

New South Wales.



ANNO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 7, 1952.

An Act to amend the Mining Act, 1906, as amended by subsequent Acts, in certain respects; and for purposes connected therewith. [Assented to, 17th April, 1952.]

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

1. (1) This Act may be cited as the “Mining (Amendment) Act, 1952”.

Short title,
citation and
commence-
ment.

(2) The Mining Act, 1906, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

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(3) The Principal Act, as amended by this Act, may be cited as the Mining Act, 1906-1952.

(4) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment
of Act No. 49,
1906.

Sec. 3.
(Interpre-
tation.)

2. The Principal Act is amended—

- (a) (i) by omitting from section three the definition of "Crown lands" and by inserting in lieu thereof the following definition:—

"Crown lands" means all land within the State, except—

- (a) land in the process of alienation from the Crown;
- (b) land held in fee simple by any person, other than land vested in Her Majesty or in any person holding such land for or on behalf of Her Majesty or as trustee for public purposes;
- (c) land held under the following tenures, either original or additional: conditional lease not embracing any land reserved or deemed to have been reserved under the provisions of section one hundred and six of this Act, Crown lease other than Crown lease for pastoral purposes, homestead farm, homestead selection, residential lease, special lease other than special lease for pastoral purposes, settlement lease, suburban holding, town lands lease, week-end lease, conditional purchase lease, irrigation farm lease and non-irrigable lease, and land

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land held under any grant issued in respect of any of the foregoing tenures;

(d) land purchased or resumed under the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, or land held under lease under the Closer Settlement Act, 1904, or the Returned Soldiers Settlement Act, 1916, or any Act amending such Acts;

(e) land held under lease under this Act;

(f) any other holding or land which the Governor may by proclamation declare not to be Crown lands.

(ii) by inserting in the same section next after the definition of "Justice" the following new definition:—

"Lease for pastoral purposes" means a lease expressed to be for the purposes of grazing or grazing and the giving of access to water irrespective of whether the whole or part thereof may be used for agricultural purposes.

(iii) by omitting from the definition of "Mine" in the same section the word "purposes";

(iv) by omitting from the definition of "Mining surveyor" in the same section the words "licensed surveyor" and by inserting in lieu thereof the words "surveyor registered under the Surveyors Act, 1929-1946, and who is";

(b)

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New sec. 3A.

- (b) by inserting next after section three the following new section:—

Proclamations.

3A. Any proclamation made under this Act and in respect of which no provision is made for its variation or cancellation may be varied or cancelled by a subsequent proclamation made in like manner as the proclamation being varied or cancelled.

Further amendment of Act No. 49, 1906.

3. The Principal Act is further amended—

New sec. 13A.

- (a) by inserting next after section thirteen the following new section:—

Restriction on issue, etc., of miners' rights and business licenses.

13A. As from the commencement of the Mining (Amendment) Act, 1952, no miner's right or business license shall be issued to, transferred by or to, or renewed by a person under the age of sixteen years.

Sec. 14.
(Certain exemptions.)

- (b) (i) by inserting in paragraph (a) of subsection one of section fourteen after the word "resumed" the words "or acquired";
- (ii) by omitting from the same paragraph the words "whether vested in His Majesty or in any person as constructing authority or" and by inserting in lieu thereof the words "whether vested in Her Majesty or in any person for or on behalf of Her Majesty or in any person as";
- (iii) by omitting paragraph (e) of the same subsection and by inserting in lieu thereof the following paragraph:—

(e) lands the subject of an authority to prospect or a pending application for a lease or an authority to prospect under this Act;

Sec. 15.
(Rights of occupation in respect of Crown lands.)

- (c) by omitting from paragraph (h) of subsection one of section fifteen the words "such horses or other animals as may be necessary" and by inserting

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inserting in lieu thereof the words “nor reserved for a temporary common not more than two horses and two cows”;

- (d) (i) by omitting from subsection one of section nineteen the words “within twenty-eight days thereafter, register the same in the prescribed manner” and by inserting in lieu thereof the words “forthwith make application in the prescribed manner for registration of the same”;

Sec. 19.
(Holder to register.)

- (ii) by inserting at the end of the same subsection the following proviso:—

Provided that any tenement may be registered notwithstanding that application for registration thereof was not made forthwith after possession was taken if it is shown to the satisfaction of the warden of the district within which the tenement is situated that the applicant was prevented by sickness or other sufficient cause from making such application forthwith;

- (iii) by omitting from subsection two of the same section the words “register the same in the prescribed manner” and by inserting in lieu thereof the words “make application in the prescribed manner for registration of the same”;

- (iv) by omitting subsections three, four and five of the same section and by inserting in lieu thereof the following subsections:—

(3) Every applicant for registration or renewal of registration of a tenement shall produce his miner’s right or business license to the mining registrar of the mining division wherein the tenement is situated.

(4) Any person neglecting to make application for registration of a tenement being a claim under this Act or a share in any such

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such tenement or to renew the registration thereof shall, if he works or mines on such tenement, incur the penalty hereinafter in this Act prescribed for unauthorised mining on Crown land.

Further
amendment
of Act No. 49,
1906.

Sec. 23.
(Governor
may grant
leases.)

4. The Principal Act is further amended—

- (a) (i) by omitting paragraph (b) of subsection one of section twenty-three and by inserting in lieu thereof the following paragraph:—

(b) He may grant leases for any mining purposes of the surface and of the soil to a limited depth below the surface, or of the soil below the surface between specified depths. Any lease so granted shall specify the mining purposes for which it is granted. Nothing in this paragraph shall authorise mining on the land or the removal of any gold or minerals won therefrom.

- (ii) by inserting at the end of the same section the following new subsections:—

(3) Notwithstanding the provisions of subsection two of section fifteen of the Public Roads Act, 1902, the Governor may grant gold-mining leases or mineral leases of land below a depth of fifty feet from the surface of land resumed for road purposes.

(4) The Governor may, upon such terms as he may think fit, grant to the holder of a lease for mining purposes authority to use the land comprised in such lease for any other mining purpose or purposes in addition to the purpose or purposes for which the lease is granted and the Governor may vary or revoke any such authority.

(5) (a) Upon the cancellation or determination of any lease of Crown land situated wholly

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wholly or in part within the external boundaries of any area exempted from the leasing provisions of this Act, the lands comprised in such lease shall, to the extent to which they are within the external boundaries of the area so exempted, thereupon form part of such area.

(b) The provisions of this subsection shall not apply to a lease granted to a complainant following the cancellation of such lease under the provisions of section 124A of this Act.

- (b) by inserting at the end of section twenty-seven the following new subsection:—

Sec. 27.
(Applica-
tion for
leases.)

(4) A lease may, at the request in writing of the applicant, be granted to any person named by him.

Lease to
nominee.

- (c) by inserting in paragraph (a) of section twenty-eight after the words “applied for, and” the words “subject to any conditions or restrictions imposed by the Minister”;

Sec. 28.
(Applicant
may mine
upon land.)

- (d) by inserting at the end of section thirty the following new subsection:—

Sec. 30.
(When
application
pending.)

(4) In the event of an applicant or his legal representatives as aforesaid carrying on mining operations during the pendency of an application he or they, as the case may be, shall pay royalty on any gold or mineral won during such pendency at the rate which would be payable on such gold or mineral had such gold or mineral been won from land the subject of a lease granted after the commencement of the Mining (Amendment) Act, 1952.

- (e) (i) by inserting next after subsection (2c) of section thirty-six the following new subsection:—

Sec. 36.
(Rent and
royalty
payable.)

(2d) (a) In respect of all gold and minerals won from land demised by lease so granted

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granted on or after the commencement of the Mining (Amendment) Act, 1952, royalty shall be paid at such rates as may be prescribed.

(b) The regulations may prescribe rates according to percentage of the value of the gold or mineral won, or an amount per ton on all mineral won, or an amount per cubic foot, cubic yard, gallon or other appropriate standard of measurement or otherwise howsoever.

Different rates may be prescribed in respect of different minerals. In the case of rates according to the percentage of the value of the gold or mineral won such rates shall not exceed one and one-half per centum of such value. In the case of rates according to an amount per ton on all mineral (other than coal or shale) won such rates shall not be less than threepence nor more than one shilling per ton.

The rate prescribed in respect of coal or shale shall not exceed ninepence per ton.

(ii) by omitting from subsection five of the same section the words "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";

Sec. 40.
(Governor
may grant
special
leases.)

(f) (i) by inserting in subsection one of section forty after the words "or of mining such land" the words "or for any other sufficient reason";

(ii) by inserting in paragraph (a) of subsection two of the same section after the words "and of mining such land" the words "or for any other sufficient reason";

(iii)

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(iii) by inserting at the end of the same section the following new subsection:—

(4) A special mining lease may at the request in writing of the applicant be granted to any person named by him.

5. The Principal Act is further amended—

Further amendment of Act No. 49, 1906.

(a) by inserting in section forty-five in the definition of "Private lands" after the word "include" the words and symbols "(i) any lease granted under Part III or Part V of this Act; or (ii)";

Sec. 45.

(Interpretation.)

(b) by omitting paragraph (b) of the proviso to section forty-eight and by inserting in lieu thereof the following paragraphs:—

Sec. 48.

(Cultivated land.)

(b) cultivation for the growth and spread of pasture grasses shall not be deemed to be cultivation within the meaning of this section unless, in the opinion of the Minister, the circumstances so warrant; and

(c) in the case of dispute as to whether land is or is not under cultivation within the meaning of this section the Minister's decision thereon shall be final;

(c) (i) by inserting at the end of subsection one of section fifty the following new paragraph:—

Sec. 50.

(Warden may grant authority.)

An authority to enter may be granted by the warden notwithstanding that the applicant has not complied in every respect with the regulations;

(ii) by inserting at the end of subsection two. of the same section the following new paragraph:—

(d) if, in the opinion of the warden, the applicant has abandoned his application or by his negligent or dilatory conduct

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conduct has hindered the disposal of the application within a reasonable time after its lodgment;

- (iii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—

(3) The time during which such authority is required shall be stated in such application, and the applicant shall lodge therewith a fee of five shillings which shall be paid by the warden into the Treasury and carried to the Consolidated Revenue Fund.

Sec. 57.
(Mining
leases.)

- (d) (i) by omitting from subsection four of section fifty-seven the words “the application” and by inserting in lieu thereof the words “his intention to apply for a lease”;
- (ii) by inserting in subsection five of the same section after the word “may” the words “subject to any conditions (including payment of rent not exceeding that prescribed by section sixty-four of this Act) or restrictions imposed by the Minister”;

Sec. 58.
(Power to
refuse, etc.)

- (e) by inserting at the end of subsection three of section fifty-eight the following new paragraph:—

A lease may subject to the consent of the owner be granted notwithstanding that the land surveyed does not strictly correspond with the land defined in the authority to enter;

Sec. 60.
(Lease for
race, tram¹
way, etc.)

- (f) by inserting next after subsection one of section sixty the following new subsection:—

(1A) The Governor may, upon such terms as he may think fit, grant to the holder of a lease under this section authority to use the land comprised in such lease for any purpose or purposes in connection with mining in addition
to

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to the purpose or purposes for which such lease is granted and the Governor may vary or revoke any such authority.

- (g) by inserting in subsection one of section sixty-four after the word "acre" the words "or portion of an acre"; Sec. 64.
(Rents payable.)
- (h) by inserting at the end of section sixty-nine the following new subsection:— Sec. 69.
(Lease or agreement by owner to mine for minerals reserved to Crown.)
- (8) No lease or agreement of the nature referred to in the foregoing provisions of this section shall be entered into on or after the commencement of the Mining (Amendment) Act, 1952.
- (i) by inserting at the end of section seventy the following new subsections:— Sec. 70.
(Lease or agreement to mine for minerals not reserved to Crown.)
- (11) The foregoing provisions of this section shall not apply to or in respect of any lease or agreement of the nature therein referred to entered into on or after the commencement of the Mining (Amendment) Act, 1952.
- (12) (a) In this subsection—
- "Crown minerals" means gold and other minerals reserved to the Crown;
- "privately owned minerals" means minerals not reserved to the Crown.
- (b) Where privately owned minerals are associated or combined with any Crown minerals the owner of such privately owned minerals, or any person mining such privately owned minerals by agreement with such owner, may in mining such privately owned minerals and notwithstanding anything contained in this Act also mine such Crown minerals as are associated or combined therewith.
- (c) This subsection shall not apply where the value of the Crown minerals associated or combined with such privately owned minerals

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minerals and so mined exceeds fifty per centum of the total value of such Crown minerals and privately owned minerals so mined.

(d) Where the value of the Crown minerals associated or combined with privately owned minerals and so mined is found to exceed fifty per centum of the total value of such Crown minerals and privately owned minerals so mined such owner or person as aforesaid shall forthwith apply for a lease under this Part to mine for Crown minerals.

Any person who fails to comply with the provisions of this paragraph shall be liable to the penalty prescribed in section one hundred and ninety-six of this Act.

(e) Royalty on Crown minerals won pursuant to the provisions of this subsection shall be payable at the rates prescribed by Division 6 of this Part of this Act in respect of Crown minerals.

Such royalty shall be payable to the Crown at the times, and in the manner prescribed and may be recovered from the owner or person mining such Crown minerals as a Crown debt.

(f) Any person who, otherwise than in pursuance of an authority to enter or a lease under this Part or any application therefor, mines privately owned minerals other than coal or shale shall within one month after commencement of such mining give notice thereof to the Under Secretary for Mines and furnish particulars of the area being so mined together with a copy of the lease or agreement (if any) under which such person is mining such privately owned minerals.

- (j) by inserting in subsection four of section 70B after the word "acre" the words "or portion of an acre";

(k)

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(k) by inserting at the end of section 70c the following new subsection:—

Sec. 70c.
(Royalty payable.)

(5) (a) In respect of any authority or lease granted after the commencement of the Mining (Amendment) Act, 1952, the foregoing provisions of this section shall have effect as if—

(i) the words “one and one-eighth per centum” were omitted from paragraph (a) of subsection one and the words “such rate per centum as may be prescribed” were inserted in lieu thereof;

(ii) the words “sixpence per ton” were omitted from paragraph (b) of the same subsection and the words “such rate per ton as may be prescribed” were inserted in lieu thereof;

(iii) the words “paragraph (a) or paragraph (b) of this subsection” were omitted from the same subsection wherever occurring and the words “paragraph (a) or paragraph (b) of this subsection as amended by subsection five of this section” were inserted in lieu thereof;

(iv) paragraphs (i) and (ii) of subsection two were omitted and the following paragraphs:—

(i) one-seventh of the amount paid under subsection one of this section in respect of all minerals other than coal or shale won from the land; and

(ii) one penny per ton of all coal or shale won from the land,

were inserted in lieu thereof.

(b) The regulations may prescribe rates according to percentage of the value of the mineral

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mineral won, or an amount per ton on all mineral won, or an amount per cubic foot, cubic yard, gallon or other appropriate standard of measurement or otherwise howsoever.

Different rates may be prescribed in respect of different minerals. In the case of rates according to the percentage of the value of the mineral won such rates shall not exceed one and three-quarters per centum of such value. In the case of rates according to an amount per ton on all mineral (other than coal or shale) won such rates shall not exceed one shilling per ton.

The rate prescribed in respect of coal or shale shall not exceed ninepence per ton.

Sec. 70E.
(Protection
of land in
certain
colliery
holdings.)

- (1) (i) by inserting in subsection one of section 70E after the word "mine" the words "for coal or shale";
- (ii) by inserting in the same subsection after the words "Under Secretary for Mines" the words "in accordance with the provisions of the Coal Mines Regulation Act, 1912-1947";
- (iii) by inserting next after the same subsection the following new subsection:—

(1A) Notwithstanding the provisions of section 70D of this Act or of subsection one of this section an authority to enter or a lease to prospect or mine for any mineral other than coal or shale upon any land referred to in subsection one of this section may be granted where in the opinion of the Chief Inspector of Coal Mines prospecting or mining for such mineral may be carried on without detriment to the colliery or to the safety of the persons employed therein.

(m)

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- (m) (i) by inserting next after subsection two of section eighty-two the following new subsection:—

Sec. 82.

(Royalty.)

(2A) (a) In respect of all gold and minerals reserved to the Crown won from land held under an authority to enter or a lease under this Part granted after the commencement of the Mining (Amendment) Act, 1952, royalty shall be paid at such rates as may be prescribed.

(b) The provisions of paragraph (b) of subsection (2b) of section thirty-six of this Act shall apply, mutatis mutandis, to and in respect of regulations prescribing the rates of royalty payable under this subsection.

- (ii) by omitting subsection four of the same section.

6. The Principal Act is further amended—

Further
amendment
of Act No. 49,
1906.

- (a) by omitting from section eighty-four the definition of "Crown land";
- Sec. 84.
(Interpretation.)
- (b) (i) by inserting in subsection one of section eighty-six after the words "any other mineral" the words "whether or not such mineral is reserved to the Crown";
- Sec. 86.
(Governor may grant leases for mining by dredging, etc.)
- (ii) by inserting in subsection two of the same section after the words "one hundred acres" where firstly occurring the words "and unless the area applied for embraces the whole of a measured portion it shall be surveyed by a mining surveyor before the issue of a lease";
- (c) by omitting from subsection two of section ninety-four the words "such determination" and by inserting in lieu thereof the words "any determination to refuse any application or grant a lease";
- Sec. 94.
(Grant or refusal of lease.)
- (d)

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Sec. 98.
(Rent and
royalty.)

(d) (i) by inserting in subsection one of section ninety-eight after the word "acre" the words "or portion of an acre";

(ii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsections:—

(2) (a) In respect of all gold and minerals reserved to the Crown won from any land leased under this Part before the commencement of the Mining (Amendment) Act, 1952, royalty of one per centum of the value of such gold and minerals so won shall be payable to the Crown.

(b) In respect of all gold and minerals whether reserved to the Crown or not won from any land leased under this Part on or after the commencement of the Mining (Amendment) Act, 1952, royalty shall be paid at such rates as may be prescribed.

(c) The provisions of paragraph (b) of subsection (2d) of section thirty-six of this Act shall apply, mutatis mutandis, to and in respect of regulations prescribing the rates of royalty payable under this subsection in respect of gold and minerals reserved to the Crown.

The provisions of paragraph (b) of subsection five of section 70c of this Act shall apply to and in respect of regulations prescribing the rates of royalty payable under this subsection in respect of minerals not reserved to the Crown.

(d) The royalty shall, subject to subsection three of this section, be payable at the times and in the manner prescribed.

(e) If the royalty payable in respect of any lease of Crown land during any one year exceeds the rent paid for such year in respect

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respect thereof, the amount paid as rent as aforesaid may be deducted from such sum payable as royalty; but if such royalty in any one year amounts to less than the rent paid for such year, the lessee shall not for such year be required to pay royalty.

(3) (a) The holder of any lease granted under this Part shall at the times and in the manner prescribed pay to the Minister on behalf of the owner of the minerals in such lease not reserved to the Crown the sum prescribed as royalty payable in respect of such minerals.

(b) The Minister shall at the times and in the manner prescribed pay to the owner of such minerals the sum so paid as royalty in respect of such minerals less one-seventh of the amount so paid 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.

- (e) by inserting next after subsection three of section ninety-nine the following new subsection:—
- Sec. 99.
(Grant of lease.)

(4) The Governor may, upon such terms as he may think fit, grant to the holder of a lease granted under this Part authority to mine for any minerals in addition to those in respect of which the lease is granted and the Governor may vary or revoke any such authority.

