the value of all gold and minerals (other than coal or shale) won from the land demised by lease so granted after such commencement: Provided that the lessee shall not be required to pay royalty in any one year if the gross output does not exceed five hundred pounds in value during such year.

(2c) A royalty shall be paid of sixpence per ton on all shale or coal won from land demised by lease so granted after such commencement.

Section 36.

Section thirty-six:—

- (a) In subsection three omit "so granted," insert "granted under this Part."
- (b) Omit in subsection four the words "in all cases" and insert "in respect of a gold-mining lease or mineral lease."
- (c) Insert the following words at the end of subsection five:—"For the purposes of this subsection, leases amalgamated in accordance with the provisions of this Act, or any Act hereby repealed, shall be regarded as one lease."

New s. 39A.

The following new section is inserted next after section thirty-nine:—

Renewal of
Crown lands
lease for
further term.

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

Section 44.

Section forty-four: Insert the following subsection after subsection three:—

Tailings, &c.,
on land held
under re-
pealed Acts.

(4) Any tailings, ore, minerals, or stone left upon Crown land held under lease under any Act hereby repealed, and remaining upon such land

Mining (Amendment).

land after the expiration of six months from the date of determination of such lease, shall become the absolute property of the Crown, and shall form part of the land.

Section forty-five: In the definition of "owner," Section 45. omit "conditional lessee," and insert "lessee from the Crown."

Omit "In this Part the word 'minerals' shall not include coal or shale, nor shall coal or shale be included within the substances which may be declared minerals by proclamation of the Governor."

Section fifty, subsection one: Insert at the end of Section 50(1). the subsection:—"An authority to enter may be granted in respect of an area comprising lands held by two or more owners, provided that such lands are adjoining or separated only by a street, road or stream."

Section fifty, subsection two: Insert at the end of Section 50(2). the subsection:

(c) If the applicant fails to attend after notice of inquiry under section fifty-one has been served upon him.

The following new section and short heading are New s. 50A. inserted next after section fifty:—

Interim authority to enter.

50A. (1) Upon receipt of any application for ^{Interim} authority to enter and search for gold upon any ^{authority.} private lands, or for authority to enter and search for any mineral other than gold upon lands which within his knowledge are open to mining under this Part for all minerals, the warden or warden's clerk may, at the request of the applicant, issue in the prescribed form an interim authority to enter such lands, upon payment by the applicant of such sum, not exceeding ten shillings, as the warden or warden's clerk may consider necessary to cover rent and compensation for surface damage.

(2)

Mining (Amendment).

(2) Upon payment of such sum the warden or warden's clerk shall forthwith, in the presence of the applicant, mark out, or cause to be marked out by the warden's bailiff, the area required by the applicant.

(3) Such interim authority shall be for such period, not exceeding one month, as the warden or warden's clerk may think necessary, pending the holding of the inquiry prescribed by section fifty-one of this Act.

(4) Such interim authority shall entitle the holder to enter upon the land therein described during the period therein named, and do all such acts and things as may be necessary for prospecting the said land, but shall not entitle the holder to apply for a lease of the subject land.

(5) An interim authority to enter shall not be granted in respect of land the subject of any title under this Part, or of a pending application for authority to enter, lodged by any person other than the applicant for such interim authority. The warden's decision as to whether the area applied for is or is not the subject of any pending application shall be final.

Section 57 (i).

Section fifty-seven: insert the following proviso after subsection one:—

Provided that the holder of two or more authorities to enter upon adjoining lands may apply for a lease of the whole or any part of the lands included in such authorities, not exceeding the extent prescribed by section sixty-three.

New s. 57A.

The following new section and short heading are inserted next after section fifty-seven:—

Conditional purchase, or lease not confirmed.

57A. (1) Where application for authority to enter has been lodged, or authority to enter under this Part has been granted in respect of

Applicant for authority to enter to be deemed in certain cases to be in possession,

Mining (Amendment).

of land the subject of an application for conditional purchase, or for any lease, under the Crown Lands Acts, and any such conditional purchase or lease application is refused, the applicant for or holder of such authority to enter shall be deemed to be in possession of the subject land, and to be entitled to apply for a lease of such land as Crown land—

- (a) where an authority to enter has not been granted, within one month after the date of refusal as aforesaid ;
- (b) where an authority to enter has been granted, at any time during the currency of such authority :

Provided that no extension of any such authority shall be granted by the warden, and any rent payable under such authority after the date of refusal shall be paid to the warden's clerk on behalf of the Crown.

