

# New South Wales.



ANNO QUINTO DECIMO

## GEORGI V REGIS.

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### Act No. 68, 1924.

An Act to amend the Mining Act, 1906, and certain other Acts; and for purposes connected therewith. [Assented to, 23rd December, 1924.]

**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 (Amend- Short title.  
ment) Act, 1924,” 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.”

**2.**



*Mining (Amendment).*

Amendment  
of s. 38 of Act  
No. 49, 1906.

**2.** Section thirty-eight of the Principal Act is amended by omitting subsection three, and by inserting in lieu thereof the following subsection :—

Terms of  
renewal.

(3) The renewal shall be subject to such rents, royalties, and other covenants and conditions as the Governor may prescribe.

Amendment  
of s. 51 of  
Principal  
Act.  
1906, No. 49.

**3.** 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.*

**4.** The Principal Act is further amended in section 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 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 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 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.  
Tailings, &c.,  
left after  
determina-  
tion of lease,  
&c.

**5.** Section 67A of the Principal Act is omitted and the following section is inserted in lieu thereof :—

67A. (1) Any lessee of private lands under this Act, or any Act hereby repealed, whose occupancy 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 to the owner of a sum to be fixed by the Minister, who may also fix a time within which the treatment or removal is to be completed.

Any



*Mining (Amendment).*

Any application for an authority to enter, or for a lease of any land upon which such tailings, ore, minerals, or stone have been so left, shall be subject to the right of the Minister to grant such leave, and to the right of the person to whom the 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.

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

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

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

- (a) 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";
- (b) by omitting subsection five of the same section and inserting the following subsection in lieu thereof:—

Amendment  
of Principal  
Act, s. 69.

(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.

**7.** (1) Section 70A of the Principal Act is amended—

- (a) by omitting from subsection one all words following the words "authority to enter" and by inserting in lieu thereof the words "in and upon any private lands and search for any minerals"

Amendment  
of Principal  
Act, s. 70A.



*Mining (Amendment).*

minerals which at the date upon which the authority is granted are not reserved to the Crown”;

- (b) by omitting from subsection three the words “gold or other than silver if silver is” and by inserting in lieu thereof the word “minerals.”

(2) This section shall not come into operation until the expiration of three months from the date of the passing of this Act.

Amendment  
of Principal  
Act, s. 70B.

**8.** 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:—

Additional  
rental.

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

Amendment  
of Principal  
Act, s. 70c.

**9.** Section 70c of the Principal Act 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, 1924, 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 minerals included in the authority or lease a sum equal to—

- (a) one and one-eighth per centum of the gross value of all minerals (other than coal, shale, and minerals reserved to the Crown) won from the land; and
- (b) sixpence per ton of all coal or shale won from the land where such coal or shale is not reserved to the Crown.

(2) The Minister shall at the time and in the manner prescribed pay to the owner of the minerals the sum paid as aforesaid less—

- (i) one-ninth of the amount paid under paragraph (a) of the last preceding subsection; and
- (ii)



*Mining (Amendment).*

- (ii) one-sixth of the sum paid under paragraph (b) of the last preceding subsection,

which he is hereby authorised to deduct from such sum; and the amounts so deducted shall be paid by the Minister into the Treasury and carried to the Consolidated Revenue Fund.

(3) The holder or lessee shall also pay to the Crown in respect of any minerals reserved to the Crown won from the land a royalty in accordance with section eighty-two of this Act:

Provided that the provisions of subsection four of section eighty-two of this Act shall not apply in respect of the royalty payable to the Crown under this subsection.

(4) The holder of the authority or the lessee may deduct from the sum payable under subsection one of this section in any one year to the Minister on behalf of the owner of the minerals a sum equal to the amount paid by him to such owner as rent for that year.

For the purposes of this subsection leases amalgamated under the provisions of this Act shall be regarded as separate leases unless the owners of the minerals are identical.

**10.** Section 70E of the Principal Act is omitted, and the following section is inserted in lieu thereof:—

Amendment  
of Principal  
Act, s. 70E.

70E. (1) No authority to enter and no lease under this Division applied for subsequent to the coming into operation of the Mining (Amendment) Act, 1924, 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 the authority to enter or lease.

Protection of  
land in  
certain  
colliery  
holdings.

(2) This section shall not extend to an abandoned colliery holding in respect of which the requirements



*Mining (Amendment).*

requirements of section thirty-seven and of subsection one of section thirty-nine of the Coal Mines Regulation Act, 1912, have been complied with unless the Minister, in any particular case, otherwise directs.