7. The Principal Act is further amended—

- (a) by inserting in section one hundred and four after the word “nearest” the word “practicable”; Further amendment of Act No. 49, 1906.
Sec. 104.
(Leases for railways, etc.)
- (b) by inserting at the end of subsection one of section one hundred and eight the words “and may Sec. 108.
(Covenants and conditions of leases.)

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may also contain such special covenants, conditions, reservations and exemptions as may be approved by the Governor”;

New sec.
108B.

- (c) by inserting next after section 108A the following new section:—

Royalty
on leases
compris-
ing land
previously
leased.

108B. (1) Where a lease (in this section referred to as the “prior lease”) granted under this Act or any Act hereby repealed has expired or been surrendered, cancelled or otherwise determined and any land comprised wholly or partly in such prior lease has, within a period of five years from such expiration, surrender, cancellation or determination, become the subject of a lease (in this section referred to as the “fresh lease”) granted to any person or persons, who was or were the lessee or lessees of the prior lease, or who is or are substantially the same person or persons as the lessee or lessees of the prior lease, the royalty payable on such fresh lease, shall notwithstanding anything contained in this Act, be the same as would be payable on a lease renewed in accordance with the provisions of this Act.

(2) In case of dispute as to whether the lessee or lessees of a fresh lease is or are substantially the same as the lessee or lessees of the prior lease the Minister’s decision shall be final.

Sec. 109.
(Registra-
tion of
leases,
etc.)

- (d) by omitting subsection one of section one hundred and nine and by inserting in lieu thereof the following subsection:—

(1) Every lease under this Act shall be registered with the Registrar, Department of Mines, Sydney, and thereafter every transfer or assignment thereof or of any interest therein (except in the case of an assignment by operation of law), and every sub-lease of or tribute

or

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or option contract affecting the land, or any portion thereof, comprised in such lease, or in any lease or agreement registered under section sixty-nine or seventy of this Act shall be submitted within the time and in the manner prescribed for—

(a) the concurrence or sanction of the Minister and registration, or

(b) registration.

The Minister may refuse such concurrence or sanction or may grant the same subject to any amendments, modifications, or stipulations which he may think necessary in the public interest to impose.

Every instrument, which by this subsection is required to be registered, shall be lodged by such person as is prescribed.

(e) by omitting from subsection one of section one hundred and thirteen the words “a majority” and by inserting in lieu thereof the words “not less than one-half”; Sec. 113.
(Suspension of operations.)

(f) (i) by inserting at the end of subsection one of section one hundred and fifteen the following proviso:— Sec. 115.
(Returns to be furnished.)

Provided that the Minister may grant permission to any such holder to furnish such return within such extended time and covering such period as the Minister may determine.

(ii) by inserting in subsection three of the same section after the words “prescribed time” the words “or such extended time”;

(iii) by inserting in the same subsection after the words “twenty-eight days” the words “or such extended time”;

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Sec. 116.
(Further
parti-
culars, etc.)

- (g) by inserting at the end of subsection one of section one hundred and sixteen the following new paragraph:—

On receipt of such report the Minister, if he is of the opinion that the value of the minerals declared in the return furnished in accordance with the provisions of section one hundred and fifteen of this Act is too low, may assess a value for such minerals based on the average selling price in local or overseas markets and royalty shall be paid on the value so assessed.

New secs.
116A, 116B.

- (h) by inserting next after section one hundred and sixteen the following new sections:—

Trust
fund.

116A. (1) The Minister may require any holder of a lease or other title to mine to—

- (a) establish a trust fund into which payment shall be made from sales of gold or minerals, including coal and shale, made by such holder, to meet royalty due thereon, or
- (b) furnish a suitable guarantee that royalty will be paid on demand.

(2) Any person who fails to comply with any requirement of the Minister under this section or to make any payment into the trust fund pursuant to this section shall be liable to a penalty not exceeding fifty pounds and to a further penalty not exceeding five pounds for every day during which such failure continues.

Interest
may be
added.

116B. Every holder of a lease or other title to mine subject to the payment of any sum by way of royalty shall pay the amount due as royalty upon demand and if such payment is not made within twenty-eight days of such demand interest at such rate as the Minister may determine may be added to the amount due until it is paid. Any such interest may be recoverable in like manner as royalty.

(i)

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- (i) (i) by omitting from subsection two of section one hundred and eighteen the words "obtaining a report from the warden" and by inserting in lieu thereof the words "investigation and report by the Chief Inspector of Mines or the Chief Inspector of Coal Mines"; Sec. 118.
(Amalgamation.)
- (ii) by omitting from subsection four of the same section the words "inquiry and report by the warden" and by inserting in lieu thereof the words "investigation and report by the Chief Inspector of Mines or the Chief Inspector of Coal Mines";
- (j) by inserting at the end of section one hundred and twenty-three the following proviso:— Sec. 123.
(Lessee may surrender lease wholly or in part.)
 Provided that the Minister may, in the case of the surrender of a lease in part, approve of the refund or remission of the rent paid or due on the part surrendered during the period subsequent to the acceptance of such surrender by the Governor and prior to execution of the deed of surrender.
- (k) by inserting at the end of section one hundred and twenty-four the following new paragraph:— Sec. 124.
(Cancellation.)
 A lease may also be cancelled by the Governor upon the written request of the lessee or a majority of the lessees and the cancellation shall take effect on the date notified in the Gazette.
- (l) by omitting from subsection (1A) of section 124A the word "other"; Sec. 124A.
(Complaint as to non-compliance with labour conditions.)
- (m) by inserting next after section 124A the following new section:— New sec. 124B.
 124B. Upon the surrender, expiration, cancellation or other determination of any lease granted under the provisions of this Act or any Act hereby repealed the Minister may authorise the writing off of any debt due to the Crown in respect of rent unpaid on such lease. (n) Writing off Crown rent.

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Sec. 125.

(Machinery,
etc., on
forfeited
area.)

- (n) by inserting next after subsection two of section one hundred and twenty-five the following new subsection:—

(3) Tools, machinery, and improvements not removed from any tenement within twelve months after the abandonment of such tenement may be sold by auction by order of the warden at the risk of the former holder. The net proceeds of such sale shall be paid into the Treasury and held until applied for by such former holder.

New sub-
heading to
sec. 128A.

- (o) by inserting immediately before section 128A the following new sub-heading:—

Non-vitiation of lease or authority.

New sec.
130A.

- (p) by inserting next after section one hundred and thirty the following new sub-heading and section: —

Service of notices on behalf of Minister.

Notices may
be signed
by Under
Secretary.

130A. Where under the provisions of this Act or under any regulation, lease or authority, it is provided that notice shall be given by the Minister or by the Secretary for Mines it shall be sufficient if such notice is signed by the person for the time being holding or acting in the office of Under Secretary of the Department of Mines.

Further
amendment
of Act No. 49,
1906.

8. The Principal Act is further amended—

Sec. 147.

(Warden
may grant
injunction.)

- (a) by inserting at the end of subsection four of section one hundred and forty-seven the following new paragraph:—

Application for an injunction under this subsection may be heard by the warden at any warden's court in the mining district in which the mining division in which the dispute arises is situated.

New sec.
157A.

- (b) by inserting next after section one hundred and fifty-seven the following new section:—

Compensa-
tion.

157A. If, where no such assessment has been made, any loss has been caused and is likely to
be

Mining (Amendment).

be caused by damage to the surface of any land and to any crops, buildings, and improvements thereon by works carried on in pursuance of the rights conferred by any miner's right, license, authority, lease or application, the warden may as aforesaid assess such loss and order the same to be paid by the holder or applicant aforesaid to any person having interest in the land so damaged. If such payment is not so made the claim, license, authority or lease may be cancelled or the application refused.

9. The Principal Act is further amended by inserting next after section one hundred and eighty-three the following new section:—

Further amendment of Act No. 49 1906.

New sec. 183A.

183A. (1) Every holder of a lease or other title to mine under this Act and any other person carrying on mining, prospecting or other operations in connection therewith who may be called upon so to do shall, at such times and in such manner as the Minister may require, furnish such statistics, returns and other information as may be required and shall keep such records as may be necessary for the completion thereof.

Furnishing of statistics, returns, etc.

(2) The owner of every establishment engaged in the treatment or purchase of metals, minerals, or other materials derived from any mine shall, at such times and in such manner as the Minister may require, furnish such statistics, returns and other information as may be required and shall keep such records as may be necessary for the completion thereof.

(3) Any information required under this section in respect of any particulars supplied in or omitted from a return shall be furnished within such period as may be specified by the Under Secretary of the Department of Mines.

(4)

Mining (Amendment).

(4) Any officer of the Department of Mines or other person authorised in writing by the Minister shall at all times have full and free access to all mines and to all buildings, books, documents and other records relating to the production, treatment and disposal of metals, minerals or other materials derived from any mine and may make extracts from or copies of such books, documents or records, and may make such investigations as he may consider proper in connection with the production, treatment and disposal of such metals, minerals or other materials.

(5) Statistics, returns and information, obtained pursuant to this section, shall be treated as confidential provided that the Minister may cause to be published or otherwise made available the results of such statistics, returns and information with respect to the whole of New South Wales or any portion thereof and such details furnished on an individual return (other than details relating to working expenses) as he may think fit.

(6) Any person who fails to comply with any requirement made under this section or who makes any return or supplies any information which is incomplete shall be liable to a penalty not exceeding fifty pounds.

10. The Principal Act is further amended—

- (a) by inserting at the end of section one hundred and eighty-eight the words “and any gold, minerals, or metals obtained by such unauthorised mining may be forfeited by the court before which he is convicted of such offence”;

(b)

Mining (Amendment).

(b) by omitting section one hundred and ninety-seven and by inserting in lieu thereof the following section:—

Substituted
sec. 197.

197. (1) Any person who inserts any false particulars in any statistics or returns directed or required by or under this Act to be furnished or made or supplies any false information when directed or required under this Act to supply any information shall be liable to a penalty not exceeding fifty pounds.

False
returns.

(2) If the court before which any person is convicted of any offence against subsection one of this section is satisfied that such false particulars or information was supplied wilfully to evade the payment of royalty such person shall be liable to an additional penalty of a sum equal to twice the amount of royalty payable.

By Authority:

A. H. PETTIFER, Government Printer, Sydney, 1952.

[1s. 4d.]

Ministry (the authority).

(b) by omitting section one hundred and ninety-seven and by inserting in lieu thereof the following section:

197. (1) Any person who inserts any false particulars in any statistics or returns directed or required by or under this Act to be furnished or made or supplies any false information when directed or required under this Act to supply any information shall be liable to a penalty not exceeding fifty pounds.

(2) If the court before which any person is convicted of any offence against subsection one of this section is satisfied that such false particulars or information was supplied wilfully to evade the payment of royalty such person shall be liable to an additional penalty of a sum equal to twice the amount of royalty payable.

In Authority:

A. B. TAYLOR, Government Printer, Kibuli, 1952.

[11. 52.]

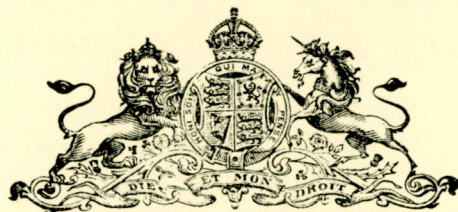
I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

H. ROBBINS,

Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 26 March, 1952.*

New South Wales.



ANNO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 7, 1952.

An Act to amend the Mining Act, 1906, as amended by subsequent Acts, in certain respects; and for purposes connected therewith. [Assented to, 17th April, 1952.]

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

1. (1) This Act may be cited as the "Mining (Amendment) Act, 1952".

Short title,
citation and
commence-
ment.

(2) The Mining Act, 1906, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3)

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

G. BOOTH,

Chairman of Committees of the Legislative Assembly.

Mining (Amendment).

(3) The Principal Act, as amended by this Act, may be cited as the Mining Act, 1906-1952.

(4) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment
of Act No. 49,
1906.

Sec. 3.
(Interpre-
tation.)

2. The Principal Act is amended—

- (a) (i) by omitting from section three the definition of "Crown lands" and by inserting in lieu thereof the following definition:—

"Crown lands" means all land within the State, except—

- (a) land in the process of alienation from the Crown;
- (b) land held in fee simple by any person, other than land vested in Her Majesty or in any person holding such land for or on behalf of Her Majesty or as trustee for public purposes;
- (c) land held under the following tenures, either original or additional: conditional lease not embracing any land reserved or deemed to have been reserved under the provisions of section one hundred and six of this Act, Crown lease other than Crown lease for pastoral purposes, homestead farm, homestead selection, residential lease, special lease other than special lease for pastoral purposes, settlement lease, suburban holding, town lands lease, week-end lease, conditional purchase lease, irrigation farm lease and non-irrigable lease, and
land

Mining (Amendment).

land held under any grant issued in respect of any of the foregoing tenures;

(d) land purchased or resumed under the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, or land held under lease under the Closer Settlement Act, 1904, or the Returned Soldiers Settlement Act, 1916, or any Act amending such Acts;

(e) land held under lease under this Act;

(f) any other holding or land which the Governor may by proclamation declare not to be Crown lands.

(ii) by inserting in the same section next after the definition of "Justice" the following new definition:—

"Lease for pastoral purposes" means a lease expressed to be for the purposes of grazing or grazing and the giving of access to water irrespective of whether the whole or part thereof may be used for agricultural purposes.

(iii) by omitting from the definition of "Mine" in the same section the word "purposes";

(iv) by omitting from the definition of "Mining surveyor" in the same section the words "licensed surveyor" and by inserting in lieu thereof the words "surveyor registered under the Surveyors Act, 1929-1946, and who is";

(b)

Mining (Amendment).

New sec. 3A. (b) by inserting next after section three the following new section:—

Proclamations.

3A. Any proclamation made under this Act and in respect of which no provision is made for its variation or cancellation may be varied or cancelled by a subsequent proclamation made in like manner as the proclamation being varied or cancelled.

Further amendment of Act No. 49, 1906.

3. The Principal Act is further amended—

New sec. 13A.

(a) by inserting next after section thirteen the following new section:—

Restriction on issue, etc., of miners' rights and business licenses.

13A. As from the commencement of the Mining (Amendment) Act, 1952, no miner's right or business license shall be issued to, transferred by or to, or renewed by a person under the age of sixteen years.

Sec. 14.
(Certain exemptions.)

(b) (i) by inserting in paragraph (a) of subsection one of section fourteen after the word "resumed" the words "or acquired";

(ii) by omitting from the same paragraph the words "whether vested in His Majesty or in any person as constructing authority or" and by inserting in lieu thereof the words "whether vested in Her Majesty or in any person for or on behalf of Her Majesty or in any person as";

(iii) by omitting paragraph (e) of the same subsection and by inserting in lieu thereof the following paragraph:—

(e) lands the subject of an authority to prospect or a pending application for a lease or an authority to prospect under this Act;

Sec. 15.
(Rights of occupation in respect of Crown lands.)

(c) by omitting from paragraph (h) of subsection one of section fifteen the words "such horses or other animals as may be necessary" and by inserting

Mining (Amendment).

inserting in lieu thereof the words "nor reserved for a temporary common not more than two horses and two cows";

- (d) (i) by omitting from subsection one of section nineteen the words "within twenty-eight days thereafter, register the same in the prescribed manner" and by inserting in lieu thereof the words "forthwith make application in the prescribed manner for registration of the same";

Sec. 19.
(Holder to register.)

- (ii) by inserting at the end of the same subsection the following proviso:—

Provided that any tenement may be registered notwithstanding that application for registration thereof was not made forthwith after possession was taken if it is shown to the satisfaction of the warden of the district within which the tenement is situated that the applicant was prevented by sickness or other sufficient cause from making such application forthwith;

- (iii) by omitting from subsection two of the same section the words "register the same in the prescribed manner" and by inserting in lieu thereof the words "make application in the prescribed manner for registration of the same";

- (iv) by omitting subsections three, four and five of the same section and by inserting in lieu thereof the following subsections:—

(3) Every applicant for registration or renewal of registration of a tenement shall produce his miner's right or business license to the mining registrar of the mining division wherein the tenement is situated.

(4) Any person neglecting to make application for registration of a tenement being a claim under this Act or a share in any such

Mining (Amendment).

such tenement or to renew the registration thereof shall, if he works or mines on such tenement, incur the penalty hereinafter in this Act prescribed for unauthorised mining on Crown land.

Further
amendment
of Act No. 49,
1906.

Sec. 23.
(Governor
may grant
leases.)

4. The Principal Act is further amended—

(a) (i) by omitting paragraph (b) of subsection one of section twenty-three and by inserting in lieu thereof the following paragraph:—

(b) He may grant leases for any mining purposes of the surface and of the soil to a limited depth below the surface, or of the soil below the surface between specified depths. Any lease so granted shall specify the mining purposes for which it is granted. Nothing in this paragraph shall authorise mining on the land or the removal of any gold or minerals won therefrom.

(ii) by inserting at the end of the same section the following new subsections:—

(3) Notwithstanding the provisions of subsection two of section fifteen of the Public Roads Act, 1902, the Governor may grant gold-mining leases or mineral leases of land below a depth of fifty feet from the surface of land resumed for road purposes.

(4) The Governor may, upon such terms as he may think fit, grant to the holder of a lease for mining purposes authority to use the land comprised in such lease for any other mining purpose or purposes in addition to the purpose or purposes for which the lease is granted and the Governor may vary or revoke any such authority.

(5) (a) Upon the cancellation or determination of any lease of Crown land situated wholly

Mining (Amendment).

wholly or in part within the external boundaries of any area exempted from the leasing provisions of this Act, the lands comprised in such lease shall, to the extent to which they are within the external boundaries of the area so exempted, thereupon form part of such area.

(b) The provisions of this subsection shall not apply to a lease granted to a complainant following the cancellation of such lease under the provisions of section 124A of this Act.

- (b) by inserting at the end of section twenty-seven the following new subsection:— Sec. 27.
(Applica-
tion for
leases.)
- (4) A lease may, at the request in writing of the applicant, be granted to any person named by him. Lease to
nominee.
- (c) by inserting in paragraph (a) of section twenty-eight after the words “applied for, and” the words “subject to any conditions or restrictions imposed by the Minister”; Sec. 28.
(Applicant
may mine
upon land.)
- (d) by inserting at the end of section thirty the following new subsection:— Sec. 30.
(When
application
pending.)
- (4) In the event of an applicant or his legal representatives as aforesaid carrying on mining operations during the pendency of an application he or they, as the case may be, shall pay royalty on any gold or mineral won during such pendency at the rate which would be payable on such gold or mineral had such gold or mineral been won from land the subject of a lease granted after the commencement of the Mining (Amendment) Act, 1952.
- (e) (i) by inserting next after subsection (2c) of section thirty-six the following new subsection:— Sec. 36.
(Rent and
royalty
payable.)
- (2d) (a) In respect of all gold and minerals won from land demised by lease so granted

Mining (Amendment).

granted on or after the commencement of the Mining (Amendment) Act, 1952, royalty shall be paid at such rates as may be prescribed.

(b) The regulations may prescribe rates according to percentage of the value of the gold or mineral won, or an amount per ton on all mineral won, or an amount per cubic foot, cubic yard, gallon or other appropriate standard of measurement or otherwise howsoever.

Different rates may be prescribed in respect of different minerals. In the case of rates according to the percentage of the value of the gold or mineral won such rates shall not exceed one and one-half per centum of such value. In the case of rates according to an amount per ton on all mineral (other than coal or shale) won such rates shall not be less than threepence nor more than one shilling per ton.

The rate prescribed in respect of coal or shale shall not exceed ninepence per ton.

(ii) by omitting from subsection five of the same section the words "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";

Sec. 40.
(Governor
may grant
special
leases.)