(2) If the applicant for or holder of an authority to enter as aforesaid fails to apply for a lease within the time prescribed his title shall lapse.

Section sixty, subsection one : Omit "to the holder of any lease under this Act, or to any person carrying on mining operations," and insert in lieu thereof "to any person." Section 60(1).

Section sixty-one : Insert the following proviso at the end of the section :— Section 61.

Provided that where the surface and the land to a specified depth below the surface is excepted from any land held under lease under this Part, such excepted surface and the land to the specified depth shall be open to application by any person for authority to enter or lease under this Part.

Section sixty-three : Omit all words after "twenty-five acres" to the end of the first paragraph, and insert the words "to mine for opal shall not exceed one hundred and fifty feet square, to mine for coal or shale shall not exceed six hundred" Section 63.

Mining (Amendment).

hundred and forty acres, and to mine for any mineral other than gold, coal, shale, or opal shall not exceed eighty acres."

Section 64 (1).

Section sixty-four, subsection one: After the word "lease" first appearing insert "(except a lease under section sixty)," and in lieu of subsection two hereby repealed, insert the following:—

(2) The Minister may direct the warden to assess compensation to be paid by the applicant to the owner or occupier in addition to the compensation already paid in respect of the authority to enter.

New s. 67A.

The following new section and short heading are inserted next after section sixty-seven:—

Tailings, &c., on determined leases.

Tailings, &c.,
left after
expiry of
lease.

67A. Any tailings, ore, minerals, or stone left upon private lands formerly held under lease under this Act or any Act hereby repealed, and remaining upon such land, shall be and be deemed to be part of the said land—

- (a) in the case of a lease under any Act hereby repealed, after the expiration of twelve months from the date of determination of such lease;
- (b) in the case of a lease under this Act, after the expiration of thirty days from the date of determination of such lease.

Section 68 (3).

Section sixty-eight: Omit subsection three.

Section 82 (1).

Section eighty-two, subsection one: After "minerals" first appearing insert "except coal or shale."

Subsection two: Omit the subsection, insert—

(2) A royalty shall be paid of sixpence per ton on all coal or shale obtained from any land held under an authority to enter or a lease under this Part.

Subsection four: Insert the following words at the end of the subsection:—"For the purposes of

Mining (Amendment).

of this subsection, leases of private lands amalgamated in accordance with the provisions of this Act or any Act hereby repealed shall be regarded as one lease; but where a lease of Crown lands is amalgamated with a lease of private lands, the lessee shall not be entitled to deduct the rent paid in respect of such lease of Crown lands from the royalty payable in respect of the gold or mineral won from such private lands."

Section ninety-eight, subsection two: Insert the following words at the end of the subsection:—"For the purposes of this subsection, dredging leases amalgamated in accordance with the provisions of this Act shall be regarded as one lease: Provided that the lessee shall not be entitled to deduct the rent paid in respect of any dredging lease granted under any Act hereby repealed from the royalty payable in respect of such amalgamated leases."

Section 98 (2).

The following subsection is inserted next after subsection four of section one hundred and eleven:—

Section 111.

(5) Every such authority shall be and remain in force for the period stated therein, notwithstanding that the claim or lease upon which the authority operates has determined during such period; but the holder of such authority may at any time surrender the same.

The following section is inserted in lieu of section one hundred and fifteen hereby repealed:—

New s. 115.

115. (1) Every holder of a lease, or other title to mine, subject to the payment of any sum by way of royalty to the Crown, granted under this Act, or any Act hereby repealed, shall, during the first fourteen days of the month of January in each year, furnish to the Minister a full and proper return, verified by statutory declaration, showing the quantity and value

Return to be furnished by holder of lease, &c.

Mining (Amendment).

value of gold or minerals including coal and shale won from the land held under lease, or other title to mine during the preceding year ending the thirty-first day of December.