Amendment  
of Principal  
Act, s. 82.

**11.** Section eighty-two of the Principal Act is amended—

- (a) by inserting in subsection one after the word “minerals” where firstly occurring the words “reserved to the Crown”;
- (b) by inserting in subsection two after the word “shale” the words “reserved to the Crown.”

Amendment  
of Principal  
Act, s. 115.

**12.** Section one hundred and fifteen of the Principal Act is amended by omitting the word “fourteen” wherever therein appearing and inserting in lieu thereof the words “twenty-eight.”

Amendment.  
*Ibid.* s. 118.

**13.** Section one hundred and eighteen of the Principal Act is amended by inserting the following subsections next after subsection one :—

(1A) Leases granted under this Act or any Act thereby repealed, situate within a colliery holding, a plan of which has been lodged under section 70E of this Act, may be amalgamated provided that such leases are not more than one mile apart.

(1B) In this section “lease” includes and shall be deemed always to have included a lease or an agreement registered under section sixty-nine of this Act or any section replaced by that section.

Amendment  
of Principal  
Act.  
New section.

**14.** The Principal Act is further amended by inserting the following section next after section one hundred and eighteen :—

Performance  
of labour  
conditions on  
adjoining  
land.

118A. (1) Any lessee under a lease granted in pursuance of this Act or of any Act thereby repealed, or any person entitled to mine under an agreement entered into under the provisions of section sixty-nine of this Act, or of any section replaced thereby, or the holders of leases amalgamated under this Act, may apply to the Minister for a permit to carry out the labour conditions required to be observed on or in connection with the land comprised in such lease or agreement or amalgamated leases upon adjoining land. (2)



*Mining (Amendment).*

(2) If the Minister is satisfied, after inquiry and report by the warden, that—

(a) bona fide mining operations on such adjoining land are being carried on for a mineral not reserved to the Crown, either by the owner of such land or with the concurrence of the owner; and

(b) the person carrying on such mining operations on the adjoining land consents to the grant of a permit; and

(c) mining operations on such adjoining land, and upon the land comprised in the lease or agreement or amalgamated leases, can be more effectively carried out as one mine,

he may upon payment of the prescribed fee grant the permit subject to such terms and conditions indorsed thereon as he may think fit, or as may be prescribed.

(3) The performance upon such adjoining land, in accordance with the terms and conditions of the permit, of the labour conditions required on or in connection with the land comprised in the lease, agreement, or amalgamated leases, shall be a sufficient compliance with such conditions.

(4) The Minister may, after obtaining a report from the warden, cancel any such permit.

(5) Lands shall be deemed to be adjoining for the purposes of this section if they have a common boundary or are only separated by a road or stream.

**15.** The Principal Act is further amended by omitting section one hundred and seventy-eight and inserting the following section in lieu thereof:— Amendment of Principal Act, s. 178.

178. (1) All notices required by this Act to be served upon the owner or occupier of any private land or land not Crown land shall, except where otherwise in this Act provided, be sufficiently served— Service of notices.

(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

(b)



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*Mining (Amendment).*

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- (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.

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

- (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
- (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—

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.

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By Authority :

ALFRED JAMES KENT, Government Printer, Sydney, 1925.

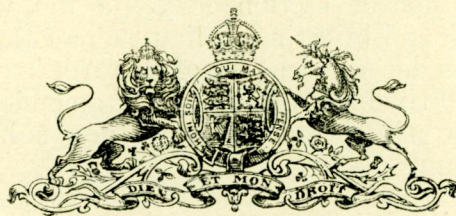


*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

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

*Legislative Assembly Chamber,  
Sydney, 17 December, 1924, A.M.*

**New South Wales.**



ANNO QUINTO DECIMO

**GEORGII V REGIS.**

\*\*\*\*\*

**Act No. 68, 1924.**

**An Act to amend the Mining Act, 1906, and certain other Acts; and for purposes connected therewith. [Assented to, 23rd December, 1924.]**

**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, 1924," 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." **2.** Short title

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

R. B. WALKER,  
*Chairman of Committees of the Legislative Assembly.*



*Mining (Amendment).*

Amendment  
of s. 38 of Act  
No. 49, 1906.

Terms of  
renewal.

Amendment  
of s. 51 of  
Principal  
Act.  
1906, No. 49.

*Ibid.*

Further  
period may  
be fixed for  
payment of  
rent.