(f) (i) by inserting in subsection one of section forty after the words "or of mining such land" the words "or for any other sufficient reason";

(ii) by inserting in paragraph (a) of subsection two of the same section after the words "and of mining such land" the words "or for any other sufficient reason";

(iii)

Mining (Amendment).

(iii) by inserting at the end of the same section the following new subsection:—

(4) A special mining lease may at the request in writing of the applicant be granted to any person named by him.

5. The Principal Act is further amended—

Further
amendment
of Act No. 49,
1906.

(a) by inserting in section forty-five in the definition of "Private lands" after the word "include" the words and symbols "(i) any lease granted under Part III or Part V of this Act; or (ii)";

Sec. 45.
(Interpre-
tation.)

(b) by omitting paragraph (b) of the proviso to section forty-eight and by inserting in lieu thereof the following paragraphs:—

Sec. 48.
(Cultivated
land.)

(b) cultivation for the growth and spread of pasture grasses shall not be deemed to be cultivation within the meaning of this section unless, in the opinion of the Minister, the circumstances so warrant; and

(c) in the case of dispute as to whether land is or is not under cultivation within the meaning of this section the Minister's decision thereon shall be final;

(c) (i) by inserting at the end of subsection one of section fifty the following new paragraph:—

Sec. 50.
(Warden
may grant
authority.)

An authority to enter may be granted by the warden notwithstanding that the applicant has not complied in every respect with the regulations;

(ii) by inserting at the end of subsection two of the same section the following new paragraph:—

(d) if, in the opinion of the warden, the applicant has abandoned his application or by his negligent or dilatory conduct

Mining (Amendment).

conduct has hindered the disposal of the application within a reasonable time after its lodgment;

- (iii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—

(3) The time during which such authority is required shall be stated in such application, and the applicant shall lodge therewith a fee of five shillings which shall be paid by the warden into the Treasury and carried to the Consolidated Revenue Fund.

Sec. 57.
(Mining
leases.)

- (d) (i) by omitting from subsection four of section fifty-seven the words "the application" and by inserting in lieu thereof the words "his intention to apply for a lease";
- (ii) by inserting in subsection five of the same section after the word "may" the words "subject to any conditions (including payment of rent not exceeding that prescribed by section sixty-four of this Act) or restrictions imposed by the Minister";

Sec. 58.
(Power to
refuse, etc.)

- (e) by inserting at the end of subsection three of section fifty-eight the following new paragraph:—

A lease may subject to the consent of the owner be granted notwithstanding that the land surveyed does not strictly correspond with the land defined in the authority to enter;

Sec. 60.
(Lease for
race, tram-
way, etc.)

- (f) by inserting next after subsection one of section sixty the following new subsection:—

(1A) The Governor may, upon such terms as he may think fit, grant to the holder of a lease under this section authority to use the land comprised in such lease for any purpose or purposes in connection with mining in addition
to

Mining (Amendment).

to the purpose or purposes for which such lease is granted and the Governor may vary or revoke any such authority.

- (g) by inserting in subsection one of section sixty-four after the word "acre" the words "or portion of an acre"; Sec. 64.
(Rents payable.)
- (h) by inserting at the end of section sixty-nine the following new subsection:— Sec. 69.
(Lease or agreement by owner to mine for minerals reserved to Crown.)
 - (8) No lease or agreement of the nature referred to in the foregoing provisions of this section shall be entered into on or after the commencement of the Mining (Amendment) Act, 1952.
- (i) by inserting at the end of section seventy the following new subsections:— Sec. 70.
(Lease or agreement to mine for minerals not reserved to Crown.)
 - (11) The foregoing provisions of this section shall not apply to or in respect of any lease or agreement of the nature therein referred to entered into on or after the commencement of the Mining (Amendment) Act, 1952.
 - (12) (a) In this subsection—
 - "Crown minerals" means gold and other minerals reserved to the Crown;
 - "privately owned minerals" means minerals not reserved to the Crown.
 - (b) Where privately owned minerals are associated or combined with any Crown minerals the owner of such privately owned minerals, or any person mining such privately owned minerals by agreement with such owner, may in mining such privately owned minerals and notwithstanding anything contained in this Act also mine such Crown minerals as are associated or combined therewith.
 - (c) This subsection shall not apply where the value of the Crown minerals associated or combined with such privately owned **minerals**

Mining (Amendment).

minerals and so mined exceeds fifty per centum of the total value of such Crown minerals and privately owned minerals so mined.

(d) Where the value of the Crown minerals associated or combined with privately owned minerals and so mined is found to exceed fifty per centum of the total value of such Crown minerals and privately owned minerals so mined such owner or person as aforesaid shall forthwith apply for a lease under this Part to mine for Crown minerals.

Any person who fails to comply with the provisions of this paragraph shall be liable to the penalty prescribed in section one hundred and ninety-six of this Act.

(e) Royalty on Crown minerals won pursuant to the provisions of this subsection shall be payable at the rates prescribed by Division 6 of this Part of this Act in respect of Crown minerals.

Such royalty shall be payable to the Crown at the times, and in the manner prescribed and may be recovered from the owner or person mining such Crown minerals as a Crown debt.

(f) Any person who, otherwise than in pursuance of an authority to enter or a lease under this Part or any application therefor, mines privately owned minerals other than coal or shale shall within one month after commencement of such mining give notice thereof to the Under Secretary for Mines and furnish particulars of the area being so mined together with a copy of the lease or agreement (if any) under which such person is mining such privately owned minerals.

Sec. 70B.
(Applica-
tion for
lease.)

(j) by inserting in subsection four of section 70B after the word "acre" the words "or portion of an acre";

(k)

Mining (Amendment).

- (k) by inserting at the end of section 70c the following new subsection:—

Sec. 70c.
(Royalty payable.)

(5) (a) In respect of any authority or lease granted after the commencement of the Mining (Amendment) Act, 1952, the foregoing provisions of this section shall have effect as if—

- (i) the words “one and one-eighth per centum” were omitted from paragraph (a) of subsection one and the words “such rate per centum as may be prescribed” were inserted in lieu thereof;
- (ii) the words “sixpence per ton” were omitted from paragraph (b) of the same subsection and the words “such rate per ton as may be prescribed” were inserted in lieu thereof;
- (iii) the words “paragraph (a) or paragraph (b) of this subsection” were omitted from the same subsection wherever occurring and the words “paragraph (a) or paragraph (b) of this subsection as amended by subsection five of this section” were inserted in lieu thereof;
- (iv) paragraphs (i) and (ii) of subsection two were omitted and the following paragraphs:—
 - (i) one-seventh of the amount paid under subsection one of this section in respect of all minerals other than coal or shale won from the land; and
 - (ii) one penny per ton of all coal or shale won from the land,were inserted in lieu thereof.

(b) The regulations may prescribe rates according to percentage of the value of the mineral

Mining (Amendment).

mineral won, or an amount per ton on all mineral won, or an amount per cubic foot, cubic yard, gallon or other appropriate standard of measurement or otherwise howsoever.

Different rates may be prescribed in respect of different minerals. In the case of rates according to the percentage of the value of the mineral won such rates shall not exceed one and three-quarters per centum of such value. In the case of rates according to an amount per ton on all mineral (other than coal or shale) won such rates shall not exceed one shilling per ton.

The rate prescribed in respect of coal or shale shall not exceed ninepence per ton.

Sec. 70E.
(Protection
of land in
certain
colliery
holdings.)

- (1) (i) by inserting in subsection one of section 70E after the word "mine" the words "for coal or shale";
- (ii) by inserting in the same subsection after the words "Under Secretary for Mines" the words "in accordance with the provisions of the Coal Mines Regulation Act, 1912-1947";
- (iii) by inserting next after the same subsection the following new subsection:—

(1A) Notwithstanding the provisions of section 70D of this Act or of subsection one of this section an authority to enter or a lease to prospect or mine for any mineral other than coal or shale upon any land referred to in subsection one of this section may be granted where in the opinion of the Chief Inspector of Coal Mines prospecting or mining for such mineral may be carried on without detriment to the colliery or to the safety of the persons employed therein.

(m)

Mining (Amendment).

- (m) (i) by inserting next after subsection two of section eighty-two the following new subsection:—

Sec. 82.

(Royalty.)

(2A) (a) In respect of all gold and minerals reserved to the Crown won from land held under an authority to enter or a lease under this Part granted after the commencement of the Mining (Amendment) Act, 1952, royalty shall be paid at such rates as may be prescribed.

(b) The provisions of paragraph (b) of subsection (2D) of section thirty-six of this Act shall apply, mutatis mutandis, to and in respect of regulations prescribing the rates of royalty payable under this subsection.

- (ii) by omitting subsection four of the same section.

6. The Principal Act is further amended—

Further amendment of Act No. 49, 1906.

- (a) by omitting from section eighty-four the definition of "Crown land";
- (b) (i) by inserting in subsection one of section eighty-six after the words "any other mineral" the words "whether or not such mineral is reserved to the Crown";
- (ii) by inserting in subsection two of the same section after the words "one hundred acres" where firstly occurring the words "and unless the area applied for embraces the whole of a measured portion it shall be surveyed by a mining surveyor before the issue of a lease";
- (c) by omitting from subsection two of section ninety-four the words "such determination" and by inserting in lieu thereof the words "any determination to refuse any application or grant a lease";
- (d)

Sec. 84.

(Interpretation.)

Sec. 86.

(Governor may grant leases for mining by dredging, etc.)

Sec. 94.

(Grant or refusal of lease.)

Mining (Amendment).

Sec. 98.
(Rent and
royalty.)

(d) (i) by inserting in subsection one of section ninety-eight after the word "acre" the words "or portion of an acre";

(ii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsections:—

(2) (a) In respect of all gold and minerals reserved to the Crown won from any land leased under this Part before the commencement of the Mining (Amendment) Act, 1952, royalty of one per centum of the value of such gold and minerals so won shall be payable to the Crown.

(b) In respect of all gold and minerals whether reserved to the Crown or not won from any land leased under this Part on or after the commencement of the Mining (Amendment) Act, 1952, royalty shall be paid at such rates as may be prescribed.

(c) The provisions of paragraph (b) of subsection (2d) of section thirty-six of this Act shall apply, mutatis mutandis, to and in respect of regulations prescribing the rates of royalty payable under this subsection in respect of gold and minerals reserved to the Crown.

The provisions of paragraph (b) of subsection five of section 70c of this Act shall apply to and in respect of regulations prescribing the rates of royalty payable under this subsection in respect of minerals not reserved to the Crown.

(d) The royalty shall, subject to subsection three of this section, be payable at the times and in the manner prescribed.

(e) If the royalty payable in respect of any lease of Crown land during any one year exceeds the rent paid for such year in respect

Mining (Amendment).

respect thereof, the amount paid as rent as aforesaid may be deducted from such sum payable as royalty; but if such royalty in any one year amounts to less than the rent paid for such year, the lessee shall not for such year be required to pay royalty.

(3) (a) The holder of any lease granted under this Part shall at the times and in the manner prescribed pay to the Minister on behalf of the owner of the minerals in such lease not reserved to the Crown the sum prescribed as royalty payable in respect of such minerals.

(b) The Minister shall at the times and in the manner prescribed pay to the owner of such minerals the sum so paid as royalty in respect of such minerals less one-seventh of the amount so paid 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.

(e) by inserting next after subsection three of section ninety-nine the following new subsection:—

Sec. 99.
(Grant of
lease.)

(4) The Governor may, upon such terms as he may think fit, grant to the holder of a lease granted under this Part authority to mine for any minerals in addition to those in respect of which the lease is granted and the Governor may vary or revoke any such authority.

7. The Principal Act is further amended—

Further
amendment
of Act No. 49,
1906.

- (a) by inserting in section one hundred and four after the word "nearest" the word "practicable";
- (b) by inserting at the end of subsection one of section one hundred and eight the words "and may

Sec. 104.
(Leases for
railways,
etc.)

Sec. 103.
(Covenants
and condi-
tions of
leases.)

Mining (Amendment).

may also contain such special covenants, conditions, reservations and exemptions as may be approved by the Governor'';

New sec.
108B.

- (c) by inserting next after section 108A the following new section:—

Royalty
on leases
compris-
ing land
previously
leased.

108B. (1) Where a lease (in this section referred to as the "prior lease") granted under this Act or any Act hereby repealed has expired or been surrendered, cancelled or otherwise determined and any land comprised wholly or partly in such prior lease has, within a period of five years from such expiration, surrender, cancellation or determination, become the subject of a lease (in this section referred to as the "fresh lease") granted to any person or persons, who was or were the lessee or lessees of the prior lease, or who is or are substantially the same person or persons as the lessee or lessees of the prior lease, the royalty payable on such fresh lease, shall notwithstanding anything contained in this Act, be the same as would be payable on a lease renewed in accordance with the provisions of this Act.

(2) In case of dispute as to whether the lessee or lessees of a fresh lease is or are substantially the same as the lessee or lessees of the prior lease the Minister's decision shall be final.

Sec. 109.
(Registra-
tion of
leases,
etc.)

- (d) by omitting subsection one of section one hundred and nine and by inserting in lieu thereof the following subsection:—

(1) Every lease under this Act shall be registered with the Registrar, Department of Mines, Sydney, and thereafter every transfer or assignment thereof or of any interest therein (except in the case of an assignment by operation of law), and every sub-lease of or tribute

or

Mining (Amendment).

or option contract affecting the land, or any portion thereof, comprised in such lease, or in any lease or agreement registered under section sixty-nine or seventy of this Act shall be submitted within the time and in the manner prescribed for—

(a) the concurrence or sanction of the Minister and registration, or

(b) registration.

The Minister may refuse such concurrence or sanction or may grant the same subject to any amendments, modifications, or stipulations which he may think necessary in the public interest to impose.

Every instrument, which by this subsection is required to be registered, shall be lodged by such person as is prescribed.

- (e) by omitting from subsection one of section one hundred and thirteen the words “a majority” and by inserting in lieu thereof the words “not less than one-half”; Sec. 113.
(Suspension of operations.)
- (f) (i) by inserting at the end of subsection one of section one hundred and fifteen the following proviso:— Sec. 115.
(Returns to be furnished.)
- Provided that the Minister may grant permission to any such holder to furnish such return within such extended time and covering such period as the Minister may determine.
- (ii) by inserting in subsection three of the same section after the words “prescribed time” the words “or such extended time”;
- (iii) by inserting in the same subsection after the words “twenty-eight days” the words “or such extended time”;

(g)

Mining (Amendment).

Sec. 116.
(Further
parti-
culars, etc.)

- (g) by inserting at the end of subsection one of section one hundred and sixteen the following new paragraph:—

On receipt of such report the Minister, if he is of the opinion that the value of the minerals declared in the return furnished in accordance with the provisions of section one hundred and fifteen of this Act is too low, may assess a value for such minerals based on the average selling price in local or overseas markets and royalty shall be paid on the value so assessed.

New secs.
116A, 116B.

- (h) by inserting next after section one hundred and sixteen the following new sections:—

Trust
fund.

116A. (1) The Minister may require any holder of a lease or other title to mine to—

- (a) establish a trust fund into which payment shall be made from sales of gold or minerals, including coal and shale, made by such holder, to meet royalty due thereon, or
- (b) furnish a suitable guarantee that royalty will be paid on demand.

(2) Any person who fails to comply with any requirement of the Minister under this section or to make any payment into the trust fund pursuant to this section shall be liable to a penalty not exceeding fifty pounds and to a further penalty not exceeding five pounds for every day during which such failure continues.

Interest
may be
added.

116B. Every holder of a lease or other title to mine subject to the payment of any sum by way of royalty shall pay the amount due as royalty upon demand and if such payment is not made within twenty-eight days of such demand interest at such rate as the Minister may determine may be added to the amount due until it is paid. Any such interest may be recoverable in like manner as royalty.

(i)

Mining (Amendment).

- (i) (i) by omitting from subsection two of section one hundred and eighteen the words "obtaining a report from the warden" and by inserting in lieu thereof the words "investigation and report by the Chief Inspector of Mines or the Chief Inspector of Coal Mines"; Sec. 118.
(Amalgamation.)
- (ii) by omitting from subsection four of the same section the words "inquiry and report by the warden" and by inserting in lieu thereof the words "investigation and report by the Chief Inspector of Mines or the Chief Inspector of Coal Mines";
- (j) by inserting at the end of section one hundred and twenty-three the following proviso:— Sec. 123.
(Lessee may surrender lease wholly or in part.)
 Provided that the Minister may, in the case of the surrender of a lease in part, approve of the refund or remission of the rent paid or due on the part surrendered during the period subsequent to the acceptance of such surrender by the Governor and prior to execution of the deed of surrender.
- (k) by inserting at the end of section one hundred and twenty-four the following new paragraph:— Sec. 124.
(Cancellation.)
 A lease may also be cancelled by the Governor upon the written request of the lessee or a majority of the lessees and the cancellation shall take effect on the date notified in the Gazette.
- (l) by omitting from subsection (1A) of section 124A the word "other"; Sec. 124A.
(Complaint as to non-compliance with labour conditions.)
- (m) by inserting next after section 124A the following new section:— New sec.
124B.
 124B. Upon the surrender, expiration, cancellation or other determination of any lease granted under the provisions of this Act or any Act hereby repealed the Minister may authorise the writing off of any debt due to the Crown in respect of rent unpaid on such lease. (n) Writing off Crown rent.

Mining (Amendment).

Sec. 125.
(Machinery,
etc., on
forfeited
area.)

- (n) by inserting next after subsection two of section one hundred and twenty-five the following new subsection:—

(3) Tools, machinery, and improvements not removed from any tenement within twelve months after the abandonment of such tenement may be sold by auction by order of the warden at the risk of the former holder. The net proceeds of such sale shall be paid into the Treasury and held until applied for by such former holder.

New sub-
heading to
sec. 128A.

- (o) by inserting immediately before section 128A the following new sub-heading:—

Non-vitiation of lease or authority.

New sec.
130A.

- (p) by inserting next after section one hundred and thirty the following new sub-heading and section:—

Service of notices on behalf of Minister.

130A. Where under the provisions of this Act or under any regulation, lease or authority, it is provided that notice shall be given by the Minister or by the Secretary for Mines it shall be sufficient if such notice is signed by the person for the time being holding or acting in the office of Under Secretary of the Department of Mines.

Notices may
be signed
by Under
Secretary.

Further
amendment
of Act No. 49,
1906.

Sec. 147.
(Warden
may grant
injunction.)

8. The Principal Act is further amended—

- (a) by inserting at the end of subsection four of section one hundred and forty-seven the following new paragraph:—

Application for an injunction under this subsection may be heard by the warden at any warden's court in the mining district in which the mining division in which the dispute arises is situated.

New sec.
157A.

- (b) by inserting next after section one hundred and fifty-seven the following new section:—

157A. If, where no such assessment has been made, any loss has been caused and is likely to be

Compensa-
tion.

Mining (Amendment).

be caused by damage to the surface of any land and to any crops, buildings, and improvements thereon by works carried on in pursuance of the rights conferred by any miner's right, license, authority, lease or application, the warden may as aforesaid assess such loss and order the same to be paid by the holder or applicant aforesaid to any person having interest in the land so damaged. If such payment is not so made the claim, license, authority or lease may be cancelled or the application refused.

9. The Principal Act is further amended by inserting next after section one hundred and eighty-three the following new section:—

Further
amendment
of Act No. 49
1906.
New sec.
183A.

183A. (1) Every holder of a lease or other title to mine under this Act and any other person carrying on mining, prospecting or other operations in connection therewith who may be called upon so to do shall, at such times and in such manner as the Minister may require, furnish such statistics, returns and other information as may be required and shall keep such records as may be necessary for the completion thereof.

Furnishing
of statistics,
returns,
etc.