(2) Every such return shall be in the form prescribed, and if the holder of such lease or other title to mine is a public company such return shall be furnished by the manager or person acting in the management, or by the secretary of the company.

(3) Any such holder or any such manager, person, or secretary who fails to furnish such return within the prescribed time or in the prescribed form shall be liable to a penalty not exceeding fifty pounds, and to a further penalty not exceeding five pounds for every day after the expiration of the said fourteen days during which he fails to furnish such return.

Section 116
(1) and (2).

Further
particulars
and inquiries.

The following subsection is inserted in lieu of subsections one and two of section one hundred and sixteen hereby repealed :—

116. (1) If the Minister is not satisfied with any return furnished in accordance with the last preceding section, he may require the person furnishing the same to furnish further particulars of the gold or minerals won, or may, whether any return has been furnished or not, appoint any officer of his department or other person to make all necessary inquiries in relation to such gold or minerals. The officer or person so appointed may make all such inquiries, and may require such holder, or his clerk, or the manager, secretary, or clerk of any such company to produce for his inspection at the office of such holder or company any books, accounts, documents, writings, papers, or instruments in his possession or under his control that such officer or person may consider necessary to enable him to ascertain the quantity of gold or minerals won, and may make copies of
of

Mining (Amendment).

of any entries or matters contained in such books, accounts, documents, writings, papers, or instruments, and upon completion of such inquiries, such officer or person shall report thereon to the Minister.

Section one hundred and eighteen, subsection one: Omit "adjoining" before the word "dredging" and insert at the end of the subsection "any amalgamation of dredging leases not adjoining which has been authorised by the Minister before the commencement of the Mining (Amendment) Act, 1918, shall be and be deemed to have been duly authorised."

Section 118 (1).

Section one hundred and twenty: After subsection three, insert the following subsection:—

Section 120.

(4) Any geological surveyor may enter any private lands in the performance of his duties.

The following new section is inserted next after section one hundred and twenty-two:—

New s. 122A.

122A. (1) The Sludge Abatement Board, for the purpose of conducting any investigation under the authority of this Act, shall have the same powers and authority to summon witnesses and receive evidence as are conferred upon commissioners by letters patent by the Royal Commissioners Evidence Act, 1901; and all the provisions of the last-mentioned Act shall apply to witnesses so summoned, and evidence so received and given, as completely and effectually as if such witnesses had been summoned, and such evidence had been received or given by virtue or under the authority of the Act lastly hereinbefore cited.

Powers of board to take evidence.

(2) The Minister, upon the recommendation of the Sludge Abatement Board, may, by notice in writing under his hand, require any person carrying on any sluicing, dredging, or other mining operations to erect such works or take such steps as the board may deem necessary to prevent the discharge of

Notice by Minister to erect works to prevent discharge of water.

Mining (Amendment).

of water from the place where any such sluicing, dredging, or other mining operations are being carried on into any river, stream, watercourse, lake, or reservoir, notwithstanding that the water so discharged does not contain solid matter in the total proportion of more than eight hundred grains to one gallon.

Works to be specified.

(3) Every such notice shall specify the works to be erected or the steps to be taken by such person, and shall state a time within which the required action is to be completed.

Apportionment of cost of works.

(4) When notice is given to two or more neighbouring persons, the Minister may, on the recommendation of the board, determine what proportions of the cost of the works shall be borne by such persons respectively.

Pollution of water.

(5) Where by reason of the carrying on of any sluicing, dredging, or other mining operations in the bed of any river, stream, watercourse, lake, or reservoir, the water of such river, stream, watercourse, lake, or reservoir becomes charged with any poisonous or noxious matter, or any earthy or other insoluble mineral substance, so as, in the opinion of the board, to pollute or tend to pollute such water, notwithstanding that such water does not contain solid matter in the total proportion of more than eight hundred grains to one gallon, the Minister, on the recommendation of the board, may, as hereinbefore prescribed, require the persons carrying on such sluicing, dredging, or other mining operations, to take such steps as the board may deem necessary to prevent or reduce such pollution.

Penalties.

