

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.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 21 November, 1967.*

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1967.

An Act to amend the law relating to mining; to validate certain matters; for this and other purposes to amend the Mining Act, 1906, and certain other Acts; and for purposes connected therewith.

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

1. (1) This Act may be cited as the "Mining (Amendment) Act, 1967".

(2) Short title,
citation and
commence-
ment.

Mining (Amendment).

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

(3) The Principal Act, as amended by this Act, may be cited as the Mining Act, 1906–1967.

5 (4) Subject to subsections five and six of this section, this Act shall commence upon such day or days as may be appointed in respect thereof and notified by proclamation published in the Gazette.

10 (5) Section ten of this Act shall commence upon the day upon which the assent of Her Majesty to this Act is signified.

(6) The amendments made by—

15 (a) subparagraphs (i) and (ii) of paragraph (i) of section five of this Act shall be deemed to have commenced on the day upon which the Mining (Amendment) Act, 1952, commenced; and

20 (b) subparagraphs (iii) and (iv) of that paragraph shall be deemed to have commenced on the day upon which subsection six of section 70c of the Principal Act commenced.

2. Part I of the Principal Act is amended—

Amendment
of Act No.
49, 1906.

(Part I—
Prelimi-
nary.)

25 (a) (i) by omitting from the definition of “Adjoining” in subsection one of section three the words “or stream” and by inserting in lieu thereof the words “, stream or railway”; (Interpre-
tation.)

30 (ii) by omitting from the definition of “Mining surveyor” in the same subsection the words “Surveyors Act, 1929–1946, and who is specially appointed to carry out surveys under this Act” and by inserting in lieu thereof the words “Surveyors Act, 1929, as amended by subsequent Acts”;

(iii)

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- (iii) by inserting at the end of the same subsection the following new definition :—
- “Value, f.o.b.”, in relation to a mineral, means such amount as is determined by the Minister as being the value, f.o.b., of the mineral at such port in Australia as the Minister determines.
- (iv) by omitting from subsection two of the same section the words “that is contiguous to the State of New South Wales and is outside the land beneath the territorial waters of that State” and by inserting in lieu thereof the words “(within the meaning of the Convention entitled ‘Convention on the Continental Shelf’ signed at Geneva on the twenty-ninth day of April, one thousand nine hundred and fifty-eight and to which Australia is a party) that is adjacent to the State of New South Wales”;
- (b) by omitting from subsection one of section six the words “mining surveyors,”; Sec. 6.
(Governor may appoint officers.)
- (c) by omitting from section seven the word “surveyor,”. Sec. 7.
(Minister or officer not to be interested in any mining venture.)
3. Part II of the Principal Act is amended— Further amendment of Act No. 49, 1906.
(Part II—Miners’ rights and business licenses.)
- (a) by inserting in paragraph (e) of subsection one of section fourteen after the words “authority to prospect” wherever occurring the words “or exploration license”; Sec. 14.
(Certain exemptions.)
- (b)

Mining (Amendment).

- (b) (i) by inserting in subsection one of section seventeen after the word "Act" where secondly occurring the words "(not being an exploration license held by the applicant)"; Sec. 17. (Authority to prospect on Crown lands.)
- 5 (ii) by inserting in the same subsection after the word "license" where secondly occurring the words "or of an application for a lease of Crown lands under this Act";
- 10 (iii) by omitting from the same subsection the words "or for such exploration license";
- (iv) by inserting next after subsection two of the same section the following new subsection :—
- 15 (2A) (a) If more than one application is made for an authority to prospect on the same lands the application of the person who has first taken possession shall be first considered and dealt with, and so on, according to priority of possession.
- 20 (b) For the purposes of this subsection "possession" means the act of erecting a datum post, and forthwith taking possession in the manner prescribed by the regulations: Provided that where, under the regulations, a datum post is not required to be erected, the
- 25 time of taking possession shall be deemed to be the time at which the application is lodged.
- (v) by inserting next after subsection six of the same section the following new subsection :—
- 30 (6A) Without limiting the generality of subsection six of this section, the Minister may refuse to grant an authority to prospect for gold or any mineral on any Crown lands if those lands are the subject of a pending application for an authority to prospect made by
- 35 a person who, when he made the application, was the holder of an exploration license over those lands.

(vi)

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- (vi) by omitting from paragraph (b) of subsection seven of the same section the words “, with the consent in writing of the applicant,”;
- (vii) by inserting next after subsection eight of the same section the following new subsections :—

(8A) Where an application is made for the renewal or further renewal of an authority to prospect and the application has not been granted or refused before the date on which the period of the authority to prospect or renewed authority to prospect would, but for this subsection, expire (which date is in this subsection referred to as the date of expiry), the period of the authority to prospect or renewed authority to prospect shall be deemed to be extended until the application is granted or refused and the Minister may grant or refuse the application after the date of the expiry of the authority to prospect or renewed authority to prospect.

During the period that the authority to prospect or renewed authority to prospect is deemed to be extended under this subsection, the provisions of this Act applicable to authorities to prospect and the holders thereof shall apply to and in respect of the authority to prospect or renewed authority to prospect, and to the holder thereof.