(2) The owner of every establishment engaged in the treatment or purchase of metals, minerals, or other materials derived from any mine shall, at such times and in such manner as the Minister may require, furnish such statistics, returns and other information as may be required and shall keep such records as may be necessary for the completion thereof.

(3) Any information required under this section in respect of any particulars supplied in or omitted from a return shall be furnished within such period as may be specified by the Under Secretary of the Department of Mines.

(4)

Mining (Amendment).

(4) Any officer of the Department of Mines or other person authorised in writing by the Minister shall at all times have full and free access to all mines and to all buildings, books, documents and other records relating to the production, treatment and disposal of metals, minerals or other materials derived from any mine and may make extracts from or copies of such books, documents or records, and may make such investigations as he may consider proper in connection with the production, treatment and disposal of such metals, minerals or other materials.

(5) Statistics, returns and information, obtained pursuant to this section, shall be treated as confidential provided that the Minister may cause to be published or otherwise made available the results of such statistics, returns and information with respect to the whole of New South Wales or any portion thereof and such details furnished on an individual return (other than details relating to working expenses) as he may think fit.

(6) Any person who fails to comply with any requirement made under this section or who makes any return or supplies any information which is incomplete shall be liable to a penalty not exceeding fifty pounds.

10. The Principal Act is further amended—

- (a) by inserting at the end of section one hundred and eighty-eight the words “and any gold, minerals, or metals obtained by such unauthorised mining may be forfeited by the court before which he is convicted of such offence”;
- (b)

Further
amendment
of Act No.
49, 1906.

Sec. 188.
(Unauthorised
occupation
of Crown
land.)

Mining (Amendment).

(b) by omitting section one hundred and ninety-seven and by inserting in lieu thereof the following section:—

Substituted
sec. 197.

197. (1) Any person who inserts any false particulars in any statistics or returns directed or required by or under this Act to be furnished or made or supplies any false information when directed or required under this Act to supply any information shall be liable to a penalty not exceeding fifty pounds.

False
returns.

(2) If the court before which any person is convicted of any offence against subsection one of this section is satisfied that such false particulars or information was supplied wilfully to evade the payment of royalty such person shall be liable to an additional penalty of a sum equal to twice the amount of royalty payable.

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

J. NORTHCOTT,
Governor.

*Government House,
Sydney, 17th April, 1952.*

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.

H. ROBBINS,

Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 25 March, 1952.*

New South Wales.



ANNO PRIMO

ELIZABETHÆ II REGINÆ

Act No. , 1952.

An Act to amend the Mining Act, 1906, as amended by subsequent Acts, in certain respects; and for purposes connected therewith.

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

1. (1) This Act may be cited as the "Mining (Amend-
ment) Act, 1952".

Short title,
citation and
commence-
ment.

(2) The Mining Act, 1906, as amended by subsequent Acts, is in this Act referred to as the Principal
10 Act.

Mining (Amendment).

(3) The Principal Act, as amended by this Act, may be cited as the Mining Act, 1906-1952.

(4) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Principal Act is amended—

Amendment
of Act No. 49,
1906.

(a) (i) by omitting from section three the definition of "Crown lands" and by inserting in lieu thereof the following definition:—

Sec. 3.
(Interpre-
tation.)

10

"Crown lands" means all land within the State, except—

15

(a) land in the process of alienation from the Crown;

20

(b) land held in fee simple by any person, other than land vested in Her Majesty or in any person holding such land for or on behalf of Her Majesty or as trustee for public purposes;

25

(c) land held under the following tenures, either original or additional: conditional lease not embracing any land reserved or deemed to have been reserved under the provisions of section one hundred and six of this Act, Crown lease other than Crown lease for pastoral purposes, homestead farm, homestead selection, residential lease, special lease other than special lease for pastoral purposes, settlement lease, suburban holding, town lands lease, week-end lease, conditional purchase lease, irrigation farm lease and non-irrigable lease, and

30

35

land

Mining (Amendment).

land held under any grant issued in respect of any of the foregoing tenures;

5 (d) land purchased or resumed under the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, or land held under lease under the Closer Settlement Act, 10 1904, or the Returned Soldiers Settlement Act, 1916, or any Act amending such Acts;

(e) land held under lease under this Act;

15 (f) any other holding or land which the Governor may by proclamation declare not to be Crown lands.

20 (ii) by inserting in the same section next after the definition of "Justice" the following new definition:—

25 "Lease for pastoral purposes" means a lease expressed to be for the purposes of grazing or grazing and the giving of access to water irrespective of whether the whole or part thereof may be used for agricultural purposes.

30 (iii) by omitting from the definition of "Mine" in the same section the word "purposes";

35 (iv) by omitting from the definition of "Mining surveyor" in the same section the words "licensed surveyor" and by inserting in lieu thereof the words "surveyor registered under the Surveyors Act, 1929-1946, and who is";

(b)

Mining (Amendment).

- (b) by inserting next after section three the following new section:— New sec. 3A.

5 3A. Any proclamation made under this Act and in respect of which no provision is made for its variation or cancellation may be varied or cancelled by a subsequent proclamation made in like manner as the proclamation being varied or cancelled. Proclamations.

3. The Principal Act is further amended—

Further amendment
of Act No. 49,
1906.

- 10 (a) by inserting next after section thirteen the following new section:— New sec. 13A.

15 13A. As from the commencement of the Mining (Amendment) Act, 1952, no miner's right or business license shall be issued to, transferred by or to, or renewed by a person under the age of sixteen years. Restriction on issue, etc., of miners' rights and business licenses.

- (b) (i) by inserting in paragraph (a) of subsection one of section fourteen after the word "resumed" the words "or acquired"; Sec. 14. (Certain exemptions.)

20 (ii) by omitting from the same paragraph the words "whether vested in His Majesty or in any person as constructing authority or" and by inserting in lieu thereof the words "whether vested in Her Majesty or in any person for or on behalf of Her Majesty or in any person as";

- 25 (iii) by omitting paragraph (e) of the same subsection and by inserting in lieu thereof the following paragraph:—

30 (e) lands the subject of an authority to prospect or a pending application for a lease or an authority to prospect under this Act;

- 35 (c) by omitting from paragraph (h) of subsection one of section fifteen the words "such horses or other animals as may be necessary" and by inserting Sec. 15. (Rights of occupation in respect of Crown lands.)

Mining (Amendment).

inserting in lieu thereof the words "nor reserved for a temporary common not more than two horses and two cows";

- 5 (d) (i) by omitting from subsection one of section Sec. 19.
nineteen the words "within twenty-eight (Holder to
days thereafter, register the same in the pre- register.)
scribed manner" and by inserting in lieu
thereof the words "forthwith make applica-
10 tion in the prescribed manner for registra-
tion of the same";
- (ii) by inserting at the end of the same sub-
section the following proviso:—
- 15 Provided that any tenement may be regis-
tered notwithstanding that application for
registration thereof was not made forthwith
after possession was taken if it is shown to
the satisfaction of the warden of the district
within which the tenement is situated that
20 the applicant was prevented by sickness or
other sufficient cause from making such
application forthwith;
- (iii) by omitting from subsection two of the same
section the words "register the same in the
25 prescribed manner" and by inserting in lieu
thereof the words "make application in the
prescribed manner for registration of the
same";
- (iv) by omitting subsections three, four and five
30 of the same section and by inserting in lieu
thereof the following subsections:—
- (3) Every applicant for registration or
renewal of registration of a tenement shall
35 produce his miner's right or business license
to the mining registrar of the mining
division wherein the tenement is situated.
- (4) Any person neglecting to make appli-
cation for registration of a tenement being
a claim under this Act or a share in any
such

Mining (Amendment).

such tenement or to renew the registration thereof shall, if he works or mines on such tenement, incur the penalty hereinafter in this Act prescribed for unauthorised mining on Crown land.

5

4. The Principal Act is further amended—

Further amendment of Act No. 49, 1906.

- (a) (i) by omitting paragraph (b) of subsection one of section twenty-three and by inserting in lieu thereof the following paragraph:—

Sec. 23.
(Governor may grant leases.)

10

- (b) He may grant leases for any mining purposes of the surface and of the soil to a limited depth below the surface, or of the soil below the surface between specified depths. Any lease so granted shall specify the mining purposes for which it is granted. Nothing in this paragraph shall authorise mining on the land or the removal of any gold or minerals won therefrom.

15

20

- (ii) by inserting at the end of the same section the following new subsections:—

25

(3) Notwithstanding the provisions of subsection two of section fifteen of the Public Roads Act, 1902, the Governor may grant gold-mining leases or mineral leases of land below a depth of fifty feet from the surface of land resumed for road purposes.

30

(4) The Governor may, upon such terms as he may think fit, grant to the holder of a lease for mining purposes authority to use the land comprised in such lease for any other mining purpose or purposes in addition to the purpose or purposes for which the lease is granted and the Governor may vary or revoke any such authority.

35

(5) (a) Upon the cancellation or determination of any lease of Crown land situated wholly

Mining (Amendment).

5 wholly or in part within the external boundaries of any area exempted from the leasing provisions of this Act, the lands comprised in such lease shall, to the extent to which they are within the external boundaries of the area so exempted, thereupon form part of such area.

10 (b) The provisions of this subsection shall not apply to a lease granted to a complainant following the cancellation of such lease under the provisions of section 124A of this Act.

(b) by inserting at the end of section twenty-seven the following new subsection:—

Sec. 27.
(Applica-
tion for
leases.)

15 (4) A lease may, at the request in writing of the applicant, be granted to any person named by him.

Lease to
nominee.

(c) by inserting in paragraph (a) of section twenty-eight after the words "applied for, and" the words "subject to any conditions or restrictions imposed by the Minister";

Sec. 28.
(Applicant
may mine
upon land.)

(d) by inserting at the end of section thirty the following new subsection:—

Sec. 30.
(When
application
pending.)

25 (4) In the event of an applicant or his legal representatives as aforesaid carrying on mining operations during the pendency of an application he or they, as the case may be, shall pay royalty on any gold or mineral won during such pendency at the rate which would be payable on such gold or mineral had such gold or mineral been won from land the subject of a lease granted after the commencement of the Mining (Amendment) Act, 1952.

35 (e) (i) by inserting next after subsection (2c) of section thirty-six the following new subsection:—

Sec. 36.
(Rent and
royalty
payable.)

(2d) (a) In respect of all gold and minerals won from land demised by lease so granted

Mining (Amendment).

granted on or after the commencement of the Mining (Amendment) Act, 1952, royalty shall be paid at such rates as may be prescribed.

5 (b) The regulations may prescribe rates according to percentage of the value of the gold or mineral won, or an amount per ton on all mineral won, or an amount per cubic foot, cubic yard, gallon or other appropriate standard of measurement or otherwise howsoever.

15 Different rates may be prescribed in respect of different minerals. In the case of rates according to the percentage of the value of the gold or mineral won such rates shall not exceed one and one-half per centum of such value. In the case of rates according to an amount per ton on all mineral (other than coal or shale) won such rates shall not be less than threepence nor more than one shilling per ton.

The rate prescribed in respect of coal or shale shall not exceed ninepence per ton.

25 (ii) by omitting from subsection five of the same section the words "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 (f) (i) by inserting in subsection one of section forty after the words "or of mining such land" the words "or for any other sufficient reason";

Sec. 40.
(Governor may grant special leases.)

35 (ii) by inserting in paragraph (a) of subsection two of the same section after the words "and of mining such land" the words "or for any other sufficient reason";

(iii)

Mining (Amendment).

(iii) by inserting at the end of the same section the following new subsection:—

(4) A special mining lease may at the request in writing of the applicant be granted to any person named by him.

5. The Principal Act is further amended—

Further amendment of Act No. 49, 1906.

(a) by inserting in section forty-five in the definition of "Private lands" after the word "include" the words and symbols "(i) any lease granted under Part III or Part V of this Act; or (ii)";

Sec. 45. (Interpretation.)

(b) by omitting paragraph (b) of the proviso to section forty-eight and by inserting in lieu thereof the following paragraphs:—

Sec. 48. (Cultivated land.)

(b) cultivation for the growth and spread of pasture grasses shall not be deemed to be cultivation within the meaning of this section unless, in the opinion of the Minister, the circumstances so warrant; and

(c) in the case of dispute as to whether land is or is not under cultivation within the meaning of this section the Minister's decision thereon shall be final;

(c) (i) by inserting at the end of subsection one of section fifty the following new paragraph:—

Sec. 50. (Warden may grant authority.)

An authority to enter may be granted by the warden notwithstanding that the applicant has not complied in every respect with the regulations;

(ii) by inserting at the end of subsection two of the same section the following new paragraph:—

(d) if, in the opinion of the warden, the applicant has abandoned his application or by his negligent or dilatory conduct

Mining (Amendment).

conduct has hindered the disposal of the application within a reasonable time after its lodgment;

- (iii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—

(3) The time during which such authority is required shall be stated in such application, and the applicant shall lodge therewith a fee of five shillings which shall be paid by the warden into the Treasury and carried to the Consolidated Revenue Fund.

- (d) (i) by omitting from subsection four of section fifty-seven the words "the application" and by inserting in lieu thereof the words "his intention to apply for a lease";

Sec. 57.
(Mining leases.)

- (ii) by inserting in subsection five of the same section after the word "may" the words "subject to any conditions (including payment of rent not exceeding that prescribed by section sixty-four of this Act) or restrictions imposed by the Minister";

- (e) by inserting at the end of subsection three of section fifty-eight the following new paragraph:—

Sec. 58.
(Power to refuse, etc.)

A lease may subject to the consent of the owner be granted notwithstanding that the land surveyed does not strictly correspond with the land defined in the authority to enter;

- (f) by inserting next after subsection one of section sixty the following new subsection:—

Sec. 60.
(Lease for race, tramway, etc.)

(1A) The Governor may, upon such terms as he may think fit, grant to the holder of a lease under this section authority to use the land comprised in such lease for any purpose or purposes in connection with mining in addition

to

Mining (Amendment).

to the purpose or purposes for which such lease is granted and the Governor may vary or revoke any such authority.

- 5 (g) by inserting in subsection one of section sixty-four after the word "acre" the words "or portion of an acre"; Sec. 64.
(Rents payable.)
- (h) by inserting at the end of section sixty-nine the following new subsection:— Sec. 69.
(Lease or agreement by owner to mine for minerals reserved to Crown.)
- 10 (8) No lease or agreement of the nature referred to in the foregoing provisions of this section shall be entered into on or after the commencement of the Mining (Amendment) Act, 1952.
- 15 (i) by inserting at the end of section seventy the following new subsections:— Sec. 70.
(Lease or agreement to mine for minerals not reserved to Crown.)
- 20 (11) The foregoing provisions of this section shall not apply to or in respect of any lease or agreement of the nature therein referred to entered into on or after the commencement of the Mining (Amendment) Act, 1952.
- (12) (a) In this subsection—
 "Crown minerals" means gold and other minerals reserved to the Crown;
 "privately owned minerals" means minerals not reserved to the Crown.
- 25 (b) Where privately owned minerals are associated or combined with any Crown minerals the owner of such privately owned minerals, or any person mining such privately owned minerals by agreement with such owner, may in mining such privately owned minerals and notwithstanding anything contained in this Act also mine such Crown minerals as are associated or combined therewith.
- 30 (c) This subsection shall not apply where the value of the Crown minerals associated or combined with such privately owned minerals
- 35

Mining (Amendment).

minerals and so mined exceeds fifty per centum of the total value of such Crown minerals and privately owned minerals so mined.

5 (d) Where the value of the Crown minerals associated or combined with privately owned minerals and so mined is found to exceed fifty per centum of the total value of such Crown minerals and privately owned minerals so mined
10 such owner or person as aforesaid shall forthwith apply for a lease under this Part to mine for Crown minerals.

15 Any person who fails to comply with the provisions of this paragraph shall be liable to the penalty prescribed in section one hundred and ninety-six of this Act.

(e) Royalty on Crown minerals won pursuant to the provisions of this subsection shall be payable at the rates prescribed by Division 6 of this Part of this Act in respect of
20 Crown minerals.

Such royalty shall be payable to the Crown at the times, and in the manner prescribed and may be recovered from the owner or person mining such Crown minerals as a Crown debt.

25 (f) Any person who, otherwise than in pursuance of an authority to enter or a lease under this Part or any application therefor, mines privately owned minerals other than coal or shale shall within one month after commencement of such mining give notice thereof to the
30 Under Secretary for Mines and furnish particulars of the area being so mined together with a copy of the lease or agreement (if any) under which such person is mining such privately owned minerals.
35

(j) by inserting in subsection four of section 70B after the word "acre" the words "or portion of an acre";

Sec. 70B.
(Applica-
tion for
lease.)

(k)

Mining (Amendment).

- (k) by inserting at the end of section 70c the following new subsection:—
- Sec. 70c.
(Royalty payable.)

5 (5) (a) In respect of any authority or lease granted after the commencement of the Mining (Amendment) Act, 1952, the foregoing provisions of this section shall have effect as if—

10 (i) the words “one and one-eighth per centum” were omitted from paragraph (a) of subsection one and the words “such rate per centum as may be prescribed” were inserted in lieu thereof;

15 (ii) the words “sixpence per ton” were omitted from paragraph (b) of the same subsection and the words “such rate per ton as may be prescribed” were inserted in lieu thereof;

20 (iii) the words “paragraph (a) or paragraph (b) of this subsection” were omitted from the same subsection wherever occurring and the words “paragraph (a) or paragraph (b) of this subsection as amended by subsection five of this section” were inserted in lieu thereof;

25

(iv) paragraphs (i) and (ii) of subsection two were omitted and the following paragraphs:—

30 (i) one-seventh of the amount paid under subsection one of this section in respect of all minerals other than coal or shale won from the land; and

35 (ii) one penny per ton of all coal or shale won from the land,

were inserted in lieu thereof.

(b) The regulations may prescribe rates according to percentage of the value of the mineral

(m)

Mining (Amendment).

mineral won, or an amount per ton on all mineral won, or an amount per cubic foot, cubic yard, gallon or other appropriate standard of measurement or otherwise howsoever.

5 Different rates may be prescribed in respect of different minerals. In the case of rates according to the percentage of the value of the mineral won such rates shall not exceed one and three-quarters per centum of such value.
10 In the case of rates according to an amount per ton on all mineral (other than coal or shale) won such rates shall not exceed one shilling per ton.

15 The rate prescribed in respect of coal or shale shall not exceed ninepence per ton.

(1) (i) by inserting in subsection one of section 70E after the word "mine" the words "for coal or shale";

Sec. 70E.
(Protection of land in certain colliery holdings.)

20 (ii) by inserting in the same subsection after the words "Under Secretary for Mines" the words "in accordance with the provisions of the Coal Mines Regulation Act, 1912-1947";

25 (iii) by inserting next after the same subsection the following new subsection:—

30 (1A) Notwithstanding the provisions of section 70D of this Act or of subsection one of this section an authority to enter or a lease to prospect or mine for any mineral other than coal or shale upon any land referred to in subsection one of this section may be granted where in the opinion of the Chief Inspector of Coal Mines prospecting or mining for such mineral may be carried on without detriment to the colliery or to the safety of the persons employed therein.

(m)

Mining (Amendment).

(m) (i) by inserting next after subsection two of section eighty-two the following new subsection:—

5 (2A) (a) In respect of all gold and minerals reserved to the Crown won from land held under an authority to enter or a lease under this Part granted after the commencement of the Mining (Amendment) Act, 1952, royalty shall be paid at such rates as may be prescribed.

10 (b) The provisions of paragraph (b) of subsection (2b) of section thirty-six of this Act shall apply, mutatis mutandis, to and in respect of regulations prescribing the rates of royalty payable under this subsection.