Amendment  
of Principal  
Act, s. 67A.  
Tailings, &c.,  
left after  
determina-  
tion of lease,  
&c.

**2.** Section thirty-eight of the Principal Act is amended by omitting subsection three, and by inserting in lieu thereof the following subsection :—

(3) The renewal shall be subject to such rents, royalties, and other covenants and conditions as the Governor may prescribe.

**3.** 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."

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

(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 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 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 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.

**5.** Section 67A of the Principal Act is omitted and the following section is inserted in lieu thereof :—

67A. (1) Any lessee of private lands under this Act, or any Act hereby repealed, whose occupancy 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 to the owner of a sum to be fixed by the Minister, who may also fix a time within which the treatment or removal is to be completed. Any



*Mining (Amendment).*

Any application for an authority to enter, or for a lease of any land upon which such tailings, ore, minerals, or stone have been so left, shall be subject to the right of the Minister to grant such leave, and to the right of the person to whom the 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.

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

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

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

(a) 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.

(b) by omitting subsection five of the same section and inserting the following subsection in lieu thereof:—

*Ibid.*

(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.

**7. (1)** Section 70A of the Principal Act is amended—

Amendment  
of Principal  
Act, s. 70A.

(a) by omitting from subsection one all words following the words "authority to enter" and by inserting in lieu thereof the words "in and upon any private lands and search for any minerals"



*Mining (Amendment).*

minerals which at the date upon which the authority is granted are not reserved to the Crown”;

- (b) by omitting from subsection three the words “gold or other than silver if silver is” and by inserting in lieu thereof the word “minerals.”

(2) This section shall not come into operation until the expiration of three months from the date of the passing of this Act.

Amendment  
of Principal  
Act, s. 70B.

**8.** 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:—

Additional  
rental.

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

Amendment  
of Principal  
Act, s. 70c.  
Royalty  
payable.

**9.** Section 70c of the Principal Act is omitted, and the following section is inserted in lieu thereof:—

70c. (1) The holder of any authority, and the lessee of any lease granted after the commencement of the Mining (Amendment) Act, 1924, 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 minerals included in the authority or lease a sum equal to—

- (a) one and one-eighth per centum of the gross value of all minerals (other than coal, shale, and minerals reserved to the Crown) won from the land; and
- (b) sixpence per ton of all coal or shale won from the land where such coal or shale is not reserved to the Crown.

(2) The Minister shall at the time and in the manner prescribed pay to the owner of the minerals the sum paid as aforesaid less—

- (i) one-ninth of the amount paid under paragraph (a) of the last preceding subsection; and
- (ii)



*Mining (Amendment).*

(ii) one-sixth of the sum paid under paragraph (b) of the last preceding subsection, which he is hereby authorised to deduct from such sum; and the amounts so deducted shall be paid by the Minister into the Treasury and carried to the Consolidated Revenue Fund.

(3) The holder or lessee shall also pay to the Crown in respect of any minerals reserved to the Crown won from the land a royalty in accordance with section eighty-two of this Act:

Provided that the provisions of subsection four of section eighty-two of this Act shall not apply in respect of the royalty payable to the Crown under this subsection.

(4) The holder of the authority or the lessee may deduct from the sum payable under subsection one of this section in any one year to the Minister on behalf of the owner of the minerals a sum equal to the amount paid by him to such owner as rent for that year.

For the purposes of this subsection leases amalgamated under the provisions of this Act shall be regarded as separate leases unless the owners of the minerals are identical.

**10.** Section 70E of the Principal Act is omitted, and the following section is inserted in lieu thereof:—

70E. (1) No authority to enter and no lease under this Division applied for subsequent to the coming into operation of the Mining (Amendment) Act, 1924, 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 the authority to enter or lease.

(2) This section shall not extend to an abandoned colliery holding in respect of which the requirements

Amendment  
of Principal  
Act, s. 70E.

Protection of  
land in  
certain  
colliery  
holdings.



*Mining (Amendment).*

requirements of section thirty-seven and of subsection one of section thirty-nine of the Coal Mines Regulation Act, 1912, have been complied with unless the Minister, in any particular case, otherwise directs.

Amendment  
of Principal  
Act, s. 82.

**11.** Section eighty-two of the Principal Act is amended—

(a) by inserting in subsection one after the word “minerals” where firstly occurring the words “reserved to the Crown”;

(b) by inserting in subsection two after the word “shale” the words “reserved to the Crown.”

Amendment  
of Principal  
Act, s. 115.