(8B) Every authority to prospect granted after the commencement of this subsection shall be deemed to be granted subject to the condition that the person to whom it is granted shall execute it within a period of one month after his being notified in writing by the Under Secretary of the grant of the authority to prospect or within such further period as the

Under

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Under Secretary may allow either before or after the expiration of that period of one month.

5 (8C) Where the application for an authority to prospect is made after the commencement of this subsection by two or more persons, and one or more of those persons fails or fail to execute the authority to prospect in compliance with the condition referred to
10 in subsection (8B) of this section, the Minister may, if he thinks fit, cause the authority to prospect to be issued to such of the applicants as have executed it, and in that case the authority to prospect shall be valid and effective
15 in favour of those applicants.

4. Part III of the Principal Act is amended—

Further amendment of Act No. 49, 1906. (Part III—Leases of Crown lands.)

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

Sec. 23. (Governor may grant leases.)

20 (bi) Crown lands held under an authority to prospect or an exploration license, or the subject of an application for an authority to prospect or an exploration license, shall not be leased to any person other than the
25 holder of the authority to prospect or exploration license or the applicant for the authority or license, except with the written consent of the holder of, or the applicant for, the authority or license, as the case may be, if, in the case of an application for an
30 authority

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authority to prospect or exploration license, the application was made before the marking out of the land the subject of an application for a lease under this Part.

- 5 (b) by inserting next after subsection three of section twenty-seven the following new subsection :— Sec. 27.
(Irregular application may be granted.)
- 10 (3A) Without limiting the generality of subsection three of this section, the Governor may refuse to grant to a person a lease of Crown lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an authority to prospect on, or an exploration license over, those lands.
- 15 (c) (i) by inserting in subsection four of section thirty after the word "applicant" the words "or his nominee"; Sec. 30.
(When application pending.)
- 20 (ii) by inserting in the same subsection after the word "shall" the words ", subject to any conditions imposed by the Minister under paragraph (a) of section twenty-eight of this Act,";
- 25 (iii) by omitting from the same subsection the words "lease granted after the commencement of the Mining (Amendment) Act, 1952" and by inserting in lieu thereof the words "lease under this Part (not being a special lease or a renewal of a lease) granted at the time the gold or mineral was won";
- 30 (iv) by inserting at the end of the same section the following new subsections :—
- 35 (5) Where, at the commencement of section ten of the Mining (Amendment) Act, 1967, an applicant for a lease under this Part, or his nominee, is entitled under subsection two of section four of the Mining (Amendment) Act, 1963, to mine during the pendency of the application he shall, on and from that commencement,

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commencement, pay royalty at the prescribed rate on any gold or mineral won by him from the land the subject of the application.

5 (6) In subsection five of this section, the "prescribed rate" means—

10 (a) in the case of rutile or zircon, the rate of two per centum of the value, f.o.b., or such other rate as may from time to time be fixed by the Minister instead of the firstmentioned rate and specified in a notification published in the Gazette;

15 (b) in the case of gold or any other mineral, such rate as may from time to time be fixed by the Minister and specified in a notification published in the Gazette.

20 (d) (i) by inserting in paragraph (a) of subsection (2D) of section thirty-six after the words "royalty shall" the words " , subject to section 108c of this Act,"; Sec. 36.
(Gold and mineral leases—rent and royalty.)

25 (ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of leases of Crown lands, authorising mining for minerals reserved to the Crown, granted at the time when that lease is granted";

(iii) by omitting from paragraph (b) of the same subsection the words "one and one-half" and by inserting in lieu thereof the word "two";

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

35 (7) The provisions of subsection five of this section apply to the payment of royalties in respect of gold or minerals won by an applicant for a lease under this Part, or his nominee, carrying on mining operations during the

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the pendency of the application as if the payment were due in respect of gold or minerals won under such a lease granted at the time the gold or minerals were won.

- 5 (e) (i) by omitting from paragraph (a) of subsection four of section 39D the word "shall" and by inserting in lieu thereof the words "in respect of leases under this Division at the time when that lease is granted shall, subject to section 108c of this Act,"; Sec. 39D.
(Application
for lease.)
- 10 (ii) by omitting from paragraph (b) of the same subsection the words "one and three-quarters" and by inserting in lieu thereof the word "two";
- 15 (iii) by inserting next after paragraph (d) of the same subsection the following new paragraph :—
- 20 (di) In respect of any lease granted, or application for a lease made, on or after the day upon which this paragraph commences, the provisions of paragraph (d) of this subsection shall be deemed to be amended by omitting the word "one-seventh" and by inserting in lieu thereof the word "one-eighth".
- 25 (iv) by inserting in paragraph (e) of the same subsection after the words "(d) of this subsection" wherever occurring the words ", or of that paragraph, as deemed to be amended by paragraph (di) of this subsection,";
- 30 (v) by inserting next after paragraph (f) of the same subsection the following new paragraph :—
- 35 (g) The provisions of paragraph (f) of this subsection apply to the payment of royalties in respect of coal or shale not reserved to the Crown won by an applicant for a lease under this

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5 this Part, or his nominee, carrying on mining operations during the pendency of the application as if the payment were due in respect of coal or shale not reserved to the Crown won under such a lease granted at the time the coal or shale was won.