(ii) by omitting subsection four of the same section.

6. The Principal Act is further amended—

Further amendment of Act No. 49, 1906.

20 (a) by omitting from section eighty-four the definition of "Crown land";

Sec. 84. (Interpretation.)

(b) (i) by inserting in subsection one of section eighty-six after the words "any other mineral" the words "whether or not such mineral is reserved to the Crown";

Sec. 86. (Governor may grant leases for mining by dredging, etc.)

25 (ii) by inserting in subsection two of the same section after the words "one hundred acres" where firstly occurring the words "and unless the area applied for embraces the whole of a measured portion it shall be surveyed by a mining surveyor before the issue of a lease";

30 (c) by omitting from subsection two of section ninety-four the words "such determination" and by inserting in lieu thereof the words "any determination to refuse any application or grant a lease";

Sec. 94. (Grant or refusal of lease.)

(d)

Mining (Amendment).

(d) (i) by inserting in subsection one of section Sec. 98.
ninety-eight after the word "acre" the (Rent and
words "or portion of an acre"; royalty.)

5 (ii) by omitting subsection two of the same
section and by inserting in lieu thereof
the following subsections:—

10 (2) (a) In respect of all gold and
minerals reserved to the Crown won from
any land leased under this Part before the
commencement of the Mining (Amendment)
Act, 1952, royalty of one per centum of the
value of such gold and minerals so won shall
be payable to the Crown.

15 (b) In respect of all gold and
minerals whether reserved to the Crown or
not won from any land leased under this
Part on or after the commencement of the
Mining (Amendment) Act, 1952, royalty
shall be paid at such rates as may be
prescribed.

20 (c) The provisions of paragraph (b)
of subsection (2d) of section thirty-six of
this Act shall apply, mutatis mutandis, to
and in respect of regulations prescribing the
rates of royalty payable under this subsec-
tion in respect of gold and minerals reserved
to the Crown.

30 The provisions of paragraph (b) of sub-
section five of section 70c of this Act shall
apply to and in respect of regulations
prescribing the rates of royalty payable
under this subsection in respect of minerals
not reserved to the Crown.

35 (d) The royalty shall, subject to sub-
section three of this section, be payable at
the times and in the manner prescribed.

(e) If the royalty payable in respect
of any lease of Crown land during any one
year exceeds the rent paid for such year in
respect

Mining (Amendment).

respect thereof, the amount paid as rent as aforesaid may be deducted from such sum payable as royalty; but if such royalty in any one year amounts to less than the rent paid for such year, the lessee shall not for such year be required to pay royalty.

(3) (a) The holder of any lease granted under this Part shall at the times and in the manner prescribed pay to the Minister on behalf of the owner of the minerals in such lease not reserved to the Crown the sum prescribed as royalty payable in respect of such minerals.

(b) The Minister shall at the times and in the manner prescribed pay to the owner of such minerals the sum so paid as royalty in respect of such minerals less one-seventh of the amount so paid 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.

(e) by inserting next after subsection three of section ninety-nine the following new subsection:—

(4) The Governor may, upon such terms as he may think fit, grant to the holder of a lease granted under this Part authority to mine for any minerals in addition to those in respect of which the lease is granted and the Governor may vary or revoke any such authority.

7. The Principal Act is further amended—

- (a) by inserting in section one hundred and four after the word "nearest" the word "practicable";
- (b) by inserting at the end of subsection one of section one hundred and eight the words "and may

Further amendment of Act No. 49, 1906.

Sec. 104. (Leases for railways, etc.)

Sec. 108. (Covenants and conditions of leases.)

Mining (Amendment).

may also contain such special covenants, conditions, reservations and exemptions as may be approved by the Governor”;

- 5 (c) by inserting next after section 108A the following new section:— New sec.
108B.

10 108B. (1) Where a lease (in this section referred to as the “prior lease”) granted under this Act or any Act hereby repealed has expired or been surrendered, cancelled or otherwise
15 determined and any land comprised wholly or partly in such prior lease has, within a period of five years from such expiration, surrender, cancellation or determination, become the sub-
20 ject of a lease (in this section referred to as the “fresh lease”) granted to any person or persons, who was or were the lessee or lessees of the prior lease, or who is or are substantially the same person or persons as the lessee or lessees of the prior lease, the royalty payable on such fresh lease, shall notwithstanding any-
25 thing contained in this Act, be the same as would be payable on a lease renewed in accordance with the provisions of this Act.

(2) In case of dispute as to whether the lessee or lessees of a fresh lease is or are substantially the same as the lessee or lessees of the prior lease the Minister’s decision shall be final.

- 30 (d) by omitting subsection one of section one hundred and nine and by inserting in lieu thereof the following subsection:— Sec. 109.
(Registra-
tion of
leases,
etc.)

35 (1) Every lease under this Act shall be registered with the Registrar, Department of Mines, Sydney, and thereafter every transfer or assignment thereof or of any interest therein (except in the case of an assignment by operation of law), and every sub-lease of or tribute
or

Mining (Amendment).

5 or option contract affecting the land, or any portion thereof, comprised in such lease, or in any lease or agreement registered under section sixty-nine or seventy of this Act shall be submitted within the time and in the manner prescribed for—

- (a) the concurrence or sanction of the Minister and registration, or
- (b) registration.

10 The Minister may refuse such concurrence or sanction or may grant the same subject to any amendments, modifications, or stipulations which he may think necessary in the public interest to impose.

15 Every instrument, which by this subsection is required to be registered, shall be lodged by such person as is prescribed.

20 (e) by omitting from subsection one of section one hundred and thirteen the words “a majority” and by inserting in lieu thereof the words “not less than one-half”; Sec. 113.
(Suspension of operations.)

(f) (i) by inserting at the end of subsection one of section one hundred and fifteen the following proviso:— Sec. 115.
(Returns to be furnished.)

25 Provided that the Minister may grant permission to any such holder to furnish such return within such extended time and covering such period as the Minister may determine.

30 (ii) by inserting in subsection three of the same section after the words “prescribed time” the words “or such extended time”;

(iii) by inserting in the same subsection after the words “twenty-eight days” the words “or such extended time”;

35

(g)

Mining (Amendment).

- (g) by inserting at the end of subsection one of section one hundred and sixteen the following new paragraph:—
- Sec. 116.
(Further particulars, etc.)

5 On receipt of such report the Minister, if he is of the opinion that the value of the minerals declared in the return furnished in accordance with the provisions of section one hundred and fifteen of this Act is too low, may assess a value for such minerals based on the average selling price in local or overseas markets and royalty shall be paid on the value so assessed.

10

- (h) by inserting next after section one hundred and sixteen the following new sections:—
- New secs.
116A, 116B.

15 116A. (1) The Minister may require any holder of a lease or other title to mine to—

Trust fund.

(a) establish a trust fund into which payment shall be made from sales of gold or minerals, including coal and shale, made by such holder, to meet royalty due thereon, or

20

(b) furnish a suitable guarantee that royalty will be paid on demand.

(2) Any person who fails to comply with any requirement of the Minister under this section or to make any payment into the trust fund pursuant to this section shall be liable to a penalty not exceeding fifty pounds and to a further penalty not exceeding five pounds for every day during which such failure continues.

25

30 116B. Every holder of a lease or other title to mine subject to the payment of any sum by way of royalty shall pay the amount due as royalty upon demand and if such payment is not made within twenty-eight days of such demand interest at such rate as the Minister may determine may be added to the amount due until it is paid. Any such interest may be recoverable in like manner as royalty.

35

Interest may be added.

(i)

Mining (Amendment).

- (i) (i) by omitting from subsection two of section one hundred and eighteen the words "obtaining a report from the warden" and by inserting in lieu thereof the words "investigation and report by the Chief Inspector of Mines or the Chief Inspector of Coal Mines";
- (ii) by omitting from subsection four of the same section the words "inquiry and report by the warden" and by inserting in lieu thereof the words "investigation and report by the Chief Inspector of Mines or the Chief Inspector of Coal Mines";
- (j) by inserting at the end of section one hundred and twenty-three the following proviso:—
 Provided that the Minister may, in the case of the surrender of a lease in part, approve of the refund or remission of the rent paid or due on the part surrendered during the period subsequent to the acceptance of such surrender by the Governor and prior to execution of the deed of surrender.
- (k) by inserting at the end of section one hundred and twenty-four the following new paragraph:—
 A lease may also be cancelled by the Governor upon the written request of the lessee or a majority of the lessees and the cancellation shall take effect on the date notified in the Gazette.
- (l) by omitting from subsection (1A) of section 124A the word "other";
- (m) by inserting next after section 124A the following new section:—
 124B. Upon the surrender, expiration, cancellation or other determination of any lease granted under the provisions of this Act or any Act hereby repealed the Minister may authorise the writing off of any debt due to the Crown in respect of rent unpaid on such lease.
- (n)

Sec. 118.
(Amalgamation.)

Sec. 123.
(Lessee may surrender lease wholly or in part.)

Sec. 124.
(Cancellation.)

Sec. 124A.
(Complaint as to non-compliance with labour conditions.)

New sec. 124B.

Writing off Crown rent.

Mining (Amendment).

- (n) by inserting next after subsection two of section one hundred and twenty-five the following new subsection:—
- 5 (3) Tools, machinery, and improvements not removed from any tenement within twelve months after the abandonment of such tenement may be sold by auction by order of the warden at the risk of the former holder. The net proceeds of such sale shall be paid into the Treasury and held until applied for by such former holder.
- 10 (o) by inserting immediately before section 128A the following new sub-heading:—
- Non-vitiation of lease or authority.*
- 15 (p) by inserting next after section one hundred and thirty the following new sub-heading and section:—
- Service of notices on behalf of Minister.*
- 20 130A. Where under the provisions of this Act or under any regulation, lease or authority, it is provided that notice shall be given by the Minister or by the Secretary for Mines it shall be sufficient if such notice is signed by the person for the time being holding or acting in the office of Under Secretary of the Department of Mines.
- 25 8. The Principal Act is further amended—
- (a) by inserting at the end of subsection four of section one hundred and forty-seven the following new paragraph:—
- 30 Application for an injunction under this subsection may be heard by the warden at any warden's court in the mining district in which the mining division in which the dispute arises is situated.
- 35 (b) by inserting next after section one hundred and fifty-seven the following new section:—
- 157A. If, where no such assessment has been made, any loss has been caused and is likely to be

Sec. 125.
(Machinery,
etc., on
forfeited
area.)

New sub-
heading to
sec. 128A.

New sec.
130A.

Notices may
be signed
by Under
Secretary.

Further
amendment
of Act No. 49,
1906.

Sec. 147.
(Warden
may grant
injunction.)

New sec.
157A.

Compensa-
tion.

Mining (Amendment).

5 be caused by damage to the surface of any land
and to any crops, buildings, and improvements
thereon by works carried on in pursuance of the
rights conferred by any miner's right, license,
authority, lease or application, the warden may
as aforesaid assess such loss and order the same
to be paid by the holder or applicant aforesaid
to any person having interest in the land so
10 damaged. If such payment is not so made the
claim, license, authority or lease may be
cancelled or the application refused.

9. The Principal Act is further amended by inserting
next after section one hundred and eighty-three the
following new section:—

Further
amendment
of Act No. 49,
1906.

New sec.
183A.

Furnishing
of statistics,
returns,
etc.

15 183A. (1) Every holder of a lease or other
title to mine under this Act and any other person
carrying on mining, prospecting or other opera-
tions in connection therewith who may be
called upon so to do shall, at such times and in
20 such manner as the Minister may require,
furnish such statistics, returns and other
information as may be required and shall keep
such records as may be necessary for the
completion thereof.

25 (2) The owner of every establishment
engaged in the treatment or purchase of metals,
minerals, or other materials derived from any
mine shall, at such times and in such manner as
the Minister may require, furnish such statistics,
30 returns and other information as may be
required and shall keep such records as may be
necessary for the completion thereof.

35 (3) Any information required under
this section in respect of any particulars supplied
in or omitted from a return shall be furnished
within such period as may be specified by the
Under Secretary of the Department of Mines.

(4)

Mining. (Amendment).

5 (4) Any officer of the Department of
Mines or other person authorised in writing by
the Minister shall at all times have full and free
access to all mines and to all buildings, books,
documents and other records relating to the
production, treatment and disposal of metals,
minerals or other materials derived from any
mine and may make extracts from or copies of
such books, documents or records, and may
10 make such investigations as he may consider
proper in connection with the production, treat-
ment and disposal of such metals, minerals or
other materials.

15 (5) Statistics, returns and information,
obtained pursuant to this section, shall be
treated as confidential provided that the
Minister may cause to be published or other-
wise made available the results of such statis-
tics, returns and information with respect to
20 the whole of New South Wales or any portion
thereof and such details furnished on an
individual return (other than details relating
to working expenses) as he may think fit.

25 (6) Any person who fails to comply
with any requirement made under this section
or who makes any return or supplies any
information which is incomplete shall be liable
to a penalty not exceeding fifty pounds.

10. The Principal Act is further amended—

30 (a) by inserting at the end of section one hundred
and eighty-eight the words “and any gold,
minerals, or metals obtained by such unautho-
rised mining may be forfeited by the court
before which he is convicted of such offence”;

(b)

Further
amendment
of Act No.
49, 1906.
Sec. 188.
(Unautho-
rised
occupation
of Crown
land.)

Mining (Amendment).

(b) by omitting section one hundred and ninety-seven and by inserting in lieu thereof the following section:—

Substituted
sec. 197.

5 197. (1) Any person who inserts any false particulars in any statistics or returns directed or required by or under this Act to be furnished or made or supplies any false information when directed or required under this Act to supply any information shall be liable to a penalty not exceeding fifty pounds.

False
returns.

10 (2) If the court before which any person is convicted of any offence against subsection one of this section is satisfied that such false particulars or information was supplied wilfully to evade the payment of royalty such person shall be liable to an additional penalty of a sum equal to twice the amount of royalty payable.

MINING (AMENDMENT) BILL, 1952.

EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to permit of the fixation of royalty rates by regulation (with stipulated maxima) instead of by statute with respect to all new titles issued and to vary the basis of payment where applicable from a percentage of gross output to a specified rate per ton, cubic yard, gallon, etc.;
- (b) to impose royalty upon gold or minerals won from mining operations carried out during pendency of an application for a lease, and to make other provisions in relation to royalty;
- (c) to restrict the issue, renewal and transfer of miners' rights and business licenses to persons of not less than sixteen years;
- (d) to limit the free agistment of stock on Crown land by persons following the occupation of miner or prospector and to place such persons under the same obligations as other members of the community within Commoners' boundaries;
- (e) to enable the Governor to vary the purposes for which any mining purposes lease has been granted;
- (f) to enable gold mining leases or mineral leases to be granted below 50 feet of land resumed for road purposes;
- (g) to dispense with the right at present conferred on landowners to enter into leases or agreements with the holders of miners' rights for the purpose of mining for minerals which are reserved to the Crown and to dispense with the necessity for concurrence in and registration of agreements affecting privately owned minerals;
- (h) to make provision for the mining of privately owned minerals under dredging leases;
- (i) to make provision for royalty commitments to be met from current sales, to provide for the payment of interest if royalty is not paid promptly and to give the Minister the necessary power to review and re-assess output values where it is considered that such values are too low;
- (j) to provide authority for the Minister to write off arrears of rent due to the Crown on expired, surrendered and cancelled leases if circumstances so warrant;
- (k) to empower the Crown to dispose of machinery left on abandoned mining tenements;
- (l) to provide for the assessment of additional compensation for damage to land, crops, etc., as a result of mining operations;
- (m) to require the furnishing of statistical returns;
- (n) to make other amendments ancillary to the foregoing and also of an administrative or machinery nature.

No. , 1952.

A BILL

To amend the Mining Act, 1906, as amended by subsequent Acts, in certain respects; and for purposes connected therewith.

[MR. ARTHUR;—18 March, 1952.]

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

1. (1) This Act may be cited as the "Mining (Amendment) Act, 1952".

Short title,
citation and
commence-
ment.

(2) The Mining Act, 1906, as amended by subsequent Acts, is in this Act referred to as the Principal
10 Act.

Mining (Amendment).

(3) The Principal Act, as amended by this Act, may be cited as the Mining Act, 1906-1952.

(4) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Principal Act is amended—

Amendment
of Act No. 49,
1906.

(a) (i) by omitting from section three the definition of "Crown lands" and by inserting in lieu thereof the following definition:—

Sec. 3.
(Interpre-
tation.)

10 "Crown lands" means all land within the State, except—

(a) land in the process of alienation from the Crown;

15 (b) land held in fee simple by any person, other than land vested in Her Majesty or in any person holding such land for or on behalf of Her Majesty or as trustee for public purposes;

20 (c) land held under the following tenures, either original or additional: conditional lease not embracing any land reserved or deemed to have
25 been reserved under the provisions of section one hundred and six of this Act, Crown lease other than Crown lease for pastoral purposes, home-
30 stead farm, homestead selection, residential lease, special lease other than special lease for pastoral purposes, settle-
35 ment lease, suburban holding, town lands lease, week-end lease, conditional purchase lease, irrigation farm lease and non-irrigable lease, and
land

Mining (Amendment).

land held under any grant issued in respect of any of the foregoing tenures;

5

(d) land purchased or resumed under the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, or land held under lease under the Closer Settlement Act, 1904, or the Returned Soldiers Settlement Act, 1916, or any Act amending such Acts;

10

(e) land held under lease under this Act;

15

(f) any other holding or land which the Governor may by proclamation declare not to be Crown lands.

20

(ii) by inserting in the same section next after the definition of "Justice" the following new definition:—

25

"Lease for pastoral purposes" means a lease expressed to be for the purposes of grazing or grazing and the giving of access to water irrespective of whether the whole or part thereof may be used for agricultural purposes.

30

(iii) by omitting from the definition of "Mine" in the same section the word "purposes";

35

(iv) by omitting from the definition of "Mining surveyor" in the same section the words "licensed surveyor" and by inserting in lieu thereof the words "surveyor registered under the Surveyors Act, 1929-1946, and who is";

(b)

Mining (Amendment).

- (b) by inserting next after section three the following new section:— New sec. 3A.

5 3A. Any proclamation made under this Act and in respect of which no provision is made for its variation or cancellation may be varied or cancelled by a subsequent proclamation made in like manner as the proclamation being varied or cancelled. Proclamations.

3. The Principal Act is further amended—

- 10 (a) by inserting next after section thirteen the following new section:— Further amendment of Act No. 49, 1906.
New sec. 13A.

15 13A. As from the commencement of the Mining (Amendment) Act, 1952, no miner's right or business license shall be issued to, transferred by or to, or renewed by a person under the age of sixteen years. Restriction on issue, etc., of miners' rights and business licenses.

- (b) (i) by inserting in paragraph (a) of subsection one of section fourteen after the word "resumed" the words "or acquired"; Sec. 14.
(Certain exemptions.)

20 (ii) by omitting from the same paragraph the words "whether vested in His Majesty or in any person as constructing authority or" and by inserting in lieu thereof the words "whether vested in Her Majesty or in any person for or on behalf of Her Majesty or in any person as";

25 (iii) by omitting paragraph (e) of the same subsection and by inserting in lieu thereof the following paragraph:—

30 (e) lands the subject of an authority to prospect or a pending application for a lease or an authority to prospect under this Act;

- 35 (c) by omitting from paragraph (h) of subsection one of section fifteen the words "such horses or other animals as may be necessary" and by inserting Sec. 15.
(Rights of occupation in respect of Crown lands.)

Mining (Amendment).

inserting in lieu thereof the words "nor reserved for a temporary common not more than two horses and two cows";

- 5 (d) (i) by omitting from subsection one of section nineteen the words "within twenty-eight days thereafter, register the same in the prescribed manner" and by inserting in lieu thereof the words "forthwith make application in the prescribed manner for registration of the same";

Sec. 19.
(Holder to register.)