**12.** Section one hundred and fifteen of the Principal Act is amended by omitting the word “fourteen” wherever therein appearing and inserting in lieu thereof the words “twenty-eight.”

Amendment.  
*Ibid.* s. 118.

**13.** Section one hundred and eighteen of the Principal Act is amended by inserting the following subsections next after subsection one :—

(1A) Leases granted under this Act or any Act thereby repealed, situate within a colliery holding, a plan of which has been lodged under section 70E of this Act, may be amalgamated provided that such leases are not more than one mile apart.

(1B) In this section “lease” includes and shall be deemed always to have included a lease or an agreement registered under section sixty-nine of this Act or any section replaced by that section.

Amendment  
of Principal  
Act.  
New section.

**14.** The Principal Act is further amended by inserting the following section next after section one hundred and eighteen :—

Performance  
of labour  
conditions on  
adjoining  
land.

**118A.** (1) Any lessee under a lease granted in pursuance of this Act or of any Act thereby repealed, or any person entitled to mine under an agreement entered into under the provisions of section sixty-nine of this Act, or of any section replaced thereby, or the holders of leases amalgamated under this Act, may apply to the Minister for a permit to carry out the labour conditions required to be observed on or in connection with the land comprised in such lease or agreement or amalgamated leases upon adjoining land. (2)



*Mining (Amendment).*

(2) If the Minister is satisfied, after inquiry and report by the warden, that—

- (a) bona fide mining operations on such adjoining land are being carried on for a mineral not reserved to the Crown, either by the owner of such land or with the concurrence of the owner; and
- (b) the person carrying on such mining operations on the adjoining land consents to the grant of a permit; and
- (c) mining operations on such adjoining land, and upon the land comprised in the lease or agreement or amalgamated leases, can be more effectively carried out as one mine,

he may upon payment of the prescribed fee grant the permit subject to such terms and conditions indorsed thereon as he may think fit, or as may be prescribed.

(3) The performance upon such adjoining land, in accordance with the terms and conditions of the permit, of the labour conditions required on or in connection with the land comprised in the lease, agreement, or amalgamated leases, shall be a sufficient compliance with such conditions.

(4) The Minister may, after obtaining a report from the warden, cancel any such permit.

(5) Lands shall be deemed to be adjoining for the purposes of this section if they have a common boundary or are only separated by a road or stream.

**15.** The Principal Act is further amended by Amendment of Principal Act, s. 178. omitting section one hundred and seventy-eight and inserting the following section in lieu thereof:—

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

(b)



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*Mining (Amendment).*

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- (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.

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

- (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

- (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—

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.

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

D. R. S. DE CHAIR,  
*Governor,*

*Government House,  
Sydney, 23rd December, 1924.*



## MINING (AMENDMENT) BILL.

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*SCHEDULE of Amendments referred to in Message of 15th December, 1924.*

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Page 4. *Insert* new clause 8.

Page 6, clause ~~12~~ 13, lines 23 and 24. *Omit* "notwithstanding that such leases do  
"not adjoin" *insert* "provided that such leases are not more than one  
"mile apart"

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*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, 5 December, 1924.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

W. L. S. COOPER,  
*Clerk of the Parliaments.*  
*Legislative Council Chamber,*  
*Sydney, 15th December, 1924.*

## New South Wales.



ANNO QUINTO DECIMO

## GEORGII V REGIS.

\*\*\*\*\*

Act No. , 1924.

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

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 may be cited as the "Mining (Amendment) Act, 1924," 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."

47007

46—

2.

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.



*Mining (Amendment).*

**2.** Section thirty-eight of the Principal Act is amended by omitting subsection three, and by inserting in lieu thereof the following subsection :—

Amendment  
of s. 38 of Act  
No. 49, 1906.

(3) The renewal shall be subject to such rents, royalties, and other covenants and conditions as the Governor may prescribe.

Terms of  
renewal.

**3.** 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."

Amendment  
of s. 51 of  
Principal  
Act.  
1906, No. 49.

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

*Ibid.*

(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 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 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 allowed therefor as aforesaid.

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

**5.** Section 67A of the Principal Act is omitted and the following section is inserted in lieu thereof :—

Amendment  
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Act, s. 67A.  
Tailings, &c.,  
left after  
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tion of lease,  
&c.

67A. (1) Any lessee of private lands under this Act, or any Act hereby repealed, whose occupancy 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 to the owner of a sum to be fixed by the Minister, who may also fix a time within which the treatment or removal is to be completed.