5. Part IV of the Principal Act is amended—

Further amendment of Act No. 49, 1906. (Part IV—Mining on private lands.)

10 (a) by omitting from section forty-five the definition of “Private lands” and by inserting in lieu thereof the following definition :—

Sec. 45. (Interpretation.)

“Private lands” means lands other than Crown lands but does not include lands held under a lease granted under Part III, Part V or this Part of this Act.

15 (b) (i) by omitting subsection (2c) of section forty-six ;

Sec. 46. (For gold and other metals.)

20 (ii) by inserting in subsection three of the same section after the word “mineral” where firstly occurring the words “or to carry on operations under an exploration license” ;

25 (iii) by inserting in the same subsection after the word “repealed” where firstly occurring the words “, or in respect of land the subject of an application for an exploration license made before the time of the making of the application for the authority to enter” ;

(c)

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- (c) (i) by inserting next after paragraph (a) of sub- Sec. 50.
section two of section fifty the following new (Warden
paragraph :— may grant
authority.)
- 5 (ai) if the land applied for is the subject
of an authority to enter in force or of
an application for a lease under this
Part;
- (ii) by inserting at the end of the same subsection
the following new paragraph :—
- 10 (e) if the land is the subject of another
pending application for an authority to
enter made by a person who, when he
made the application, was the holder
of an exploration license over that land.
- 15 (d) (i) by omitting from subsection one of section Sec. 52.
fifty-two the words "while it is in force and"; (Duration
and extension
of authority.)
- (ii) by inserting next after the same subsection
the following new subsection :—
- 20 (1A) Where an application is made for the
extension or further extension of an authority
to enter and the application has not been
granted or refused before the date on which
the period of the authority to enter or extension
would but for this subsection expire (which
25 date is in this subsection referred to as the
date of expiry), the period of the authority
to enter or extension shall be deemed to be
extended until the application is granted or
refused and the warden may grant or refuse
30 the application after the date of the expiry of
the authority or extension.
- During the time that the authority to enter
or extension is deemed to be extended under
this subsection, the provisions of this Act
applicable to authorities to enter and the
35 holders thereof shall apply to and in respect
of the authority to enter or extension, as so
extended, and to the holder thereof.
- (iii)

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- (iii) by omitting from subsection two of the same section the word "duplicate" and by inserting in lieu thereof the words "the prescribed manner";
- 5 (e) (i) by inserting in subsection (5B) of section fifty-seven after the word "applicant" the words "or his nominee";
- (ii) by inserting in the same subsection after the word "shall" the words ", subject to any conditions imposed by the Minister under subsection five of this section,";
- 10 (iii) by omitting subsection six of the same section and by inserting in lieu thereof the following subsections :—
- 15 (6) Except in the prescribed circumstances, every application for a lease shall be accompanied by the prescribed survey fee.
- (7) Where the Minister is of opinion that a survey is unnecessary for the purposes of
- 20 any such application, or that the cost of the survey is less than the prescribed survey fee lodged by the applicant for the lease, he may refund to such applicant the whole, or such part as he thinks fit, of any prescribed survey fee paid by such applicant.
- 25 (8) Where, at the commencement of section ten of the Mining (Amendment) Act, 1967, an applicant for a lease under this Part, or his nominee, is entitled under subsection two of section five of the Mining (Amendment) Act, 1963, to mine during the pendency of the application he shall, on and from that commencement, pay, in respect of any gold or mineral won by him from the land the subject
- 30 of the application, royalty on the gold or mineral at the prescribed rate.
- 35
- (9)

Sec. 57.
(Power to
define
boundaries.)

Mining (Amendment).

(9) In subsection eight of this section, the "prescribed rate" means—

- 5 (a) in the case of rutile or zircon the rate of two per centum of the value, f.o.b., or such other rate as may from time to time be fixed by the Minister instead of the firstmentioned rate and specified in a notification published in the Gazette;
- 10 (b) in the case of gold or any other mineral such rate as may from time to time be fixed by the Minister and specified in a notification published in the Gazette.

15 (f) by inserting at the end of section fifty-eight the following new subsection :—

Sec. 58.
(Power to refuse, &c.)

(4) Without limiting the generality of this section, the Governor may refuse to grant to a person a lease of private lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an exploration license over those lands.

25 (g) by inserting in subsection one of section sixty-eight after the word "Part" where firstly occurring the words "or not held under, or the subject of an application for, an exploration license";

Sec. 68.
(Prospecting by owner or occupier.)

30 (h) by inserting in subsection one of section 70BA after the word "Act," the words "or are not held under, or the subject of an application for, an exploration license";

Sec. 70BA.
(Application for lease by owner of land and minerals.)

(i) (i) by inserting in subparagraph (i) of paragraph (a) of subsection five of section 70c after the words "per centum" where firstly occurring the words "of the gross value";

Sec. 70c.
(Royalty payable.)