- 10 (ii) by inserting at the end of the same subsection the following proviso:—

15 Provided that any tenement may be registered notwithstanding that application for registration thereof was not made forthwith after possession was taken if it is shown to the satisfaction of the warden of the district within which the tenement is situated that the applicant was prevented by sickness or other sufficient cause from making such application forthwith;

- 20 (iii) by omitting from subsection two of the same section the words "register the same in the prescribed manner" and by inserting in lieu thereof the words "make application in the prescribed manner for registration of the same";

- 25 (iv) by omitting subsections three, four and five of the same section and by inserting in lieu thereof the following subsections:—

30 (3) Every applicant for registration or renewal of registration of a tenement shall produce his miner's right or business license to the mining registrar of the mining division wherein the tenement is situated.

35 (4) Any person neglecting to make application for registration of a tenement being a claim under this Act or a share in any such

Mining (Amendment).

such tenement or to renew the registration thereof shall, if he works or mines on such tenement, incur the penalty hereinafter in this Act prescribed for unauthorised mining on Crown land.

4. The Principal Act is further amended—

Further amendment of Act No. 49, 1906.

(a) (i) by omitting paragraph (b) of subsection one of section twenty-three and by inserting in lieu thereof the following paragraph:—

Sec. 23. (Governor may grant leases.)

(b) He may grant leases for any mining purposes of the surface and of the soil to a limited depth below the surface, or of the soil below the surface between specified depths. Any lease so granted shall specify the mining purposes for which it is granted. Nothing in this paragraph shall authorise mining on the land or the removal of any gold or minerals won therefrom.

(ii) by inserting at the end of the same section the following new subsections:—

(3) Notwithstanding the provisions of subsection two of section fifteen of the Public Roads Act, 1902, the Governor may grant gold-mining leases or mineral leases of land below a depth of fifty feet from the surface of land resumed for road purposes.

(4) The Governor may, upon such terms as he may think fit, grant to the holder of a lease for mining purposes authority to use the land comprised in such lease for any other mining purpose or purposes in addition to the purpose or purposes for which the lease is granted and the Governor may vary or revoke any such authority.

(5) (a) Upon the cancellation or determination of any lease of Crown land situated wholly

Mining (Amendment).

5 wholly or in part within the external boundaries of any area exempted from the leasing provisions of this Act, the lands comprised in such lease shall, to the extent to which they are within the external boundaries of the area so exempted, thereupon form part of such area.

10 (b) The provisions of this subsection shall not apply to a lease granted to a complainant following the cancellation of such lease under the provisions of section 124A of this Act.

(b) by inserting at the end of section twenty-seven the following new subsection:—

Sec. 27.
(Applica-
tion for
leases.)

15 (4) A lease may, at the request in writing of the applicant, be granted to any person named by him.

Lease to
nominee.

20 (c) by inserting in paragraph (a) of section twenty-eight after the words "applied for, and" the words "subject to any conditions or restrictions imposed by the Minister";

Sec. 28.
(Applicant
may mine
upon land.)

(d) by inserting at the end of section thirty the following new subsection:—

Sec. 30.
(When
application
pending.)

25 (4) In the event of an applicant or his legal representatives as aforesaid carrying on mining operations during the pendency of an application he or they, as the case may be, shall pay royalty on any gold or mineral won during such pendency at the rate which would be payable on such gold or mineral had such gold or mineral been won from land the subject of a lease granted after the commencement of the Mining (Amendment) Act, 1952.

30 (e) (i) by inserting next after subsection (2c) of section thirty-six the following new subsection:—

Sec. 36.
(Rent and
royalty
payable.)

(2D) (a) In respect of all gold and minerals won from land demised by lease so granted

Mining (Amendment).

granted on or after the commencement of the Mining (Amendment) Act, 1952, royalty shall be paid at such rates as may be prescribed.

5

(b) The regulations may prescribe rates according to percentage of the value of the gold or mineral won, or an amount per ton on all mineral won, or an amount per cubic foot, cubic yard, gallon or other appropriate standard of measurement or otherwise howsoever.

10

15

Different rates may be prescribed in respect of different minerals. In the case of rates according to the percentage of the value of the gold or mineral won such rates shall not exceed one and one-half per centum of such value. In the case of rates according to an amount per ton on all mineral (other than coal or shale) won such rates shall not be less than threepence nor more than one shilling per ton.

20

The rate prescribed in respect of coal or shale shall not exceed ninepence per ton.

25

(ii) by omitting from subsection five of the same section the words "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

(f) (i) by inserting in subsection one of section Sec. 40. forty after the words "or of mining such (Governor may grant special leases.) land" the words "or for any other sufficient reason";

35

(ii) by inserting in paragraph (a) of subsection two of the same section after the words "and of mining such land" the words "or for any other sufficient reason";

(iii)

Mining (Amendment).

(iii) by inserting at the end of the same section the following new subsection:—

(4) A special mining lease may at the request in writing of the applicant be granted to any person named by him.

5

5. The Principal Act is further amended—

Further amendment of Act No. 49, 1906.

(a) by inserting in section forty-five in the definition of "Private lands" after the word "include" the words and symbols "(i) any lease granted under Part III or Part V of this Act; or (ii)";

Sec. 45. (Interpretation.)

10

(b) by omitting paragraph (b) of the proviso to section forty-eight and by inserting in lieu thereof the following paragraphs:—

Sec. 48. (Cultivated land.)

15

(b) cultivation for the growth and spread of pasture grasses shall not be deemed to be cultivation within the meaning of this section unless, in the opinion of the Minister, the circumstances so warrant; and

20

(c) in the case of dispute as to whether land is or is not under cultivation within the meaning of this section the Minister's decision thereon shall be final;

25

(c) (i) by inserting at the end of subsection one of section fifty the following new paragraph:—

Sec. 50. (Warden may grant authority.)

An authority to enter may be granted by the warden notwithstanding that the applicant has not complied in every respect with the regulations;

30

(ii) by inserting at the end of subsection two of the same section the following new paragraph:—

35

(d) if, in the opinion of the warden, the applicant has abandoned his application or by his negligent or dilatory conduct

Mining (Amendment).

conduct has hindered the disposal of the application within a reasonable time after its lodgment;

- 5 (iii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—

10 (3) The time during which such authority is required shall be stated in such application, and the applicant shall lodge therewith a fee of five shillings which shall be paid by the warden into the Treasury and carried to the Consolidated Revenue Fund.

- 15 (d) (i) by omitting from subsection four of section fifty-seven the words "the application" and by inserting in lieu thereof the words "his intention to apply for a lease";

20 (ii) by inserting in subsection five of the same section after the word "may" the words "subject to any conditions (including payment of rent not exceeding that prescribed by section sixty-four of this Act) or restrictions imposed by the Minister";

- 25 (e) by inserting at the end of subsection three of section fifty-eight the following new paragraph:—

30 A lease may subject to the consent of the owner be granted notwithstanding that the land surveyed does not strictly correspond with the land defined in the authority to enter;

- (f) by inserting next after subsection one of section sixty the following new subsection:—

35 (1A) The Governor may, upon such terms as he may think fit, grant to the holder of a lease under this section authority to use the land comprised in such lease for any purpose or purposes in connection with mining in addition

to

Sec. 57.
(Mining
leases.)

Sec. 58.
(Power to
refuse, etc.)

Sec. 60.
(Lease for
race, tram-
way, etc.)

Mining (Amendment).

to the purpose or purposes for which such lease is granted and the Governor may vary or revoke any such authority.

- 5 (g) by inserting in subsection one of section sixty-four after the word "acre" the words "or portion of an acre"; Sec. 64.
(Rents payable.)
- (h) by inserting at the end of section sixty-nine the following new subsection:— Sec. 69.
(Lease or agreement by owner to mine for minerals reserved to Crown.)
- 10 (8) No lease or agreement of the nature referred to in the foregoing provisions of this section shall be entered into on or after the commencement of the Mining (Amendment) Act, 1952.
- 15 (i) by inserting at the end of section seventy the following new subsections:— Sec. 70.
(Lease or agreement to mine for minerals not reserved to Crown.)
- 20 (11) The foregoing provisions of this section shall not apply to or in respect of any lease or agreement of the nature therein referred to entered into on or after the commencement of the Mining (Amendment) Act, 1952.
- (12) (a) In this subsection—
- "Crown minerals" means gold and other minerals reserved to the Crown;
- 25 "privately owned minerals" means minerals not reserved to the Crown.
- (b) Where privately owned minerals are associated or combined with any Crown minerals the owner of such privately owned minerals, or any person mining such privately owned minerals by agreement with such owner, may in mining such privately owned minerals and notwithstanding anything contained in this Act also mine such Crown minerals as are associated or combined therewith.
- 30
- 35 (c) This subsection shall not apply where the value of the Crown minerals associated or combined with such privately owned minerals

Mining (Amendment).

minerals and so mined exceeds fifty per centum of the total value of such Crown minerals and privately owned minerals so mined.

5 (d) Where the value of the Crown minerals associated or combined with privately owned minerals and so mined is found to exceed fifty per centum of the total value of such Crown minerals and privately owned minerals so mined
10 such owner or person as aforesaid shall forthwith apply for a lease under this Part to mine for Crown minerals.

15 Any person who fails to comply with the provisions of this paragraph shall be liable to the penalty prescribed in section one hundred and ninety-six of this Act.

20 (e) Royalty on Crown minerals won pursuant to the provisions of this subsection shall be payable at the rates prescribed by Division 6 of this Part of this Act in respect of Crown minerals.

Such royalty shall be payable to the Crown at the times, and in the manner prescribed and may be recovered from the owner or person mining such Crown minerals as a Crown debt.

25 (f) Any person who, otherwise than in pursuance of an authority to enter or a lease under this Part or any application therefor, mines privately owned minerals other than coal
30 or shale shall within one month after commencement of such mining give notice thereof to the Under Secretary for Mines and furnish particulars of the area being so mined together with a copy of the lease or agreement (if any) under which such person is mining such privately
35 owned minerals.

(j) by inserting in subsection four of section 70B after the word "acre" the words "or portion of an acre";

Sec. 70B.
(Applica-
tion for
lease.)

(k)

Mining (Amendment).

(k) by inserting at the end of section 70c the following new subsection:—

Sec. 70c.
(Royalty payable.)

5 (5) (a) In respect of any authority or lease granted after the commencement of the Mining (Amendment) Act, 1952, the foregoing provisions of this section shall have effect as if—

10 (i) the words “one and one-eighth per centum” were omitted from paragraph (a) of subsection one and the words “such rate per centum as may be prescribed” were inserted in lieu thereof;

15 (ii) the words “sixpence per ton” were omitted from paragraph (b) of the same subsection and the words “such rate per ton as may be prescribed” were inserted in lieu thereof;

20 (iii) the words “paragraph (a) or paragraph (b) of this subsection” were omitted from the same subsection wherever occurring and the words “paragraph (a) or paragraph (b) of this subsection as amended by subsection five of this section” were inserted in lieu thereof;

25 (iv) paragraphs (i) and (ii) of subsection two were omitted and the following paragraphs:—

30 (i) one-seventh of the amount paid under subsection one of this section in respect of all minerals other than coal or shale won from the land; and

35 (ii) one penny per ton of all coal or shale won from the land,
were inserted in lieu thereof.

(b) The regulations may prescribe rates according to percentage of the value of the mineral

Mining (Amendment).

mineral won, or an amount per ton on all mineral won, or an amount per cubic foot, cubic yard, gallon or other appropriate standard of measurement or otherwise howsoever.

5 Different rates may be prescribed in respect of different minerals. In the case of rates according to the percentage of the value of the mineral won such rates shall not exceed one and three-quarters per centum of such value.
10 In the case of rates according to an amount per ton on all mineral (other than coal or shale) won such rates shall not exceed one shilling per ton.

15 The rate prescribed in respect of coal or shale shall not exceed ninepence per ton.

(1) (i) by inserting in subsection one of section 70E after the word "mine" the words "for coal or shale";

Sec. 70E.
(Protection of land in certain colliery holdings.)

20 (ii) by inserting in the same subsection after the words "Under Secretary for Mines" the words "in accordance with the provisions of the Coal Mines Regulation Act, 1912-1947";

25 (iii) by inserting next after the same subsection the following new subsection:—

30 (1B) Notwithstanding the provisions of section 70D of this Act or of subsection one of this section an authority to enter or a lease to prospect or mine for any mineral other than coal or shale upon any land referred to in subsection one of this section may be granted where in the opinion of the Chief Inspector of Coal Mines prospecting or mining for such mineral may be carried on without detriment to the colliery or to the safety of the persons employed therein.

(m)

Mining (Amendment).

- (m) (i) by inserting next after subsection two of section eighty-two the following new subsection:—

(2A) (a) In respect of all gold and minerals reserved to the Crown won from land held under an authority to enter or a lease under this Part granted after the commencement of the Mining (Amendment) Act, 1952, royalty shall be paid at such rates as may be prescribed.

(b) The provisions of paragraph (b) of subsection (2b) of section thirty-six of this Act shall apply, mutatis mutandis, to and in respect of regulations prescribing the rates of royalty payable under this subsection.

- (ii) by omitting subsection four of the same section.

6. The Principal Act is further amended—

Further amendment of Act No. 49, 1906.

- (a) by omitting from section eighty-four the definition of "Crown land";
- (b) (i) by inserting in subsection one of section eighty-six after the words "any other mineral" the words "whether or not such mineral is reserved to the Crown";
- (ii) by inserting in subsection two of the same section after the words "one hundred acres" where firstly occurring the words "and unless the area applied for embraces the whole of a measured portion it shall be surveyed by a mining surveyor before the issue of a lease";
- (c) by omitting from subsection two of section ninety-four the words "such determination" and by inserting in lieu thereof the words "any determination to refuse any application or grant a lease";
- (d)

Sec. 84.
(Interpretation.)

Sec. 86.
(Governor may grant leases for mining by dredging, etc.)

Sec. 94.
(Grant or refusal of lease.)

Mining (Amendment).

(d) (i) by inserting in subsection one of section Sec. 98.
ninety-eight after the word "acre" the (Rent and
words "or portion of an acre"; royalty.)

5 (ii) by omitting subsection two of the same
section and by inserting in lieu thereof
the following subsections:—

10 (2) (a) In respect of all gold and
minerals reserved to the Crown won from
any land leased under this Part before the
commencement of the Mining (Amendment)
Act, 1952, royalty of one per centum of the
value of such gold and minerals so won shall
be payable to the Crown.

15 (b) In respect of all gold and
minerals whether reserved to the Crown or
not won from any land leased under this
Part on or after the commencement of the
Mining (Amendment) Act, 1952, royalty
shall be paid at such rates as may be
20 prescribed.

(c) The provisions of paragraph (b)
of subsection (2b) of section thirty-six of
this Act shall apply, mutatis mutandis, to
and in respect of regulations prescribing the
rates of royalty payable under this subsection
in respect of gold and minerals reserved
to the Crown.

25 The provisions of paragraph (b) of subsection
five of section 70c of this Act shall
30 apply to and in respect of regulations
prescribing the rates of royalty payable
under this subsection in respect of minerals
not reserved to the Crown.

(d) The royalty shall, subject to subsection
three of this section, be payable at
35 the times and in the manner prescribed.

(e) If the royalty payable in respect
of any lease of Crown land during any one
year exceeds the rent paid for such year in
respect

Mining (Amendment).

respect thereof, the amount paid as rent as aforesaid may be deducted from such sum payable as royalty; but if such royalty in any one year amounts to less than the rent paid for such year, the lessee shall not for such year be required to pay royalty.

(3) (a) The holder of any lease granted under this Part shall at the times and in the manner prescribed pay to the Minister on behalf of the owner of the minerals in such lease not reserved to the Crown the sum prescribed as royalty payable in respect of such minerals.

(b) The Minister shall at the times and in the manner prescribed pay to the owner of such minerals the sum so paid as royalty in respect of such minerals less one-seventh of the amount so paid 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.

(e) by inserting next after subsection three of section ninety-nine the following new subsection:—

(4) The Governor may, upon such terms as he may think fit, grant to the holder of a lease granted under this Part authority to mine for any minerals in addition to those in respect of which the lease is granted and the Governor may vary or revoke any such authority.

7. The Principal Act is further amended—

(a) by inserting in section one hundred and four after the word "nearest" the word "practicable";

(b) by inserting at the end of subsection one of section one hundred and eight the words "and may

Further amendment of Act No. 49, 1906.

Sec. 104. (Leases for railways, etc.)

Sec. 108. (Covenants and conditions of leases.)

Mining (Amendment).

may also contain such special covenants, conditions, reservations and exemptions as may be approved by the Governor”;

- 5 (c) by inserting next after section 108A the following new section:— New sec.
108B.

10 108B. (1) Where a lease (in this section referred to as the “prior lease”) granted under this Act or any Act hereby repealed has expired or been surrendered, cancelled or otherwise
15 determined and any land comprised wholly or partly in such prior lease has, within a period of five years from such expiration, surrender, cancellation or determination, become the sub-
20 ject of a lease (in this section referred to as the “fresh lease”) granted to any person or persons, who was or were the lessee or lessees of the prior lease, or who is or are substantially the same person or persons as the lessee or lessees of the prior lease, the royalty payable on such fresh lease, shall notwithstanding any-
thing contained in this Act, be the same as would be payable on a lease renewed in accordance with the provisions of this Act.

25 (2) In case of dispute as to whether the lessee or lessees of a fresh lease is or are substantially the same as the lessee or lessees of the prior lease the Minister’s decision shall be final.

- 30 (d) by omitting subsection one of section one hundred and nine and by inserting in lieu thereof the following subsection:— Sec. 109.
(Registra-
tion of
leases,
etc.)

35 (1) Every lease under this Act shall be registered with the Registrar, Department of Mines, Sydney, and thereafter every transfer or assignment thereof or of any interest therein (except in the case of an assignment by operation of law), and every sub-lease of or tribute

Mining (Amendment).

or option contract affecting the land, or any portion thereof, comprised in such lease, or in any lease or agreement registered under section sixty-nine or seventy of this Act shall be submitted within the time and in the manner prescribed for—

- (a) the concurrence or sanction of the Minister and registration, or
- (b) registration.

The Minister may refuse such concurrence or sanction or may grant the same subject to any amendments, modifications, or stipulations which he may think necessary in the public interest to impose.

Every instrument, which by this subsection is required to be registered, shall be lodged by such person as is prescribed.

- (e) by omitting from subsection one of section one hundred and thirteen the words "a majority" and by inserting in lieu thereof the words "not less than one-half";

Sec. 113.
(Suspension of operations.)

- (f) (i) by inserting at the end of subsection one of section one hundred and fifteen the following proviso:—

Sec. 115.
(Returns to be furnished.)

Provided that the Minister may grant permission to any such holder to furnish such return within such extended time and covering such period as the Minister may determine.

- (ii) by inserting in subsection three of the same section after the words "prescribed time" the words "or such extended time";

- (iii) by inserting in the same subsection after the words "twenty-eight days" the words "or such extended time";

(g)

Mining (Amendment).

- (g) by inserting at the end of subsection one of section one hundred and sixteen the following new paragraph:—

Sec. 116.
(Further
parti-
culars, etc.)

5 On receipt of such report the Minister, if he is of the opinion that the value of the minerals declared in the return furnished in accordance with the provisions of section one hundred and fifteen of this Act is too low, may assess a value for such minerals based on the average selling price in local or overseas markets and royalty shall be paid on the value so assessed.