(6) Any person who neglects or fails to comply with the requirements of any notice given under this section within the time therein stated shall be guilty of an offence, and shall be liable to a penalty not exceeding twenty-five pounds, and to a further penalty not exceeding five

Mining (Amendment).

five pounds for every day after the expiry of such time during which he shall fail to comply with the requirements of such notice.

The following new section and short heading are New s. 124A. inserted next after section one hundred and twenty-four:—

Complaint as to non-compliance with labour conditions.

121A. (1) Any person may give notice in writing by complaint to the Minister in the prescribed form of non-compliance with the labour conditions by the lessee of any lease granted under this Act or any Act hereby repealed, and may at the same time apply for a lease of the land comprised in such lease, or any part thereof in the event of such lease being cancelled. Such complaint and application shall be lodged at the Department of Mines, Sydney, and the Minister shall forthwith cause a notice to be served upon the lessee, informing him of such complaint and application. Within fourteen days of service of such notice upon him, the lessee may in the manner prescribed enter an appearance to such complaint and apply for a hearing.

(2) If the lessee enters an appearance within the prescribed time, the Minister shall notify the complainant and require him to lodge, within seven days, the sum of five pounds to abide the costs of the hearing.

(3) The Minister may, whether the lessee has or has not entered an appearance, direct a warden to hear the complaint.

(4) Upon receipt of such direction, the warden shall fix a day for hearing the complaint and application, and shall give not less than fourteen clear days' notice of such hearing to the complainant and the lessee. On the day fixed, the warden may take evidence on oath in open court as to the subject matter of the complaint, and shall forward a copy of such evidence to the Minister, together with his report and recommendation.

(5)

Mining (Amendment).

Finding and
recommendation.

(5) The warden may recommend to the Minister—

- (i) if he finds the complaint proved—
 - (a) that the lease be cancelled and that a lease of the subject land or any part thereof be granted to the complainant or be not so granted;
- (ii) if he finds the complaint not proved or that it is disproved—
 - (b) that the complaint be disallowed;
- (iii) in either case—
 - (c) that costs be allowed to the successful party.

The warden shall announce in open court the purport of his report and recommendation to the Minister.

Appeal.

(6) Either party may within seven days after such announcement appeal in writing to the Minister against the warden's recommendation, and the Minister may direct a warden to hold a further inquiry, or may, if he considers the appeal to be frivolous or vexatious, refuse to entertain the same.

Minister's
powers.

(7) At the expiration of seven days after receipt of the warden's report and recommendation, or, where there is an appeal to the Minister, after the determination of such appeal, the Minister may—

- (a) recommend to the Governor that the lease be cancelled;
- (b) recommend to the Governor that a lease of the subject land, or any part thereof, be granted to the complainant;
- (c) disallow the complaint.

Costs.

(8) Where the lessee has entered an appearance, he shall, if the complaint is disallowed, be entitled to costs to be awarded by the warden, but not exceeding the amount deposited by the complainant.

(9)

Mining (Amendment).

(9) Upon the cancellation of any lease ^{Lease to complainant.} upon complaint as aforesaid, the complainant shall be entitled to a lease of the subject land, or any part thereof he may have specified in his application, and the Governor may grant such lease in the same manner as if possession of the land had been taken and application lodged in accordance with the provisions of this Act relating to a lease of the same class as the cancelled lease. The notification that such lease has been granted shall be published at the same time as the notification of cancellation of the cancelled lease.

The following new section is inserted next after ^{New s. 125A.} section one hundred and twenty-five :—

125A. The lessee of any lease of ^{Removal of Crown} land granted under this Act or any Act hereby ^{improvements.} repealed shall permit any employee who has erected or purchased any building or other improvement on the said land to remove such building or improvement at any time during his employment or within six months after the determination of such employment, or to sell such building or improvement to any other person employed on or about the said land.

The following new section is inserted next after ^{New s. 128A.} section one hundred and twenty-eight :—

128A. The title of any applicant for a lease ^{Title not to be} or authority under this Act shall not be ^{vitiating for} vitiated by reason of the non-performance of ^{non-performance} any act, matter, or thing required to be done ^{if caused by warden.} by or for the applicant for or holder of such lease or authority if the non-performance was caused by the fault, neglect, or absence of any warden or warden's clerk.