(ii)

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5 (ii) by omitting from the same subparagraph the words "such rate per centum as may be prescribed" and by inserting in lieu thereof the words "an amount calculated at such rate as may be prescribed in respect";

10 (iii) by inserting in paragraph (a) of subsection six of the same section after the word "subsection" where firstly occurring the words "and before the commencement of section 70CA of this Act";

(iv) by inserting in subparagraph (i) of paragraph (a) of the same subsection after the words "per centum" the words "of the gross value";

15 (v) by inserting in the same subparagraph after the word "prescribed" the words "in respect";

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

20 (8) The provisions of subsections two and four of this section or of those subsections, as amended by subsection five or six of this section, as the case may require, apply, in respect of minerals won before the commencement of section 70CA of this Act, to royalties paid, and to the payment of royalties, by an applicant for a lease under this Division, or his nominee, carrying on mining operations during the pendency of the application as if the royalties were paid or the payment were due in respect of minerals won under such a lease granted at the time the minerals were won.

(j) by inserting next after section 70c the following new section :—

New sec.
70CA.

35 70CA. (1) In respect of any authority or lease granted under this Division after the commencement of this section, the holder of the authority or the lessee, as the case may be, shall at the times and in the manner prescribed pay to the Minister

Royalty payable on authorities and leases granted after commencement of this section.
on

Mining (Amendment).

5 on behalf of the owner of the minerals included in the authority or lease a sum calculated at such rate, in respect of all minerals won from the land, as may be prescribed in respect of leases of private lands, authorising mining for minerals not reserved to the Crown, granted at the time when that authority or lease is granted :

10 Provided that upon any renewal of a lease under this Division the Governor may in respect of such renewal vary the amount payable by way of royalty under this subsection in such manner as he may determine.

15 (2) The Minister shall at the times and in the manner prescribed pay to the owner of the minerals the sum paid as aforesaid less one-eighth of that sum, which he is hereby authorised to deduct from that sum ; and the amounts so deducted shall be paid by the Minister to the Treasurer and carried to the Consolidated Revenue Fund.

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

25 (4) The lessee may deduct from the sum payable under subsection one of this section in any one year to the Minister on behalf of the owner of the minerals a sum equal to the amount paid by him to such owner in accordance with the provisions of subsection three of section 70BC of this Act as
30 rent for that year.

35 (5) The regulations may prescribe rates for the purposes of subsection one of this section according to percentage of the value of the 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

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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 two 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 twenty cents per ton.

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

(6) The provisions of subsections two and four of this section apply, in respect of minerals won on or after the commencement of this section, to royalties paid, and to the payment of royalties, by an applicant for a lease under this Division, or his nominee, carrying on mining operations during the pendency of the application as if the royalties were paid or the payment were due in respect of minerals won under such a lease granted at the time the minerals were won.

- (k) (i) by omitting from subsection four of section 70F the words "The Minister shall at the times and in the manner prescribed pay to the owner of such minerals the sum paid under paragraph (b) of this subsection less one-seventh of such sum 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.
- Sec. 70F.
(Governor may grant special leases of private lands.)

Where any private land the subject of a lease under this section and the minerals for which the lessee is pursuant to such lease entitled to mine in or upon such land are privately owned and in the same ownership, and the royalty payable in respect of such minerals by the lessee during any one year exceeds

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exceeds the rent paid for such year in respect of such land, the amount paid as rent as aforesaid may be deducted from such sum payable as royalty; but if the 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."

(ii) by inserting next after the same subsection the following new subsections :—

(4A) Where royalty is paid under subsection four of this section in respect of minerals, not reserved to the Crown, that have been won from lands so leased the Minister shall at the times and in the manner prescribed—

(a) pay, where the lease was granted before the commencement of this subsection, to the owner of the minerals the sum paid under paragraph (b) of subsection four of this section, less one-seventh of that sum (which the Minister is hereby authorised to deduct from that sum);

(b) pay, where the lease was granted on or after the commencement of this subsection, to the owner of the minerals the sum paid under paragraph (b) of subsection four of this section, less one-eighth of that sum (which the Minister is hereby authorised to deduct from that sum); and

(c) pay the amounts deducted by him under paragraph (a) or (b) of this subsection to the Treasury to be carried to the Consolidated Revenue Fund.

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- 5 (4B) The provisions of subsection (4A) of this section apply, in respect of minerals won on or after the commencement of this section, to royalties paid by an applicant for a special lease under this Division, or his nominee, carrying on operations during the pendency of the application as if the royalties were paid in respect of minerals won under such a lease granted at the time the minerals were won.
- 10 (1) (i) by inserting in paragraph (a) of subsection (2A) of section eighty-two after the word "shall" the words ", subject to section 108c of this Act,"; Sec. 82. (Amount.)
- 15 (ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of leases of private lands, authorising mining for minerals reserved to the Crown, granted at the time when that authority or lease, as the case may be, was granted".
- 20 6. Part IVA of the Principal Act is amended— Further amendment of Act No. 49, 1906. (Part IVA—Exploration licenses.)
- (a) (i) by inserting at the end of paragraph (a) of subsection one of section 83B the word "or"; Sec. 83B. (Exploration licenses.)
- (ii) by omitting paragraph (c) of the same subsection;
- 25 (iii) by inserting next after the same subsection the following new subsections :—
- (1A) An exploration license for the purpose of prospecting in or on land included in an existing exploration license shall not be granted to a person other than the holder of the existing exploration license except on the recommendation of the prospecting board.
- 30 (1B)

Mining (Amendment).