- (h) by inserting next after section one hundred and sixteen the following new sections:—

New secs.
116A, 116B.

15 116A. (1) The Minister may require any holder of a lease or other title to mine to—

Trust
fund.

(a) establish a trust fund into which payment shall be made from sales of gold or minerals, including coal and shale, made by such holder, to meet royalty due thereon, or

20 (b) furnish a suitable guarantee that royalty will be paid on demand.

25 (2) Any person who fails to comply with any requirement of the Minister under this section or to make any payment into the trust fund pursuant to this section shall be liable to a penalty not exceeding fifty pounds and to a further penalty not exceeding five pounds for every day during which such failure continues.

30 116B. Every holder of a lease or other title to mine subject to the payment of any sum by way of royalty shall pay the amount due as royalty upon demand and if such payment is not made within twenty-eight days of such demand interest at such rate as the Minister may determine may be added to the amount due until it is paid. Any such interest may be recoverable in like manner as royalty.

Interest
may be
added.

(8)

(i)

Mining (Amendment).

- (i) (i) by omitting from subsection two of section one hundred and eighteen the words "obtaining a report from the warden" and by inserting in lieu thereof the words investigation and report by the Chief Inspector of Mines or the Chief Inspector of Coal Mines";
- (ii) by omitting from subsection four of the same section the words "inquiry and report by the warden" and by inserting in lieu thereof the words "investigation and report by the Chief Inspector of Mines or the Chief Inspector of Coal Mines";
- (j) by inserting at the end of section one hundred and twenty-three the following proviso:—
 Provided that the Minister may, in the case of the surrender of a lease in part, approve of the refund or remission of the rent paid or due on the part surrendered during the period subsequent to the acceptance of such surrender by the Governor and prior to execution of the deed of surrender.
- (k) by inserting at the end of section one hundred and twenty-four the following new paragraph:—
 A lease may also be cancelled by the Governor upon the written request of the lessee or a majority of the lessees and the cancellation shall take effect on the date notified in the Gazette.
- (l) by omitting from subsection (1A) of section 124A the word "other";
- (m) by inserting next after section 124A the following new section:—
 124B. Upon the surrender, expiration, cancellation or other determination of any lease granted under the provisions of this Act or any Act hereby repealed the Minister may authorise the writing off of any debt due to the Crown in respect of rent unpaid on such lease. (n)

Sec. 118.
(Amalgamation.)

Sec. 123.
(Lessee may surrender lease wholly or in part.)

Sec. 124.
(Cancellation.)

Sec. 124A.
(Complaint as to non-compliance with labour conditions.)

New sec. 124B.

Writing off Crown rent.

Mining (Amendment).

- (n) by inserting next after subsection two of section one hundred and twenty-five the following new subsection:—
 5 (3) Tools, machinery, and improvements not removed from any tenement within twelve months after the abandonment of such tenement may be sold by auction by order of the warden at the risk of the former holder. The net proceeds of such sale shall be paid into the Treasury and held until applied for by such former holder.
 10 (o) by inserting immediately before section 128A the following new sub-heading:—
Non-vitiation of lease or authority.
 15 (p) by inserting next after section one hundred and thirty the following new sub-heading and section:—
Service of notices on behalf of Minister.
 20 130A. Where under the provisions of this Act or under any regulation, lease or authority, it is provided that notice shall be given by the Minister or by the Secretary for Mines it shall be sufficient if such notice is signed by the person for the time being holding or acting in the office of Under Secretary of the Department of Mines.
 25 8. The Principal Act is further amended—
 (a) by inserting at the end of subsection four of section one hundred and forty-seven the following new paragraph:—
 30 Application for an injunction under this subsection may be heard by the warden at any warden's court in the mining district in which the mining division in which the dispute arises is situated.
 53 (b) by inserting next after section one hundred and fifty-seven the following new section:—
 157A. If, where no such assessment has been made, any loss has been caused and is likely to be

Sec. 125.
(Machinery,
etc., on
forfeited
area.)

New sub-
heading to
sec. 128A.

New sec.
130A.

Notices may
be signed
by Under
Secretary.

Further
amendment
of Act No. 49,
1906.

Sec. 147.
(Warden
may grant
injunction.)

New sec.
157A.

Compensa-
tion.

Mining (Amendment).

5 be caused by damage to the surface of any land
and to any crops, buildings, and improvements
thereon by works carried on in pursuance of the
rights conferred by any miner's right, license,
authority, lease or application, the warden may
as aforesaid assess such loss and order the same
to be paid by the holder or applicant aforesaid
to any person having interest in the land so
10 damaged. If such payment is not so made the
claim, license, authority or lease may be
cancelled or the application refused.

9. The Principal Act is further amended by inserting
next after section one hundred and eighty-three the
following new section:—

Further
amendment
of Act No. 49,
1906.

New sec.
183A.

Furnishing
of statistics,
returns,
etc.

15 183A. (1) Every holder of a lease or other
title to mine under this Act and any other person
carrying on mining, prospecting or other opera-
tions in connection therewith who may be
called upon so to do shall, at such times and in
20 such manner as the Minister may require,
furnish such statistics, returns and other
information as may be required and shall keep
such records as may be necessary for the
completion thereof.

25 (2) The owner of every establishment
engaged in the treatment or purchase of metals,
minerals, or other materials derived from any
mine shall, at such times and in such manner as
the Minister may require, furnish such statistics,
30 returns and other information as may be
required and shall keep such records as may be
necessary for the completion thereof.

35 (3) Any information required under
this section in respect of any particulars supplied
in or omitted from a return shall be furnished
within such period as may be specified by the
Under Secretary of the Department of Mines.

(4)

Mining (Amendment).

5 (4) Any officer of the Department of
Mines or other person authorised in writing by
the Minister shall at all times have full and free
access to all mines and to all buildings, books,
documents and other records relating to the
production, treatment and disposal of metals,
minerals or other materials derived from any
mine and may make extracts from or copies of
such books, documents or records, and may
10 make such investigations as he may consider
proper in connection with the production, treat-
ment and disposal of such metals, minerals or
other materials.

15 (5) Statistics, returns and information,
obtained pursuant to this section, shall be
treated as confidential provided that the
Minister may cause to be published or other-
wise made available the results of such statis-
tics, returns and information with respect to
20 the whole of New South Wales or any portion
thereof and such details furnished on an
individual return (other than details relating
to working expenses) as he may think fit.

25 (6) Any person who fails to comply
with any requirement made under this section
or who makes any return or supplies any
information which is incomplete shall be liable
to a penalty not exceeding fifty pounds.

10. The Principal Act is further amended—

30 (a) by inserting at the end of section one hundred
and eighty-eight the words “and any gold,
minerals, or metals obtained by such unautho-
rised mining may be forfeited by the court
before which he is convicted of such offence”;

(b)

Further
amendment
of Act No.
49, 1906.

Sec. 188.
(Unautho-
rised
occupation
of Crown
land.)

Mining (Amendment).

(b) by omitting section one hundred and ninety-seven and by inserting in lieu thereof the following section:—

Substituted
sec. 197.

5 197. (1) Any person who inserts any false particulars in any statistics or returns directed or required by or under this Act to be furnished or made or supplies any false information when directed or required under this Act to supply any information shall be liable to a penalty not exceeding fifty pounds.

10

False
returns.

15 (2) If the court before which any person is convicted of any offence against subsection one of this section is satisfied that such false particulars or information was supplied wilfully to evade the payment of royalty such person shall be liable to an additional penalty of a sum equal to twice the amount of royalty payable.

Amending (the amendment)

(1) by omitting section one hundred and ninety
seven and by inserting in lieu thereof the
following section:-

197. (1) Any person who inserts any false
particulars in any statistics or returns directed
or required by or under this Act to be furnished
or made or supplies any false information when
directed or required under this Act to supply
any information shall be liable to a penalty not
exceeding fifty pounds.

(2) If the court before which any person
is convicted of any offence against subsection
one of this section is satisfied that such false
particulars or information was supplied with
intent to secure the payment of royalty such
person shall be liable to an additional penalty
of a sum equal to twice the amount of royalty
paid.

3

10

15

No. , 1952.

A BILL

To amend the Mining Act, 1906, as amended by subsequent Acts, in certain respects; and for purposes connected therewith.

[MR. ARTHUR;—18 *March*, 1952.]

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

1. (1) This Act may be cited as the “Mining (Amendment) Act, 1952”.

Short title,
citation and
commence-
ment.

(2) The Mining Act, 1906, as amended by subsequent Acts, is in this Act referred to as the Principal
10 Act.

Mining (Amendment).

(3) The Principal Act, as amended by this Act, may be cited as the Mining Act, 1906-1952.

(4) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Principal Act is amended—

Amendment
of Act No. 49,
1906.

(a) (i) by omitting from section three the definition of "Crown lands" and by inserting in lieu thereof the following definition:—

Sec. 3.
(Interpre-
tation.)

10 "Crown lands" means all land within the State, except—

(a) land in the process of alienation from the Crown;

15 (b) land held in fee simple by any person, other than land vested in Her Majesty or in any person holding such land for or on behalf of Her Majesty or as trustee for public purposes;

20 (c) land held under the following tenures, either original or additional: conditional lease not embracing any land reserved or deemed to have been reserved under the provisions of section one hundred and six of this Act, Crown lease other than Crown lease for pastoral purposes, home-
25 stead farm, homestead selection, residential lease, special lease other than special lease for pastoral purposes, settle-
30 ment lease, suburban holding, town lands lease, week-end lease, conditional purchase lease, irrigation farm lease and non-irrigable lease, and
35 land

Mining (Amendment).

- land held under any grant issued in respect of any of the foregoing tenures;
- 5 (d) land purchased or resumed under the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts, or land held under lease under the Closer Settlement Act, 10 1904, or the Returned Soldiers Settlement Act, 1916, or any Act amending such Acts;
- (e) land held under lease under this Act;
- 15 (f) any other holding or land which the Governor may by proclamation declare not to be Crown lands.
- 20 (ii) by inserting in the same section next after the definition of "Justice" the following new definition:—
- "Lease for pastoral purposes" means a lease expressed to be for the purposes of grazing or grazing and the giving of access to water irrespective of whether the whole or part thereof may be used for agricultural purposes.
- 25 (iii) by omitting from the definition of "Mine" in the same section the word "purposes";
- 30 (iv) by omitting from the definition of "Mining surveyor" in the same section the words "licensed surveyor" and by inserting in lieu thereof the words "surveyor registered under the Surveyors Act, 1929-1946, and who is";
- 35

(b)

Mining (Amendment).

- (b) by inserting next after section three the following new section:— New sec. 3A.

5 3A. Any proclamation made under this Act and in respect of which no provision is made for its variation or cancellation may be varied or cancelled by a subsequent proclamation made in like manner as the proclamation being varied or cancelled. Proclamations.

3. The Principal Act is further amended—

- 10 (a) by inserting next after section thirteen the following new section:— Further amendment of Act No. 49, 1906.
New sec. 13A.

15 13A. As from the commencement of the Mining (Amendment) Act, 1952, no miner's right or business license shall be issued to, transferred by or to, or renewed by a person under the age of sixteen years. Restriction on issue, etc., of miners' rights and business licenses.

- (b) (i) by inserting in paragraph (a) of subsection one of section fourteen after the word "resumed" the words "or acquired"; Sec. 14.
(Certain exemptions.)

20 (ii) by omitting from the same paragraph the words "whether vested in His Majesty or in any person as constructing authority or" and by inserting in lieu thereof the words "whether vested in Her Majesty or in any person for or on behalf of Her Majesty or in any person as";

25 (iii) by omitting paragraph (e) of the same subsection and by inserting in lieu thereof the following paragraph:—

30 (e) lands the subject of an authority to prospect or a pending application for a lease or an authority to prospect under this Act;

- 35 (c) by omitting from paragraph (h) of subsection one of section fifteen the words "such horses or other animals as may be necessary" and by inserting Sec. 15.
(Rights of occupation in respect of Crown lands.)

Mining (Amendment).

inserting in lieu thereof the words "nor reserved for a temporary common not more than two horses and two cows";

- 5 (d) (i) by omitting from subsection one of section nineteen the words "within twenty-eight days thereafter, register the same in the prescribed manner" and by inserting in lieu thereof the words "forthwith make application in the prescribed manner for registration of the same";

Sec. 19.
(Holder to register.)

10

- (ii) by inserting at the end of the same subsection the following proviso:—

15

Provided that any tenement may be registered notwithstanding that application for registration thereof was not made forthwith after possession was taken if it is shown to the satisfaction of the warden of the district within which the tenement is situated that the applicant was prevented by sickness or other sufficient cause from making such application forthwith;

20

- (iii) by omitting from subsection two of the same section the words "register the same in the prescribed manner" and by inserting in lieu thereof the words "make application in the prescribed manner for registration of the same";

25

- (iv) by omitting subsections three, four and five of the same section and by inserting in lieu thereof the following subsections:—

30

(3) Every applicant for registration or renewal of registration of a tenement shall produce his miner's right or business license to the mining registrar of the mining division wherein the tenement is situated.

35

(4) Any person neglecting to make application for registration of a tenement being a claim under this Act or a share in any such

Mining (Amendment).

such tenement or to renew the registration thereof shall, if he works or mines on such tenement, incur the penalty hereinafter in this Act prescribed for unauthorised mining on Crown land.

5

4. The Principal Act is further amended—

Further amendment of Act No. 49, 1906.

(a) (i) by omitting paragraph (b) of subsection one of section twenty-three and by inserting in lieu thereof the following paragraph:—

Sec. 23.
(Governor may grant leases.)

10

(b) He may grant leases for any mining purposes of the surface and of the soil to a limited depth below the surface, or of the soil below the surface between specified depths. Any lease so granted shall specify the mining purposes for which it is granted. Nothing in this paragraph shall authorise mining on the land or the removal of any gold or minerals won therefrom.

15

20

(ii) by inserting at the end of the same section the following new subsections:—

25

(3) Notwithstanding the provisions of subsection two of section fifteen of the Public Roads Act, 1902, the Governor may grant gold-mining leases or mineral leases of land below a depth of fifty feet from the surface of land resumed for road purposes.

30

(4) The Governor may, upon such terms as he may think fit, grant to the holder of a lease for mining purposes authority to use the land comprised in such lease for any other mining purpose or purposes in addition to the purpose or purposes for which the lease is granted and the Governor may vary or revoke any such authority.

35

(5) (a) Upon the cancellation or determination of any lease of Crown land situated wholly

Mining (Amendment).

5 wholly or in part within the external boundaries of any area exempted from the leasing provisions of this Act, the lands comprised in such lease shall, to the extent to which they are within the external boundaries of the area so exempted, there-upon form part of such area.

10 (b) The provisions of this subsection shall not apply to a lease granted to a complainant following the cancellation of such lease under the provisions of section 124A of this Act.

(b) by inserting at the end of section twenty-seven the following new subsection:—

Sec. 27.
(Applica-
tion for
leases.)

15 (4) A lease may, at the request in writing of the applicant, be granted to any person named by him.

Lease to
nominee.

20 (c) by inserting in paragraph (a) of section twenty-eight after the words "applied for, and" the words "subject to any conditions or restrictions imposed by the Minister";

Sec. 28.
(Applicant
may mine
upon land.)

(d) by inserting at the end of section thirty the following new subsection:—

Sec. 30.
(When
application
pending.)

25 (4) In the event of an applicant or his legal representatives as aforesaid carrying on mining operations during the pendency of an application he or they, as the case may be, shall pay royalty on any gold or mineral won during such pendency at the rate which would be payable on such gold or mineral had such gold or mineral been won from land the subject of a lease granted after the commencement of the Mining (Amendment) Act, 1952.

30 (e) (i) by inserting next after subsection (2c) of section thirty-six the following new subsection:—

Sec. 36.
(Rent and
royalty
payable.)

(2d) (a) In respect of all gold and minerals won from land demised by lease so granted

Mining (Amendment).

granted on or after the commencement of the Mining (Amendment) Act, 1952, royalty shall be paid at such rates as may be prescribed.

5

(b) The regulations may prescribe rates according to percentage of the value of the gold or mineral won, or an amount per ton on all mineral won, or an amount per cubic foot, cubic yard, gallon or other appropriate standard of measurement or otherwise howsoever.

10

Different rates may be prescribed in respect of different minerals. In the case of rates according to the percentage of the value of the gold or mineral won such rates shall not exceed one and one-half per centum of such value. In the case of rates according to an amount per ton on all mineral (other than coal or shale) won such rates shall not be less than threepence nor more than one shilling per ton.

15

20

The rate prescribed in respect of coal or shale shall not exceed ninepence per ton.

25

(ii) by omitting from subsection five of the same section the words "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

(f) (i) by inserting in subsection one of section forty after the words "or of mining such land" the words "or for any other sufficient reason";

Sec. 40.
(Governor
may grant
special
leases.)

35

(ii) by inserting in paragraph (a) of subsection two of the same section after the words "and of mining such land" the words "or for any other sufficient reason";

(iii)

Mining (Amendment).

(iii) by inserting at the end of the same section the following new subsection:—

(4) A special mining lease may at the request in writing of the applicant be granted to any person named by him.

5. The Principal Act is further amended—

Further amendment of Act No. 49, 1906.

- (a) by inserting in section forty-five in the definition of "Private lands" after the word "include" the words and symbols "(i) any lease granted under Part III or Part V of this Act; or (ii)";
- (b) by omitting paragraph (b) of the proviso to section forty-eight and by inserting in lieu thereof the following paragraphs:—
- (b) cultivation for the growth and spread of pasture grasses shall not be deemed to be cultivation within the meaning of this section unless, in the opinion of the Minister, the circumstances so warrant; and
- (c) in the case of dispute as to whether land is or is not under cultivation within the meaning of this section the Minister's decision thereon shall be final;
- (c) (i) by inserting at the end of subsection one of section fifty the following new paragraph:—
- An authority to enter may be granted by the warden notwithstanding that the applicant has not complied in every respect with the regulations;
- (ii) by inserting at the end of subsection two of the same section the following new paragraph:—
- (d) if, in the opinion of the warden, the applicant has abandoned his application or by his negligent or dilatory conduct

Sec. 45. (Interpretation.)

Sec. 48. (Cultivated land.)

Sec. 50. (Warden may grant authority.)

Mining (Amendment).

conduct has hindered the disposal of the application within a reasonable time after its lodgment;

- 5 (iii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—

10 (3) The time during which such authority is required shall be stated in such application, and the applicant shall lodge therewith a fee of five shillings which shall be paid by the warden into the Treasury and carried to the Consolidated Revenue Fund.

- 15 (d) (i) by omitting from subsection four of section fifty-seven the words “the application” and by inserting in lieu thereof the words “his intention to apply for a lease”; Sec. 57. (Mining leases.)

- 20 (ii) by inserting in subsection five of the same section after the word “may” the words “subject to any conditions (including payment of rent not exceeding that prescribed by section sixty-four of this Act) or restrictions imposed by the Minister”;

- 25 (e) by inserting at the end of subsection three of section fifty-eight the following new paragraph:— Sec. 58. (Power to refuse, etc.)

30 A lease may subject to the consent of the owner be granted notwithstanding that the land surveyed does not strictly correspond with the land defined in the authority to enter;

- (f) by inserting next after subsection one of section sixty the following new subsection:— Sec. 60. (Lease for race, tramway, etc.)

35 (1A) The Governor may, upon such terms as he may think fit, grant to the holder of a lease under this section authority to use the land comprised in such lease for any purpose or purposes in connection with mining in addition to

Mining (Amendment).

to the purpose or purposes for which such lease is granted and the Governor may vary or revoke any such authority.