Section one hundred and thirty-eight, subsection ^{Section} four: After "made to appear" insert "to ^{138 (4).} the warden sitting in chambers."

The

Mining (Amendment).

Section 145.

The following subsection is inserted next after subsection five of section one hundred and forty-five :—

(6) In any proceedings before a warden's court for a declaration of forfeiture of any tenement, the court may order that forfeiture shall take effect on a date to be fixed by the court, of which notice in writing shall be given to the complainant alone.

Section 178.

Section one hundred and seventy-eight: Omit the words, "and in the latter case such notice shall be advertised in two issues of a newspaper circulating in the district in which the land is situated."

New Division
4A.

4. The following sections and short heading are inserted in the Principal Act next after Division 4 of Part IV of that Act :—

DIVISION 4A.—*Mining on private land held without reservation of minerals.*

Grant of
authority to
enter.

70A. (1) Except as hereinafter provided, it shall be lawful, on and after the first day of January, one thousand nine hundred and nineteen, for the warden to grant to any holder of a miner's right authority to enter and search for minerals in and upon any private lands alienated or in process of alienation without any reservation of minerals to the Crown or with a reservation of gold or gold and silver only.

(2) Application for any such authority to enter shall be made to, and such authority may be granted by the warden subject to assessment and payment of rent and compensation in the manner prescribed by Division 2 of this Part of this Act and the regulations thereunder in the case of authorities to enter applied for or granted thereunder.

(3) Every such authority shall confer the like rights and privileges and entail the like obligations and penalties as are respectively prescribed by this Act in relation to authorities to enter granted under the said Division, save only that the holder shall not be required to pay any royalty to the Crown

Mining (Amendment).

Crown in respect of any minerals (other than gold, or other than silver, if silver is reserved to the Crown) won from the land included in such authority to enter.

70B. (1) Any holder of any such authority to enter who desires to obtain a lease of the land defined in such authority, or any part thereof, may make application for such lease, in the manner prescribed by section fifty-seven of this Act. Application for lease.

(2) Leases may be granted by the Governor in the name and on behalf of His Majesty, and the provisions of Division 3 of this Part of this Act relating to the grant or refusal of applications for leases of private lands shall apply to applications made under this section.

(3) The provisions of this Act in relation to the term, rent, area, dimensions, form, and conditions of leases of private lands and the rights and duties of lessees shall apply to leases granted under this Division.

70C. (1) The holder of any authority, and the lessee of any lease granted under the preceding sections of this Division, shall at the times and in the manner prescribed pay to the Minister on behalf of the owner of the land included in such authority or lease a sum equal to five per centum of the net annual profits of working the mines or winning the minerals (other than gold or silver as aforesaid) in and from the said land. Percentage of profits payable.

(2) The Minister shall at the time and in the manner prescribed pay to the owner of the said land all the sums paid as aforesaid less an amount equal to one per centum, which he is hereby authorised to deduct from such sums; and the amounts so deducted shall be paid by the Minister into the Treasury and carried to the Consolidated Revenue Fund.

(3) Such holder or lessee shall also pay to the Crown in respect of any gold or any silver reserved to the Crown won from the said land a royalty of one per centum of the gross value of such

Mining (Amendment).

such gold and silver; such royalty shall be paid at the times and in the manner prescribed by section eighty-two of this Act.

Protection of
land upon
which mining
operations are
being carried
on.

70D. (1) No authority to enter, and no lease under this Division shall be granted in respect of any land in or upon which bona fide mining operations are being carried on by or with the concurrence of the owner at the time when the application is made: Provided that in the event of any dispute arising as to whether bona fide mining operations are being carried on as aforesaid, or as to the area protected by this section, the question shall be determined by the Minister after inquiry and report by the warden.

(2) The provisions of sections forty-seven and forty-eight of this Act shall apply to applications for authority to enter or lease under this Division.

New s. 108A.

5. The following short heading and section are inserted next after section one hundred and eight of the Principal Act:—

Mining titles.

Special condi-
tions in shale
cases.