(1B) An exploration license for the purpose of prospecting in or on land—

- 5 (a) for gold (whether alone or together with minerals) shall not be granted if there is in force an existing exploration license for the purpose of prospecting for gold (whether alone or together with minerals) in or on that land; or
- 10 (b) for any mineral (whether alone or together with any other mineral) shall not be granted if there is in force an existing exploration license for the purpose of prospecting for that first-
- 15 mentioned mineral (whether alone or together with any other mineral).
- (iv) by omitting from paragraph (a) of subsection three of the same section the words “twenty cents” and by inserting in lieu thereof the words “fifty cents”;
- 20 (v) by omitting from paragraph (a) of subsection ten of the same section the words “, with the consent in writing of the applicant therefor,”;
- (vi) by inserting at the end of the same subsection the following new paragraph :—
- 25 (g) if he is of opinion, after investigation and report by the Chief Inspector of Mines appointed under the Mines Inspection Act, 1901, as amended by subsequent Acts, or by the Chief
- 30 Inspector of Coal Mines appointed under the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, that the cancellation of an exploration license as to part of the land included
- 35 in the license will not detrimentally affect the operations, or proposed operations,

Mining (Amendment).

operations, of the holder of the exploration license, cancel the exploration license as to that part.

(vii) by inserting at the end of subsection seventeen of the same section the following new proviso :—

Provided that where the holder of any such authority applies during the term of the authority for a lease of any lands included in the area that is the subject of the authority this subsection shall not apply to that area unless and until the application is refused.

(b) by inserting next after section 83B the following new section :—

New sec.
83BA.

83BA. (1) Where the holder of an exploration license applies during the currency of the license for an authority to enter, an authority to prospect or a lease in respect of any lands over which the license is in force, and there is in force in respect of those lands one or more other exploration licenses, the Minister shall cause notice of the application to be served on the holder of that other exploration license or the holders of those other exploration licenses, as the case may be.

Lands held
under two
or more
exploration
licenses.

(2) The holder of an exploration license on whom a notice has been served under subsection one of this section may, within the prescribed period after the service on him of the notice, by instrument in writing served on the Minister and setting out the grounds of his objection, object to the grant of the application referred to in the notice.

(3) Where the holder of an exploration license objects, in accordance with subsection two of this section, to the grant of the application referred to in the notice served on him, the Minister shall refer the application and objection to the warden for inquiry and report.

(4)

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(4) The Minister may, after considering the report of the warden and such other information as he thinks relevant—

- 5 (a) in the case of an application for an authority to enter, direct the warden to grant or refuse the application or direct the warden to grant the application subject to such conditions as the Minister specifies in the direction;
- 10 (b) in the case of an application for an authority to prospect, grant or refuse the application or grant the application subject to such conditions as he thinks fit; or
- 15 (c) in the case of an application for a lease, recommend to the Governor that the application be granted or refused or that the application be granted subject to such conditions as may be specified in the recommendation.

20 (5) The warden shall comply with any direction given to him under paragraph (a) of subsection four of this section.

25 (6) A lease shall not be granted on an application referred to in subsection one of this section otherwise than in accordance with any recommendation with respect to that application made by the Minister under paragraph (c) of subsection four of this section.

30 (7) Where an authority to enter, an authority to prospect or a lease in respect of any lands is granted on an application made under subsection one of this section, the Minister shall, upon that grant being made, cancel any exploration license to the extent that it is in force over those lands.

(8)

Mining (Amendment).

(8) A notice referred to in subsection one of this section may be served—

(a) by delivering it to the person to whom it is directed; or

5 (b) by sending it by certified mail to the person to whom it is addressed at his last known place of abode or business,

10 and, where it is served in accordance with paragraph (b) of this subsection, shall be deemed to be served when it would have been delivered to the person to whom it is addressed in the ordinary course of post.

15 (c) by inserting in subsection one of section 83I after the word “operations” where secondly occurring the words “notify the owner and occupier, if any, of the private lands of his intention to carry out the surveys or operations and”. Sec. 83I. (Compensation before commencement of operations on private lands covered by exploration license.)

7. Part V of the Principal Act is amended—

Further amendment of Act No. 49, 1906. (Part V—Dredging leases.)

20 (a) by omitting from subsection one of section eighty-six the words “held under or by virtue of any Act relating to mining, or land in or upon which any bona fide mining operations are being carried on by or with the concurrence of the owner” and by inserting in lieu thereof the words “in or upon which any bona fide mining operations are being carried on by or with the concurrence of the owner or land held under or by virtue of any Act relating to mining, other than land comprised in an exploration license held by the applicant”; Sec. 86. (Governor may grant leases for purposes of mining by dredging, &c., and of what lands.)

(b)

Mining (Amendment).