Any



*Mining (Amendment).*

Any application for an authority to enter, or for a lease of any land upon which such tailings, ore, minerals, or stone have been so left, shall be subject to the right of the Minister to grant such leave, and to the right of the person to whom the 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.

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

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

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

(a) 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";

(b) by omitting subsection five of the same section and inserting the following subsection in lieu thereof:—

(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.

**7.** (1) Section 70A of the Principal Act is amended—

(a) by omitting from subsection one all words following the words "authority to enter" and by inserting in lieu thereof the words "in and upon any private lands and search for any minerals"

Amendment  
of Principal  
Act, s. 69.

*Ibid.*

Tribute  
agreement to  
be registered.

Amendment  
of Principal  
Act, s. 70A.



*Mining (Amendment).*

minerals which at the date upon which the authority is granted are not reserved to the Crown”;

5 (b) by omitting from subsection three the words “gold or other than silver if silver is” and by inserting in lieu thereof the word “minerals.”

(2) This section shall not come into operation until the expiration of three months from the date of the passing of this Act.

10 **8.** 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.

15 (4) In addition to the rent payable in respect of the portion of the surface leased, a yearly rental of two shillings and sixpence per acre in respect of the whole area included in a lease to mine for coal or shale shall be reserved to the owner of the minerals, and shall be payable half-yearly in advance.

Additional rental.

20 **9.** Section 70c of the Principal Act is omitted, and the following section is inserted in lieu thereof:—

Amendment of Principal Act, s. 70c.

25 70c. (1) The holder of any authority, and the lessee of any lease granted after the commencement of the Mining (Amendment) Act, 1924, 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 minerals included in the authority or lease a sum equal to—

Royalty payable.

30 (a) one and one-eighth per centum of the gross value of all minerals (other than coal, shale, and minerals reserved to the Crown) won from the land; and

35 (b) sixpence per ton of all coal or shale won from the land where such coal or shale is not reserved to the Crown.

(2) The Minister shall at the time and in the manner prescribed pay to the owner of the minerals the sum paid as aforesaid less—

40 (i) one-ninth of the amount paid under paragraph (a) of the last preceding subsection; and  
(ii)



*Mining (Amendment).*

(ii) one-sixth of the sum paid under paragraph (b) of the last preceding subsection, which he is hereby authorised to deduct from such sum; and the amounts so deducted shall be paid by the Minister into the Treasury and carried to the Consolidated Revenue Fund.

(3) The holder or lessee shall also pay to the Crown in respect of any minerals reserved to the Crown won from the land a royalty in accordance with section eighty-two of this Act:

Provided that the provisions of subsection four of section eighty-two of this Act shall not apply in respect of the royalty payable to the Crown under this subsection.

(4) The holder of the authority or the lessee may deduct from the sum payable under subsection one of this section in any one year to the Minister on behalf of the owner of the minerals a sum equal to the amount paid by him to such owner as rent for that year.

For the purposes of this subsection leases amalgamated under the provisions of this Act shall be regarded as separate leases unless the owners of the minerals are identical.

**25 9. 10.** Section 70E of the Principal Act is omitted, and the following section is inserted in lieu thereof:—

Amendment  
of Principal  
Act, s. 70E.  
Protection of  
land in  
certain  
colliery  
holdings.

70E. (1) No authority to enter and no lease under this Division applied for subsequent to the coming into operation of the Mining (Amendment) Act, 1924, 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 the authority to enter or lease.

(2) This section shall not extend to an abandoned colliery holding in respect of which the requirements



*Mining (Amendment).*

requirements of section thirty-seven and of subsection one of section thirty-nine of the Coal Mines Regulation Act, 1912, have been complied with unless the Minister, in any particular case, otherwise directs.

5  
10- **11.** Section eighty-two of the Principal Act is amended— Amendment  
of Principal  
Act, s. 82.

(a) by inserting in subsection one after the word  
10 “minerals” where firstly occurring the words  
“reserved to the Crown”;

(b) by inserting in subsection two after the word  
“shale” the words “reserved to the Crown.”

11- **12.** Section one hundred and fifteen of the Principal Amendment  
of Principal  
Act, s. 115.  
15 wherever therein appearing and inserting in lieu  
thereof the words “twenty-eight.”

12- **13.** Section one hundred and eighteen of the Prin- Amendment.  
*Ibid.* s. 118.  
cipal Act is amended by inserting the following sub-  
sections next after subsection one :—

20 (1A) Leases granted under this Act or any Act  
thereby repealed, situate within a colliery holding,  
a plan of which has been lodged under section 70E  
of this Act, may be amalgamated notwithstanding  
25 ~~that such leases do not adjoin~~ provided that such  
leases are not more than one mile apart.