- 5 (g) by inserting in subsection one of section sixty-four after the word "acre" the words "or portion of an acre"; Sec. 64.
(Rents payable.)
- (h) by inserting at the end of section sixty-nine the following new subsection:— Sec. 69.
(Lease or agreement by owner to mine for minerals reserved to Crown.)
- 10 (8) No lease or agreement of the nature referred to in the foregoing provisions of this section shall be entered into on or after the commencement of the Mining (Amendment) Act, 1952.
- 15 (i) by inserting at the end of section seventy the following new subsections:— Sec. 70.
(Lease or agreement to mine for minerals not reserved to Crown.)
- 20 (11) The foregoing provisions of this section shall not apply to or in respect of any lease or agreement of the nature therein referred to entered into on or after the commencement of the Mining (Amendment) Act, 1952.
- (12) (a) In this subsection—
- "Crown minerals" means gold and other minerals reserved to the Crown;
- 25 "privately owned minerals" means minerals not reserved to the Crown.
- (b) Where privately owned minerals are associated or combined with any Crown minerals the owner of such privately owned minerals, or any person mining such privately owned minerals by agreement with such owner, may in mining such privately owned minerals and notwithstanding anything contained in this Act also mine such Crown minerals as are associated or combined therewith.
- 30
- 35 (c) This subsection shall not apply where the value of the Crown minerals associated or combined with such privately owned minerals

Mining (Amendment).

minerals and so mined exceeds fifty per centum of the total value of such Crown minerals and privately owned minerals so mined.

5 (d) Where the value of the Crown minerals associated or combined with privately owned minerals and so mined is found to exceed fifty per centum of the total value of such Crown minerals and privately owned minerals so mined
10 such owner or person as aforesaid shall forthwith apply for a lease under this Part to mine for Crown minerals.

Any person who fails to comply with the provisions of this paragraph shall be liable to the penalty prescribed in section one hundred and
15 ninety-six of this Act.

(e) Royalty on Crown minerals won pursuant to the provisions of this subsection shall be payable at the rates prescribed by Division 6 of this Part of this Act in respect of
20 Crown minerals.

Such royalty shall be payable to the Crown at the times, and in the manner prescribed and may be recovered from the owner or person mining such Crown minerals as a Crown debt.

25 (f) Any person who, otherwise than in pursuance of an authority to enter or a lease under this Part or any application therefor, mines privately owned minerals other than coal or shale shall within one month after commencement of such mining give notice thereof to the
30 Under Secretary for Mines and furnish particulars of the area being so mined together with a copy of the lease or agreement (if any) under which such person is mining such privately
35 owned minerals.

(j) by inserting in subsection four of section 70B after the word "acre" the words "or portion of an acre";

Sec. 70B.
(Applica-
tion for
lease.)

(k)

Mining (Amendment).

(k) by inserting at the end of section 70c the following new subsection:—

Sec. 70c.
(Royalty payable.)

5 (5) (a) In respect of any authority or lease granted after the commencement of the Mining (Amendment) Act, 1952, the foregoing provisions of this section shall have effect as if—

10 (i) the words “one and one-eighth per centum” were omitted from paragraph (a) of subsection one and the words “such rate per centum as may be prescribed” were inserted in lieu thereof;

15 (ii) the words “sixpence per ton” were omitted from paragraph (b) of the same subsection and the words “such rate per ton as may be prescribed” were inserted in lieu thereof;

20 (iii) the words “paragraph (a) or paragraph (b) of this subsection” were omitted from the same subsection wherever occurring and the words “paragraph (a) or paragraph (b) of this subsection as amended by subsection five of this section” were inserted in lieu thereof;

25 (iv) paragraphs (i) and (ii) of subsection two were omitted and the following paragraphs:—

30 (i) one-seventh of the amount paid under subsection one of this section in respect of all minerals other than coal or shale won from the land; and

35 (ii) one penny per ton of all coal or shale won from the land,
were inserted in lieu thereof.

(b) The regulations may prescribe rates according to percentage of the value of the mineral

(m)

Mining (Amendment).

mineral won, or an amount per ton on all mineral won, or an amount per cubic foot, cubic yard, gallon or other appropriate standard of measurement or otherwise howsoever.

5 Different rates may be prescribed in respect of different minerals. In the case of rates according to the percentage of the value of the mineral won such rates shall not exceed one and three-quarters per centum of such value.
10 In the case of rates according to an amount per ton on all mineral (other than coal or shale) won such rates shall not exceed one shilling per ton.

15 The rate prescribed in respect of coal or shale shall not exceed ninepence per ton.

(1) (i) by inserting in subsection one of section 70E after the word "mine" the words "for coal or shale";

Sec. 70E.
(Protection
of land in
certain
colliery
holdings.)

20 (ii) by inserting in the same subsection after the words "Under Secretary for Mines" the words "in accordance with the provisions of the Coal Mines Regulation Act, 1912-1947";

25 (iii) by inserting next after the same subsection the following new subsection:—

30 (1A) Notwithstanding the provisions of section 70D of this Act or of subsection one of this section an authority to enter or a lease to prospect or mine for any mineral other than coal or shale upon any land referred to in subsection one of this section may be granted where in the opinion of the Chief Inspector of Coal Mines prospecting or mining for such mineral may be
35 carried on without detriment to the colliery or to the safety of the persons employed therein.

(m)

Mining (Amendment).

- (m) (i) by inserting next after subsection two of section eighty-two the following new subsection:—

Sec. 82.
(Royalty.)

5 (2A) (a) In respect of all gold and minerals reserved to the Crown won from land held under an authority to enter or a lease under this Part granted after the commencement of the Mining (Amendment) Act, 1952, royalty shall be paid at such rates as may be prescribed.

10 (b) The provisions of paragraph (b) of subsection (2b) of section thirty-six of this Act shall apply, mutatis mutandis, to and in respect of regulations prescribing the rates of royalty payable under this subsection.

- (ii) by omitting subsection four of the same section.

6. The Principal Act is further amended—

Further amendment of Act No. 49, 1906.

- 20 (a) by omitting from section eighty-four the definition of "Crown land";

Sec. 84.
(Interpretation.)

- 25 (b) (i) by inserting in subsection one of section eighty-six after the words "any other mineral" the words "whether or not such mineral is reserved to the Crown";

Sec. 86.
(Governor may grant leases for mining by dredging, etc.)

- 30 (ii) by inserting in subsection two of the same section after the words "one hundred acres" where firstly occurring the words "and unless the area applied for embraces the whole of a measured portion it shall be surveyed by a mining surveyor before the issue of a lease";

- 35 (c) by omitting from subsection two of section ninety-four the words "such determination" and by inserting in lieu thereof the words "any determination to refuse any application or grant a lease";

Sec. 94.
(Grant or refusal of lease.)

(d)

Mining (Amendment).

(d) (i) by inserting in subsection one of section Sec. 98.
ninety-eight after the word "acre" the (Rent and
words "or portion of an acre"; royalty.)

5 (ii) by omitting subsection two of the same
section and by inserting in lieu thereof
the following subsections:—

10 (2) (a) In respect of all gold and
minerals reserved to the Crown won from
any land leased under this Part before the
commencement of the Mining (Amendment)
Act, 1952, royalty of one per centum of the
value of such gold and minerals so won shall
be payable to the Crown.

15 (b) In respect of all gold and
minerals whether reserved to the Crown or
not won from any land leased under this
Part on or after the commencement of the
Mining (Amendment) Act, 1952, royalty
20 shall be paid at such rates as may be
prescribed.

25 (c) The provisions of paragraph (b)
of subsection (2b) of section thirty-six of
this Act shall apply, mutatis mutandis, to
and in respect of regulations prescribing the
rates of royalty payable under this subsec-
tion in respect of gold and minerals reserved
to the Crown.

30 The provisions of paragraph (b) of sub-
section five of section 70c of this Act shall
apply to and in respect of regulations
prescribing the rates of royalty payable
under this subsection in respect of minerals
not reserved to the Crown.

35 (d) The royalty shall, subject to sub-
section three of this section, be payable at
the times and in the manner prescribed.

(e) If the royalty payable in respect
of any lease of Crown land during any one
year exceeds the rent paid for such year in
respect

Mining (Amendment).

respect thereof, the amount paid as rent as aforesaid may be deducted from such sum payable as royalty; but if such royalty in any one year amounts to less than the rent paid for such year, the lessee shall not for such year be required to pay royalty.

(3) (a) The holder of any lease granted under this Part shall at the times and in the manner prescribed pay to the Minister on behalf of the owner of the minerals in such lease not reserved to the Crown the sum prescribed as royalty payable in respect of such minerals.

(b) The Minister shall at the times and in the manner prescribed pay to the owner of such minerals the sum so paid as royalty in respect of such minerals less one-seventh of the amount so paid 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.

(e) by inserting next after subsection three of section ninety-nine the following new subsection:—

(4) The Governor may, upon such terms as he may think fit, grant to the holder of a lease granted under this Part authority to mine for any minerals in addition to those in respect of which the lease is granted and the Governor may vary or revoke any such authority.

7. The Principal Act is further amended—

(a) by inserting in section one hundred and four after the word "nearest" the word "practicable";

(b) by inserting at the end of subsection one of section one hundred and eight the words "and may

Further amendment of Act No. 49, 1906.

Sec. 104. (Leases for railways, etc.)

Sec. 108. (Covenants and conditions of leases.)

Mining (Amendment).

may also contain such special covenants, conditions, reservations and exemptions as may be approved by the Governor”;

- 5 (c) by inserting next after section 108A the following new section:— New sec.
108B.

10 108B. (1) Where a lease (in this section referred to as the “prior lease”) granted under this Act or any Act hereby repealed has expired or been surrendered, cancelled or otherwise
15 determined and any land comprised wholly or partly in such prior lease has, within a period of five years from such expiration, surrender, cancellation or determination, become the sub-
ject of a lease (in this section referred to as the
20 “fresh lease”) granted to any person or persons, who was or were the lessee or lessees of the prior lease, or who is or are substantially the same person or persons as the lessee or lessees of the prior lease, the royalty payable on such fresh lease, shall notwithstanding any-
thing contained in this Act, be the same as
would be payable on a lease renewed in accord-
ance with the provisions of this Act.

Royalty
on leases
compris-
ing land
previously
leased.

25 (2) In case of dispute as to whether the lessee or lessees of a fresh lease is or are substantially the same as the lessee or lessees of the prior lease the Minister’s decision shall be final.

- 30 (d) by omitting subsection one of section one hundred and nine and by inserting in lieu thereof the following subsection:— Sec. 109.
(Registra-
tion of
leases,
etc.)

35 (1) Every lease under this Act shall be registered with the Registrar, Department of Mines, Sydney, and thereafter every transfer or assignment thereof or of any interest therein (except in the case of an assignment by operation of law), and every sub-lease of or tribute

or

Mining (Amendment).

5 or option contract affecting the land, or any portion thereof, comprised in such lease, or in any lease or agreement registered under section sixty-nine or seventy of this Act shall be submitted within the time and in the manner prescribed for—

(a) the concurrence or sanction of the Minister and registration, or

(b) registration.

10 The Minister may refuse such concurrence or sanction or may grant the same subject to any amendments, modifications, or stipulations which he may think necessary in the public interest to impose.

15 Every instrument, which by this subsection is required to be registered, shall be lodged by such person as is prescribed.

20 (e) by omitting from subsection one of section one hundred and thirteen the words “a majority” and by inserting in lieu thereof the words “not less than one-half”; Sec. 113.
(Suspension of operations.)

(f) (i) by inserting at the end of subsection one of section one hundred and fifteen the following proviso:— Sec. 115.
(Returns to be furnished.)

25 Provided that the Minister may grant permission to any such holder to furnish such return within such extended time and covering such period as the Minister may determine.

30 (ii) by inserting in subsection three of the same section after the words “prescribed time” the words “or such extended time”;

35 (iii) by inserting in the same subsection after the words “twenty-eight days” the words “or such extended time”;

(g)

Mining (Amendment).

- (g) by inserting at the end of subsection one of section one hundred and sixteen the following new paragraph:—

Sec. 116.
(Further
parti-
culars, etc.)

5 On receipt of such report the Minister, if he is of the opinion that the value of the minerals declared in the return furnished in accordance with the provisions of section one hundred and fifteen of this Act is too low, may assess a value for such minerals based on the average selling price in local or overseas markets and royalty shall be paid on the value so assessed.

10

- (h) by inserting next after section one hundred and sixteen the following new sections:—

New secs.
116A, 116B.

15 116A. (1) The Minister may require any holder of a lease or other title to mine to—

Trust
fund.

(a) establish a trust fund into which payment shall be made from sales of gold or minerals, including coal and shale, made by such holder, to meet royalty due thereon, or

20

(b) furnish a suitable guarantee that royalty will be paid on demand.

(2) Any person who fails to comply with any requirement of the Minister under this section or to make any payment into the trust fund pursuant to this section shall be liable to a penalty not exceeding fifty pounds and to a further penalty not exceeding five pounds for every day during which such failure continues.

25

30 116B. Every holder of a lease or other title to mine subject to the payment of any sum by way of royalty shall pay the amount due as royalty upon demand and if such payment is not made within twenty-eight days of such demand interest at such rate as the Minister may determine may be added to the amount due until it is paid. Any such interest may be recoverable in like manner as royalty.

35

Interest
may be
added.

(i)

Mining (Amendment).

- (i) (i) by omitting from subsection two of section one hundred and eighteen the words "obtaining a report from the warden" and by inserting in lieu thereof the words "investigation and report by the Chief Inspector of Mines or the Chief Inspector of Coal Mines";
- (ii) by omitting from subsection four of the same section the words "inquiry and report by the warden" and by inserting in lieu thereof the words "investigation and report by the Chief Inspector of Mines or the Chief Inspector of Coal Mines";
- (j) by inserting at the end of section one hundred and twenty-three the following proviso:—
 Provided that the Minister may, in the case of the surrender of a lease in part, approve of the refund or remission of the rent paid or due on the part surrendered during the period subsequent to the acceptance of such surrender by the Governor and prior to execution of the deed of surrender.
- (k) by inserting at the end of section one hundred and twenty-four the following new paragraph:—
 A lease may also be cancelled by the Governor upon the written request of the lessee or a majority of the lessees and the cancellation shall take effect on the date notified in the Gazette.
- (l) by omitting from subsection (1A) of section 124A the word "other";
- (m) by inserting next after section 124A the following new section:—
 124B. Upon the surrender, expiration, cancellation or other determination of any lease granted under the provisions of this Act or any Act hereby repealed the Minister may authorise the writing off of any debt due to the Crown in respect of rent unpaid on such lease.

Sec. 118.
(Amalgama-
tion.)

Sec. 123.
(Lessee may
surrender
lease
wholly or
in part.)

Sec. 124.
(Cancellat-
ion.)

Sec. 124A.
(Complaint
as to non-
compliance
with labour
conditions.)

New sec.
124B.

Writing off
Crown
rent.

(n)

Mining (Amendment).

- (n) by inserting next after subsection two of section one hundred and twenty-five the following new subsection:—
- 5 (3) Tools, machinery, and improvements not removed from any tenement within twelve months after the abandonment of such tenement may be sold by auction by order of the warden at the risk of the former holder. The net proceeds of such sale shall be paid into the Treasury and held until applied for by such former holder.
- 10 (o) by inserting immediately before section 128A the following new sub-heading:—
- Non-vitiation of lease or authority.*
- (p) by inserting next after section one hundred and thirty the following new sub-heading and section:—
- 15 *Service of notices on behalf of Minister.*
- 20 130A. Where under the provisions of this Act or under any regulation, lease or authority, it is provided that notice shall be given by the Minister or by the Secretary for Mines it shall be sufficient if such notice is signed by the person for the time being holding or acting in the office of Under Secretary of the Department of Mines.
- 25 8. The Principal Act is further amended—
- (a) by inserting at the end of subsection four of section one hundred and forty-seven the following new paragraph:—
- 30 Application for an injunction under this subsection may be heard by the warden at any warden's court in the mining district in which the mining division in which the dispute arises is situated.
- (b) by inserting next after section one hundred and fifty-seven the following new section:—
- 35 157A. If, where no such assessment has been made, any loss has been caused and is likely to be

Sec. 125.
(Machinery,
etc., on
forfeited
area.)

New sub-
heading to
sec. 128A.

New sec.
130A.

Notices may
be signed
by Under
Secretary.

Further
amendment
of Act No. 49,
1906.

Sec. 147.
(Warden
may grant
injunction.)

New sec.
157A.

Compensa-
tion.

Mining (Amendment).

5 be caused by damage to the surface of any land
and to any crops, buildings, and improvements
thereon by works carried on in pursuance of the
rights conferred by any miner's right, license,
authority, lease or application, the warden may
as aforesaid assess such loss and order the same
to be paid by the holder or applicant aforesaid
to any person having interest in the land so
10 damaged. If such payment is not so made the
claim, license, authority or lease may be
cancelled or the application refused.

9. The Principal Act is further amended by inserting
next after section one hundred and eighty-three the
following new section:—

Further
amendment
of Act No. 49,
1906.

New sec.
183A.

Furnishing
of statistics,
returns,
etc.

15 183A. (1) Every holder of a lease or other
title to mine under this Act and any other person
carrying on mining, prospecting or other opera-
tions in connection therewith who may be
called upon so to do shall, at such times and in
20 such manner as the Minister may require,
furnish such statistics, returns and other
information as may be required and shall keep
such records as may be necessary for the
completion thereof.

25 (2) The owner of every establishment
engaged in the treatment or purchase of metals,
minerals, or other materials derived from any
mine shall, at such times and in such manner as
the Minister may require, furnish such statistics,
30 returns and other information as may be
required and shall keep such records as may be
necessary for the completion thereof.

35 (3) Any information required under
this section in respect of any particulars supplied
in or omitted from a return shall be furnished
within such period as may be specified by the
Under Secretary of the Department of Mines.

(4)

Mining (Amendment).

(4) Any officer of the Department of Mines or other person authorised in writing by the Minister shall at all times have full and free access to all mines and to all buildings, books, documents and other records relating to the production, treatment and disposal of metals, minerals or other materials derived from any mine and may make extracts from or copies of such books, documents or records, and may make such investigations as he may consider proper in connection with the production, treatment and disposal of such metals, minerals or other materials.

(5) Statistics, returns and information, obtained pursuant to this section, shall be treated as confidential provided that the Minister may cause to be published or otherwise made available the results of such statistics, returns and information with respect to the whole of New South Wales or any portion thereof and such details furnished on an individual return (other than details relating to working expenses) as he may think fit.

(6) Any person who fails to comply with any requirement made under this section or who makes any return or supplies any information which is incomplete shall be liable to a penalty not exceeding fifty pounds.

10. The Principal Act is further amended—

(a) by inserting at the end of section one hundred and eighty-eight the words “and any gold, minerals, or metals obtained by such unauthorised mining may be forfeited by the court before which he is convicted of such offence”;

(b)

Further amendment of Act No. 49, 1906.

Sec. 188.

(Unauthorised occupation of Crown land.)

Mining (Amendment).

- (b) by omitting section one hundred and ninety-seven and by inserting in lieu thereof the following section:—

Substituted
sec. 197.

5 197. (1) Any person who inserts any false
particulars in any statistics or returns directed
or required by or under this Act to be furnished
or made or supplies any false information when
10 directed or required under this Act to supply
any information shall be liable to a penalty not
exceeding fifty pounds.

False
returns.

15 (2) If the court before which any person
is convicted of any offence against subsection
one of this section is satisfied that such false
particulars or information was supplied wil-
fully to evade the payment of royalty such
person shall be liable to an additional penalty
of a sum equal to twice the amount of royalty
payable.

[2s. 3d.]

Sydney A. H. Pettifer, Government Printer—1952.