- (b) (i) by inserting in subsection three of section ninety after the word "applicant" the words "or his nominee"; Sec. 90.
(Applica-
tions for
leases to be
made to
warden and
forwarded to
Minister.)
- 5 (ii) by inserting in the same subsection after the word "shall" the words ", subject to any conditions imposed by the Minister under section one hundred and one of this Act,";
- 10 (c) (i) by inserting in paragraph (b) of subsection two of section ninety-eight after the word "shall" the words ", subject to section 108c of this Act,"; Sec. 98.
(Rent and
royalty.)
- 15 (ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of dredging leases granted at the time when that lease was granted";
- 20 (iii) by omitting from paragraph (c) of the same subsection the words "The provisions" where secondly occurring and by inserting in lieu thereof the words "In respect of a dredging lease granted before the commencement of subparagraph (iii) of paragraph (c) of section seven of the Mining (Amendment) Act, 1967, the provisions";
- 25 (iv) by inserting at the end of the same paragraph the following new paragraph :—
- 30 In respect of a dredging lease granted on or after the commencement of subparagraph (iv) of paragraph (c) of section seven of the Mining (Amendment) Act, 1967, the provisions of subsection five of section 70CA shall apply to and in respect of regulations prescribing rates of royalty payable under this subsection in respect of minerals not reserved to the Crown.

(v)

Mining (Amendment).

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

5 (b) The Minister shall at the times and in the manner prescribed pay to the owner of the minerals the sum so paid as royalty in respect of the minerals less—

10 (i) where the royalty is paid in respect of minerals won from lands held under a lease granted before the commencement of this paragraph—one-seventh of the sum so paid (which the Minister is hereby authorised to deduct from that sum); or

15 (ii) where the royalty is paid in respect of minerals won from lands held under a lease granted on or after that commencement—one-eighth of the sum so paid (which the Minister is hereby
20 authorised to deduct from that sum).

and shall pay the amounts deducted by him under this paragraph to the Treasury to be carried to the Consolidated Revenue Fund.

- 25 (vi) by inserting at the end of the same section the following new subsection :—

(4) The provisions of paragraph (e) of subsection two and paragraph (b) of subsection three of this section apply to the payment of royalties, and royalties paid, in respect of gold or minerals by an applicant for a dredging lease, or his nominee, carrying on mining operations during the pendency of the application as if the payment were due or the royalties were paid in respect of gold or
30 minerals won under such a lease granted at the time the gold or minerals were won.

(d)

Mining (Amendment).

- (d) by inserting next after subsection (2A) of section ninety-nine the following new subsection :—

Sec. 99.
(No obligation to grant lease.)

5

(2B) Without limiting the generality of the preceding provisions of this section, the Governor may refuse to grant to a person a lease of lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an exploration license over those lands.

- 10 8. Part VI of the Principal Act is amended—

Further amendment of Act No. 49, 1906.
(Part VI—Tenements and leases generally.)

- (a) by inserting in subsection one of section 108B after the word "Act" where thirdly occurring the words "(other than section 108c of this Act)";

Sec. 108B.
(Royalty on leases comprising land previously leased.)

15

- (b) by inserting next after section 108B the following new sections :—

New secs. 108c, 108d.

20

108c. (1) Notwithstanding any other provision of this Act, where a lease is granted on and after the commencement of this section for a period exceeding ten years, the Governor may, at any time after the expiration of a period of ten years from the date on which the lease was granted, review the rate of royalty payable by the lessee in respect of gold or minerals won under the lease and may vary the rate so payable.

Review of royalties.

25

(2) The lessee shall pay the royalty at the rate as so varied and the variation shall take effect upon notice of the variation, signed by the Under Secretary of the Department of Mines, or an officer of that Department acting on his behalf, being sent by certified mail to the lessee at his last known place of abode or business.

30

(3)

Mining (Amendment).

(3) Royalty payable under subsection one of this section shall be paid at the times and in the manner prescribed.

5 (4) Not more than one review of the rate of royalty payable by a lessee in respect of gold or minerals won under the lease shall be made under subsection one of this section during the term of the lease.

108D. (1) In this section—

10 “Appropriate amount”, in relation to a royalty period, means—

Exemption from royalty in certain cases.

(a) where the royalty period is twelve months—two thousand dollars; and

15 (b) where the royalty period is less than twelve months—such amount as bears to two thousand dollars the same proportion as the number of days in the royalty period bears to three hundred and sixty-five.

20 “Mining operations” means mining operations carried on—

(a) on a parcel of land the subject of or comprised in a mining title held by a person who does not hold any other mining title; or

25 (b) on two or more parcels of land the subject of mining titles held by the same person, each of which parcels adjoins the other or another of those parcels.

30 “Mining title” means an authority to prospect, authority to enter, lease or right to mine during the pendency of an application for a lease.

“Royalty

Mining (Amendment).

“Royalty period”, in relation to royalty payable under this Act in respect of gold or minerals won by a person under a mining title, means—

- 5 (a) the period commencing on the day on which that person first became entitled, pursuant to the mining title, to mine for gold or the minerals in respect of which the royalty is payable and ending on the last day of the first period in respect of which that person is required by or under this Act to pay royalty in respect of the gold or minerals;
- 10
- 15 (b) the period commencing on the day after the last day of any period in respect of which that person is required by or under this Act to pay royalty in respect of the gold or minerals and ending on the last day of the next subsequent such period; and
- 20
- 25 (c) where, during a period referred to in paragraph (b) of this definition, that person ceases to be entitled to mine for gold or minerals on the whole of the land the subject of the mining title—the period commencing on the day after the last day of the previous royalty period and ending on the day on which that person so ceased to be entitled.
- 30

- 35 (2) Where the Minister is satisfied, on an application in writing made by the holder of a mining title, that the value of minerals reserved to the Crown won as a result of mining operations carried on during a royalty period was less than the appropriate amount, no royalty shall be payable under this Act in respect of those minerals.