(1B) In this section “lease” includes and shall  
be deemed always to have included a lease or an  
agreement registered under section sixty-nine of  
this Act or any section replaced by that section.

30 13- **14.** The Principal Act is further amended by Amendment  
of Principal  
Act.  
New section.  
inserting the following section next after section one  
hundred and eighteen :—

35 118A. (1) Any lessee under a lease granted in Performance  
of labour  
conditions on  
adjoining  
land.  
pursuance of this Act or of any Act thereby  
repealed, or any person entitled to mine under an  
agreement entered into under the provisions of  
section sixty-nine of this Act, or of any section  
replaced thereby, or the holders of leases amalga-  
40 mated under this Act, may apply to the Minister  
for a permit to carry out the labour conditions  
required to be observed on or in connection with  
the land comprised in such lease or agreement or  
amalgamated leases upon adjoining land. (2)



*Mining (Amendment).*

(2) If the Minister is satisfied, after inquiry and report by the warden, that—

- 5 (a) bona fide mining operations on such adjoining land are being carried on for a mineral not reserved to the Crown, either by the owner of such land or with the concurrence of the owner; and
- 10 (b) the person carrying on such mining operations on the adjoining land consents to the grant of a permit; and
- (c) mining operations on such adjoining land, and upon the land comprised in the lease or agreement or amalgamated leases, can be more effectively carried out as one mine,

15 he may upon payment of the prescribed fee grant the permit subject to such terms and conditions indorsed thereon as he may think fit, or as may be prescribed.

20 (3) The performance upon such adjoining land, in accordance with the terms and conditions of the permit, of the labour conditions required on or in connection with the land comprised in the lease, agreement, or amalgamated leases, shall be a sufficient compliance with such conditions.

25 (4) The Minister may, after obtaining a report from the warden, cancel any such permit.

(5) Lands shall be deemed to be adjoining for the purposes of this section if they have a common boundary or are only separated by a road or stream.

30 14. **15.** The Principal Act is further amended by omitting section one hundred and seventy-eight and inserting the following section in lieu thereof:—

Amendment  
of Principal  
Act, s. 178.

35 178. (1) All notices required by this Act to be served upon the owner or occupier of any private land or land not Crown land shall, except where otherwise in this Act provided, be sufficiently served—

Service of  
notices.

- 40 (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

(b)



*Mining (Amendment).*

- 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.
- (2) If, in the case of a notice directed to be served on the owner of any private land—
- 10 (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
- 15 (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—
- 20 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.



## Mining (Amendment) Bill, 1924.

## EXPLANATORY NOTE.

THE object of this Bill is to make certain amendments in the Mining Act, 1906. The amendments relate chiefly to the provisions of the Principal Act which govern mining on private lands.

Clause 2 provides that a renewal of a lease of Crown lands granted under the Mining Act, 1906, shall be subject to such rents, royalties, &c., as the Governor may prescribe. The amendment places these renewals on the same footing as to rents, royalties, &c., as renewals referred to in section 39A of the Principal Act.

Clause 3 effects a verbal amendment in section 51 of the Principal Act necessitated by the insertion of a section in the Principal Act by the Mining (Amendment) Act, 1918.

Clause 4 provides for the addition of a new subsection to section 51. That section provides that certain moneys shall be payable to the owner within a prescribed time; the new subsection is intended to provide for those cases in which payment to the owner himself cannot be effected.

Clause 5 provides for the omission of section 67A of the Principal Act which relates to tailings left on private lands and the substitution of a new section drafted on the lines of section 44 of the Act, which deals with the ownership of tailings and ore left on Crown lands.

Clause 6 amends section 69 of the Principal Act and is designed to extend the powers of an owner of private lands with respect to certain leases and agreements—

- (a) by removing the restriction contained in subsection (5) of that section; and
- (b) by providing for the registration of tribute agreements.

Clause 7 extends the provisions of section 70A, and will enable an authority to enter to be granted in respect of any mineral whatever may be the form in which the reservations in the Crown grant appear, and will make the position in this regard what it was considered by the Department of Mines to be when the leases validated by subsection (2) of section 2 of the Mining Leases (Validation) Act, 1924, were granted. Minerals reserved to the Crown are already provided for in other divisions of Part IV of the Principal Act.

