

(No. 2.)

No. , 1922.

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## A BILL

To amend the Mining Act, 1906, and certain other Acts; and for purposes connected therewith.

[MR. J. C. L. FITZPATRICK;—7 September, 1922.]

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

**1.** This Act may be cited as the "Mining (Amendment) Act, 1922," and shall be read and construed with the Mining Act, 1906, and the Acts amending the same. The Mining Act, 1906, as so amended is hereinafter referred to as "the Principal Act." Short title.

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**2.**

Amendment  
of s. 51 of  
Principal  
Act.

**2.** The Principal Act is amended by omitting from subsection one of section fifty-one the words "such authority" and inserting in lieu thereof the words "an authority under section fifty of this Act."

*Ibid.*

**3.** The Principal Act is further amended in section 5 fifty-one by adding the following new subsection after subsection four :—

Further  
period may  
be fixed for  
payment of  
rent.

(5) If within fourteen days after the expiration of the period allowed for payment of any rent under the last two preceding subsections the applicant 10 can satisfy the warden that he is unable to find the owner, or that the owner has refused to accept payment, or that for any other reason which to the warden seems good and sufficient he has been unable to effect payment, the warden may fix a 15 further period within which payment may be accepted by the warden's clerk on behalf of the owner. Such payment, if made to the warden's clerk within the time so fixed, shall have the same effect as if paid to the owner within the period 20 allowed therefor as aforesaid.

Any moneys so paid to the warden's clerk shall be paid to the person entitled thereto upon the order of the warden.

Amendment  
of Principal  
Act, s. 67A.

**4.** Section 67A of the Principal Act, as inserted by 25 section three of the Mining (Amendment) Act, 1918, is omitted and the following section is inserted in lieu thereof :—

Tailings, &c.,  
left after  
determina-  
tion of lease,  
&c.

67A. (1) Any lessee of private lands under this Act, or any Act hereby repealed, whose occupancy 30 is by any means determined may, within thirty days after such determination, apply to the Minister for leave to enter the land and treat or remove any tailings, ore, minerals, or stone left thereon by him. The Minister may grant such leave upon payment 35 to the owner of a sum to be fixed by the Minister, who may also fix a time within which such treatment or removal is to be completed.

Any application for an authority to enter, or for a lease of any land upon which such tailings, ore, 40 minerals, or stone have been so left, shall be subject to

5 to the right of the Minister to grant such leave,  
and to the right of the person to whom such leave  
is granted, to act in accordance therewith; and any  
authority to enter or lease granted may contain a  
reservation of such tailings, ore, minerals, or stone,  
and of the right of any person to whom leave may  
be or has been granted, to treat or remove the  
same.

10 (2) The form and mode of application for,  
and the conditions of such leave, shall be as  
prescribed.

15 (3) If such leave is not applied for within  
the said thirty days, or such treatment or removal  
is not completed within the time fixed, such tail-  
ings, ore, mineral, or stone left upon such land  
and remaining thereon shall be and be deemed to  
be part of the said land.

20 **5.** The Principal Act is further amended by adding  
at the end of subsection one of section sixty-nine the  
following words:—"The owner of any private land  
applied for or occupied under this Part may with the  
like concurrence enter into a like lease or agreement  
with the applicant or occupier of the land under this  
Part."

Amendment  
of Principal  
Act, s. 69.

25 **6.** The Principal Act is further amended by omitting *Ibid.*  
subsection five from section sixty-nine and inserting  
the following subsection in lieu thereof:—

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

Tribute  
agreement to  
be registered.

35 **7.** Section 70B of the Principal Act as inserted by  
section four of the Mining (Amendment) Act, 1918, is  
amended by inserting the following new subsection  
after subsection three:—

Amendment  
of Principal  
Act, s. 70B.