(c)

Mining (Amendment).

- (c) by inserting at the end of section one hundred and nine the following new subsection :— Sec. 109.
(Registra-
tion of
leases, etc.)
- 5 (9) The functions of the Registrar under this section may be performed by the Deputy Registrar, Department of Mines, Sydney.
- (d) (i) by inserting in the heading to section one hundred and thirteen after the word “con- Sec. 113.
(Holders of
claims, etc.,
may apply.)
ditions” the words “or mining operations”;
- 10 (ii) by omitting from subsection one of the same section the words “mining operations” and by inserting in lieu thereof the words “labour conditions or mining operations or both labour conditions and mining operations”;
- 15 (iii) by omitting from subsection two of the same section the words “posted on the claim or on the land leased, and also outside the warden’s office or the mining registrar’s office nearest to the land in respect of which suspension is applied for,” and by inserting in lieu thereof the following words :—
- 20 “posted—
- (a) by the applicant or applicants on the claim or on the land leased;
 and
- 25 (b) by the warden’s clerk or the mining registrar whose office is nearest to the land in respect of which suspension is applied for, outside the office of that warden’s clerk or that
- 30 mining registrar.”;
- (iv) by inserting in the same subsection after the word “leases” the words “by the applicant or applicants”;
- (v)

Mining (Amendment).

(v) by omitting from subsection five of the same section the words "of labour conditions" and by inserting in lieu thereof the words "under this section";

5 (e) (i) by inserting next after subsection two of section 124A the following new subsection :—

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

(2A) The Minister may—

10 (a) pay to the lessee, out of the sum so deposited, any costs recommended by the warden, under paragraph (a) of subsection five of this section, to be paid to the lessee; and

(b) refund to the complainant any balance after the payment of any such costs.

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

20 (5) (a) Where the lessee has entered an appearance, the warden may recommend that costs, not exceeding the amount deposited by the complainant, be allowed to the lessee.

25 (b) The warden shall announce in open court his finding on the complaint and the purport of his recommendation to the Minister.

9. Part VII of the Principal Act is amended by inserting next after subsection one of section one hundred and fifty-five the following new subsection :—

Further
amendment
of Act No.
49, 1906.

30 (1A) Notwithstanding the provisions of paragraph (a) of subsection one of this section, where the compensation to be assessed is not in respect of the entry upon or occupation of, or proposed entry upon or occupation of, the surface of any land and there are

(Part VII—
Wardens'
courts.)
Sec. 155.
(How com-
pensation
assessed.)

ten

Mining (Amendment).

ten or more persons who appear to the warden to be interested in the assessment of the compensation, the warden, instead of giving notice to any such person as required by that paragraph, may, by advertisement published in a newspaper circulating in the district where the land is situated, give notice of the time and place fixed for the assessment of the compensation and, where notice of any such assessment of compensation is so advertised, notice under that paragraph shall be deemed to have been given to every person appearing to the warden to be interested in the assessment.

10. (1) Where—

Validation.

- (a) an applicant for a lease, under the Principal Act, of or including Crown lands, or his nominee, carried on mining operations during the pendency of the application for the lease and before the commencement of the Mining (Amendment) Act, 1952; or
- (b) an applicant for a lease, under the Principal Act, of or including private lands, or his nominee, carried on mining operations during the pendency of the application for the lease and before the commencement of subsection (5B) of section fifty-seven of the Principal Act,
- the applicant or his nominee, as the case may be, shall, subject to subsections two and three of this section, be and be deemed always to have been liable to pay royalty on any gold or mineral won during that pendency and—
- (c) in the case of mining operations carried on on Crown lands, before the commencement of the Mining (Amendment) Act, 1952; or
- (d) in the case of mining operations carried on on private lands, before the commencement of subsection (5B) of section fifty-seven of the Principal Act,

at

Mining (Amendment).

at the rate that would have been payable on the gold or mineral had the gold or mineral been won from land the subject of an appropriate lease (not being a special lease) granted under the Principal Act at the time the gold or
5 mineral was won.

(2) Where an applicant for a lease, under the Principal Act, of or including Crown lands, or his nominee, carried on mining operations, under which he won rutile, zircon or ilmenite, during the pendency of the application for the
10 lease on or after the eighth day of April, one thousand nine hundred and forty-nine and before the commencement of this section, he shall be and be deemed always to have been liable, in respect of the rutile, zircon and ilmenite won by him from the Crown lands, to pay, instead of any other
15 royalty, royalty at the rates specified in the following table :—

TABLE.