Clause 8 repeals section 70C and inserts a new section in its stead which provides for the payment to the owner of a percentage of the value of the minerals won instead of, as formerly, a percentage of gross profits. The section also provides for the payment to the Crown of a royalty in respect of Crown minerals won.

The existing position with respect to coal and shale is unaltered.

Clause 9 repeals section 70E of the Principal Act and inserts a new section in its stead. The object of the clause is to remedy defects in the wording of the existing section, and to give effect to the intention of the Legislature in passing the Mining (Amendment) Act, 1919, by which section 70E was inserted in the Principal Act.

Clause 10 amends section 82 of the Principal Act to make it clear that the section applies to minerals reserved to the Crown.

Clause 11 provides for the extension of the time within which royalty returns may be furnished after the close of the year.

Clause 12 provides for amalgamation of leases in the same colliery holding, notwithstanding that they do not adjoin.

Clause 13 empowers the Minister to grant a permit for the performance on adjoining lands upon which private mining operations are being carried on, of labour conditions required in respect of land comprised in a lease, agreement, or amalgamated leases.

Clause 14 deals with the method of serving notices.





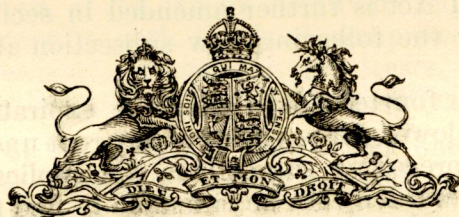


*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY,  
and, having this day passed, is now ready for presentation to the  
LEGISLATIVE COUNCIL for its concurrence.*

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

*Legislative Assembly Chamber,  
Sydney, 5 December, 1924.*

## New South Wales.



ANNO QUINTO DECIMO

# GEORGII V REGIS.

\*\*\*\*\*

Act No. , 1924.

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

BE it enacted by the King's Most Excellent Majesty,  
by and with the advice and consent of the Legis-  
lative 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 (Amend- Short title.  
ment) Act, 1924," 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."



*Mining (Amendment).*

**2.** Section thirty-eight of the Principal Act is amended by omitting subsection three, and by inserting in lieu thereof the following subsection :—

Amendment  
of s. 38 of Act  
No. 49, 1906.

(3) The renewal shall be subject to such rents, royalties, and other covenants and conditions as the Governor may prescribe.

Terms of  
renewal.

**3.** 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."

Amendment  
of s. 51 of  
Principal  
Act.  
1906, No. 49.

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

*Ibid.*

(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 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 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 allowed therefor as aforesaid.

Further  
period may  
be fixed for  
payment of  
rent.

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

**5.** Section 67A of the Principal Act is omitted and the following section is inserted in lieu thereof :—

Amendment  
of Principal  
Act, s. 67A.

67A. (1) Any lessee of private lands under this Act, or any Act hereby repealed, whose occupancy 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 to the owner of a sum to be fixed by the Minister, who may also fix a time within which the treatment or removal is to be completed.

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

Any



*Mining (Amendment).*

Any application for an authority to enter, or for a lease of any land upon which such tailings, ore, minerals, or stone have been so left, shall be subject to the right of the Minister to grant such leave, and to the right of the person to whom the 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.

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

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

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

(a) 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.

(b) by omitting subsection five of the same section and inserting the following subsection in lieu thereof:—

*Ibid.*

(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.

**7.** (1) Section 70A of the Principal Act is amended—

Amendment  
of Principal  
Act, s. 70A.

(a) by omitting from subsection one all words following the words “authority to enter” and by inserting in lieu thereof the words “in and upon any private lands and search for any minerals



*Mining (Amendment).*

minerals which at the date upon which the authority is granted are not reserved to the Crown”;

5 (b) by omitting from subsection three the words “gold or other than silver if silver is” and by inserting in lieu thereof the word “minerals.”

(2) This section shall not come into operation until the expiration of three months from the date of the passing of this Act.

10 **8.** Section 70c of the Principal Act is omitted, and the following section is inserted in lieu thereof:—

Amendment  
of Principal  
Act, s. 70c.

70c. (1) The holder of any authority, and the lessee of any lease granted after the commencement of the Mining (Amendment) Act, 1924, 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 minerals included in the authority or lease a sum equal to—

Royalty  
payable.

15 (a) one and one-eighth per centum of the gross value of all minerals (other than coal, shale, and minerals reserved to the Crown) won from the land; and

20 (b) sixpence per ton of all coal or shale won from the land where such coal or shale is not reserved to the Crown.