40 (4) In addition to the rent payable in respect of  
the portion of the surface leased, a yearly rental of  
two shillings per acre in respect of the whole area  
included in the lease shall be reserved to the owner  
of the land, and shall be payable half-yearly in  
advance.

Additional  
rental.

**8.**

Amendment  
of Principal  
Act, s. 70c.

**8.** Section 70c of the Principal Act as inserted by section four of the Mining (Amendment) Act, 1918, and amended by section two of the Mining (Amendment) Act, 1919, is omitted, and the following section is inserted in lieu thereof :—

Royalty  
payable.

70c. (1) The holder of any authority, and the lessee of any lease granted after the commencement of the Mining (Amendment) Act, 1922, 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 royalty of—

- (a) one and one-eighth per centum of the gross value of all minerals (other than gold or silver as aforesaid, but not including coal or shale) ; and
- (b) sixpence per ton of all coal or shale won from the said land.

(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—

- (i) an amount equal to one-ninth of the sum paid under paragraph (a) of the last preceding subsection ; and
- (ii) one-sixth of the sum paid under paragraph (b) of the last preceding subsection,

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 gold and silver.

(4) The provisions of subsections three and four of section eighty-two of this Act shall apply to all royalty payable under this section.

**9.** Section 70E of the Principal Act, as inserted by section three of the Mining (Amendment) Act, 1919, is omitted, and the following section is inserted in lieu thereof:—

Amendment of Principal Act, s. 70E.

5       70E. No authority to enter and no lease under this Division applied for subsequent to the coming into operation of the Mining (Amendment) Act, 1922, shall be granted (except to or with the consent of the owner of the colliery herein referred to) to prospect or mine upon any land included in or added to any colliery holding, a plan of which showing the freehold and leasehold lands held by the owner of the colliery and comprising the colliery holding has been furnished to the Under Secretary for Mines prior to the making of the application for such authority to enter or lease:

Protection of land in certain colliery holdings.

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20       Provided that, except with the approval of the Minister, this section shall not apply to an abandoned colliery holding in respect of which the requirements of section thirty-seven and of subsection one of section thirty-nine of the Coal Mines Regulation Act, 1912, have been complied with.

**10.** Section one hundred and fifteen of the Principal Act, as inserted by section three of the Mining (Amendment) Act, 1918, is amended by omitting the word "fourteen" wherever therein appearing and inserting in lieu thereof the words "twenty-eight."

Amendment of Principal Act, s. 115.

**11.** The Principal Act is further amended by adding at the end of the first paragraph of subsection one of section one hundred and eighteen the following words:—  
30 "Two or more mineral leases to mine for silica may be amalgamated as aforesaid, notwithstanding that such leases are not adjoining."

*Ibid.* s. 118.

**12.** The Principal Act is further amended by omitting section one hundred and seventy-eight as amended by the Mining (Amendment) Act, 1918, and inserting the following section in lieu thereof:—

*Ibid.* s. 178.

178. (1) All notices required by this Act to be served upon the owner or occupier of any private

Service of notices.

land or land not Crown land shall, except where otherwise in this Act provided, be sufficiently served—

(a) if served personally on the owner or occupier; or on his local agent, provided the said agent is registered as such as prescribed; or 5

(b) if sent by post in a registered letter addressed to the owner or occupier by name at his usual place of abode, and if that letter is not returned through the post office undelivered, and such service shall be deemed to be made at the time when the registered letter would in the ordinary course be delivered. 10

(2) If in the case of a notice directed to be served on the owner of any private land— 15

(a) such owner is absent from New South Wales and his usual place of abode cannot after diligent inquiry be ascertained, and his local agent cannot, after the like inquiry, be found; or 20

(b) neither such owner or his local agent can after diligent inquiry be found, and the usual place of abode of such owner cannot, after the like inquiry, be ascertained— 25

such notice shall be sufficiently served if served upon the occupier of the land as provided in the last preceding subsection, or if there be no such occupier, if affixed upon some conspicuous part of the land.