108A. Every lease, or authority, to mine for shale granted under the provisions of this Act or any Act hereby repealed, shall notwithstanding the terms or conditions of such authority or lease be subject to the following special conditions:—

(a) That if in the opinion of the Minister the shale in such mine, or its products, or any portion thereof, will at any time during the said term be required for the use of His Majesty's Australian Navy, the said Secretary for Mines shall have the right of pre-emption for such use as aforesaid of all shale, or the products thereof, won from the said land, at a price to be agreed upon between the Minister and the lessee, or, in case of dispute, to be fixed by arbitration.

(b)

Mining (Amendment).

(b) That in time of war the Minister, on behalf of the Crown, may assume control of the said land, and all plant and machinery erected thereon.

6. The following short heading and sections are inserted next after section 125A of the Principal Act:— New ss. 125B and 125C.

Abandoned mines.

125B. Where any holder of a permit to mine for or remove minerals, granted under the provisions of section seven of the Crown Lands Act of 1884, has ceased for a continuous period of six months to carry on mining operations on the land the subject of such permit, the Minister may, upon being satisfied that mining operations have ceased as aforesaid, recommend the cancellation of, and the Governor may cancel, such permit. Cancellation of permits.

125C. (1) If it is proved to the satisfaction of the warden that any land the subject of any registered title under a miner's right or business license has been abandoned by the registered holder for a continuous period of three months, the warden may, on proceedings being taken by a mining registrar or warden's bailiff as prescribed, cancel such registered title and direct the mining registrar to make an entry to that effect in the register relating to such title, and such title shall thereupon cease and determine. Cancellation of abandoned tenements.

(2) If upon inspection of any land held or claimed to be held by virtue of any agreement registered or purporting to have been registered in terms of section thirty-three of the Mining on Private Lands Act of 1894, it appears that mining operations on such land have ceased to be carried on for a continuous period of three months, the warden may, on proceedings being taken by a mining registrar or warden's bailiff as prescribed, declare the registration of such agreement to be cancelled, and may direct the mining registrar to make an entry in the register to that effect, and such agreement shall thereupon become void and determined. Cancellation of certain agreements.

7.

Mining (Amendment).

New s. 177.

7. The following short heading and section are inserted in the place of section one hundred and seventy-seven of the Principal Act, repealed by the Crown Lands Consolidation Act, 1913, and the short heading thereto:—

Resumption of private land for mining villages.

Resumption
or surrender
of land for
mining
villages.

177. (1) Whenever, in the opinion of the Governor, any land is required for the purpose of a mining village, and no Crown land suitable for the purpose is available within a reasonable distance of the centre of mining operations, the Governor may, by notification in the Gazette, resume any private lands which he may deem necessary for such purpose, and such resumption may be of the land without any limitation as to depth, or of the surface and the land to any specified depth below the surface.

(2) Upon publication of such notification in the Gazette, such private lands shall vest in His Majesty, freed and discharged from all estates, interests, and trusts, affecting the same, and shall become Crown lands within the meaning of the Crown Lands Consolidation Act, 1913, and this Act, and may be disposed of under any such Act, but shall be reserved from sale or lease and exempted from occupation under any miner's right or business license until the Governor, by notification in the Gazette, revokes such reservation or exemption.

(3) Upon publication of such notification the owner of such land shall be entitled to compensation for the loss of his interest therein; and in the event of there being a tenant or rightful occupier of such land other than the owner, such tenant or occupier shall be entitled to compensation for the loss of his interest therein.

(4) The Minister may direct the warden or other person to assess the market value of such land and any improvements thereon at the date of resumption, reasonable allowance being made for any

Mining (Amendment).

any damage that may be caused by severance; and if there is any person other than the owner having interest in such land, the value of such interest shall also be assessed, and such assessed value shall be paid to the persons entitled thereto respectively.

(5) It shall be lawful, if the owner so desires, for the Governor to accept a surrender of such private lands, and to grant to the owner by way of exchange any area of Crown lands of equal value, and the provisions of the Crown Lands Consolidation Act, 1913, relative to surrender and exchange of lands shall apply to any such surrender or exchange.

In the name and on behalf of His Majesty I assent to this Act.

W. E. DAVIDSON,

Government House,

Governor.

Sydney, 18th December, 1918.