25 (2) The Minister shall at the time and in the manner prescribed pay to the owner of the minerals the sum paid as aforesaid less—

30 (i) one-ninth of the amount 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,

35 which he is hereby authorised to deduct from such sum; and the amounts so deducted shall be paid by the Minister into the Treasury and carried to the Consolidated Revenue Fund.

40 (3) The holder or lessee shall also pay to the Crown in respect of any minerals reserved to the Crown won from the land a royalty in accordance with section eighty-two of this Act:

Provided



*Mining (Amendment).*

Provided that the provisions of subsection four of section eighty-two of this Act shall not apply in respect of the royalty payable to the Crown under this subsection.

5 (4) The holder of the authority or the lessee may deduct from the sum payable under subsection one of this section in any one year to the Minister on behalf of the owner of the minerals a sum equal to the amount paid by him to such owner as rent  
10 for that year.

For the purposes of this subsection leases amalgamated under the provisions of this Act shall be regarded as separate leases unless the owners of the minerals are identical.

15 **9.** Section 70E of the Principal Act is omitted, and the following section is inserted in lieu thereof:—

Amendment  
of Principal  
Act, s. 70E.

20 70E. (1) No authority to enter and no lease under this Division applied for subsequent to the coming into operation of the Mining (Amendment) Act, 1924, 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  
25 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 the authority to enter or lease.

Protection of  
land in  
certain  
colliery  
holdings.

30 (2) This section shall not extend 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 unless the Minister, in any particular case, other-  
35 wise directs.

**10.** Section eighty-two of the Principal Act is amended—

Amendment  
of Principal  
Act, s. 82.

40 (a) by inserting in subsection one after the word "minerals" where firstly occurring the words "reserved to the Crown";  
(b) by inserting in subsection two after the word "shale" the words "reserved to the Crown."

**11.**



*Mining (Amendment).*

**11.** Section one hundred and fifteen of the Principal Act 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.

**12.** Section one hundred and eighteen of the Principal Act is amended by inserting the following subsections next after subsection one :—

Amendment.  
*Ibid.* s. 118.

(1A) Leases granted under this Act or any Act thereby repealed, situate within a colliery holding, a plan of which has been lodged under section 70E of this Act, may be amalgamated notwithstanding that such leases do not adjoin.

(1B) In this section "lease" includes and shall be deemed always to have included a lease or an agreement registered under section sixty-nine of this Act or any section replaced by that section.

**13.** The Principal Act is further amended by inserting the following section next after section one hundred and eighteen :—

Amendment  
of Principal  
Act.  
New section.

**118A.** (1) Any lessee under a lease granted in pursuance of this Act or of any Act thereby repealed, or any person entitled to mine under an agreement entered into under the provisions of section sixty-nine of this Act, or of any section replaced thereby, or the holders of leases amalgamated under this Act, may apply to the Minister for a permit to carry out the labour conditions required to be observed on or in connection with the land comprised in such lease or agreement or amalgamated leases upon adjoining land.

Performance  
of labour  
conditions on  
adjoining  
land.

(2) If the Minister is satisfied, after inquiry and report by the warden, that—

(a) bona fide mining operations on such adjoining land are being carried on for a mineral not reserved to the Crown, either by the owner of such land or with the concurrence of the owner; and

(b) the person carrying on such mining operations on the adjoining land consents to the grant of a permit; and

(c)



*Mining (Amendment).*

(c) mining operations on such adjoining land, and upon the land comprised in the lease or agreement or amalgamated leases, can be more effectively carried out as one mine,

5 he may upon payment of the prescribed fee grant the permit subject to such terms and conditions indorsed thereon as he may think fit, or as may be prescribed.

10 (3) The performance upon such adjoining land, in accordance with the terms and conditions of the permit, of the labour conditions required on or in connection with the land comprised in the lease, agreement, or amalgamated leases, shall be a sufficient compliance with such conditions.

15 (4) The Minister may, after obtaining a report from the warden, cancel any such permit.

(5) Lands shall be deemed to be adjoining for the purposes of this section if they have a common boundary or are only separated by a road or stream.

20 **14.** The Principal Act is further amended by omitting section one hundred and seventy-eight and inserting the following section in lieu thereof:— Amendment of Principal Act, s. 178.

25 178. (1) All notices required by this Act to be served upon the owner or occupier of any private land or land not Crown land shall, except where otherwise in this Act provided, be sufficiently served— Service of notices.

30 (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

35 (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.

(2)



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*Mining (Amendment).*

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

5 (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

10 (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—

15 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.