20	Where the mineral was won during the period commencing on 8th April, 1949, and ending on 31st May, 1955, the rate is—
	(a) in the case of rutile, ten shillings per ton; (b) in the case of zircon, two shillings and sixpence per ton; and (c) in the case of ilmenite, one shilling per ton.
25	Where the mineral was won during the period commencing on 1st June, 1955, and ending on 30th June, 1956, the rate is—
30	(a) in the case of rutile, fifteen shillings per ton; (b) in the case of zircon, two shillings and sixpence per ton; and (c) in the case of ilmenite, one shilling per ton.
35	Where the mineral was won during the period commencing on 1st July, 1956, and ending on 30th June, 1959, the rate is—
	(a) in the case of rutile, one pound ten shillings per ton; (b)

Mining (Amendment).

- (b) in the case of zircon, two shillings and sixpence per ton; and
- (c) in the case of ilmenite, one and one-half per centum of the value of the ilmenite, as determined by the Minister.

Where the mineral was won during the period commencing on 1st July, 1959, and ending on 30th June, 1966, the rate is—

- (a) in the case of rutile and zircon, one and one-half per centum of the value, f.o.b., of the rutile or zircon; and
- (b) in the case of ilmenite, one and one-half per centum of the value of the ilmenite, as determined by the Minister.

Where the mineral was won during the period commencing on 1st July, 1966, and ending on the day before this section commences, the rate is—

- (a) in the case of rutile and zircon, two per centum of the value, f.o.b., of the rutile or zircon; and
- (b) in the case of ilmenite, two per centum of the value of the ilmenite, as determined by the Minister.

(3) Where an applicant for a lease, under the Principal Act, of or including private lands, or his nominee, carried on mining operations, under which he won rutile or zircon, during the pendency of the application for the lease on or after the first day of July, one thousand nine hundred and sixty-six, and before the commencement of this section, he shall be and be deemed always to have been liable to pay, instead of any other royalty, royalty on the rutile or zircon won by him from the private lands at the rate of two per centum of the value, f.o.b., of the rutile or zircon.

(4)

Mining (Amendment).

(4) Any payments—

- 5 (a) made out of royalties, referred to in subsection one of this section, in respect of mining operations for minerals (other than minerals reserved to the Crown) carried on on private lands; or
- 10 (b) made out of royalties paid under subsection five or (5B) of section fifty-seven of the Principal Act as applied by section 70BC of the Principal Act to applications for leases under Division 4A of Part IV of the Principal Act or under subsection three of section ninety or section one hundred and one of the Principal Act, in respect of mining operations for minerals carried on by an applicant for a lease or dredging lease, as the case may be, or his
- 15 nominee, under a consent granted before the commencement of this section,

and any deductions made from any such royalties (being payments or deductions that were made before the commencement of this section and that would have been valid had the

20 royalties being paid in respect of minerals won under a lease granted under this Act at the time the mineral was won) are hereby validated and authorised.

11. (1) Where at the commencement of section ten of this Act an applicant for a lease under the Principal Act or
- 25 his nominee is entitled with the consent of the Minister to mine for rutile or zircon, the consent shall as on and from that commencement be deemed to be varied so as to require the applicant or his nominee to pay, in respect of the rutile or zircon won by him from the land the subject of the applica-
- 30 tion, royalty at the rate of two per centum of the value, f.o.b., of the rutile or zircon.

- (2) Nothing in subsection one of this section prevents the Minister from exercising his powers under the Principal Act to revoke any consent referred to in that subsection and,
- 35 in granting any further consent to the applicant or his nominee, to impose conditions for the payment of royalty at a rate different from the rate specified in that subsection.

Mining (Amendment).

12. Where, at the commencement of the amendment made by paragraph (a) of section five of this Act, there is pending any application for an authority to enter or for a lease that would have been valid had the amendment made by that paragraph been in force when the application was made, that application may be dealt with and completed, and an authority to enter or a lease, as the case may be, may be granted pursuant thereto as if the lands the subject of the application had been private lands at the date of the application.

Pending applications for authorities to enter private lands.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967
[30c]

No. , 1967.

A BILL

To amend the law relating to mining; to validate certain matters; for this and other purposes to amend the Mining Act, 1906, and certain other Acts; and for purposes connected therewith.

[MR FIFE—2 November, 1967.]

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, 1967".

(2) Short title, citation and commencement.

Mining (Amendment).

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

(3) The Principal Act, as amended by this Act, may be cited as the Mining Act, 1906–1967.

5 (4) Subject to subsections five and six of this section, this Act shall commence upon such day or days as may be appointed in respect thereof and notified by proclamation published in the Gazette.

10 (5) Section ten of this Act shall commence upon the day upon which the assent of Her Majesty to this Act is signified.

(6) The amendments made by—

15 (a) subparagraphs (i) and (ii) of paragraph (i) of section five of this Act shall be deemed to have commenced on the day upon which the Mining (Amendment) Act, 1952, commenced; and

20 (b) subparagraphs (iii) and (iv) of that paragraph shall be deemed to have commenced on the day upon which subsection six of section 70c of the Principal Act commenced.

2. Part I of the Principal Act is amended—

Amendment
of Act No.
49, 1906.

(Part I—
Prelimi-
nary.)

25 (a) (i) by omitting from the definition of “Adjoining” in subsection one of section three the words “or stream” and by inserting in lieu thereof the words “, stream or railway”;

Sec. 3.
(Interpre-
tation.)

30 (ii) by omitting from the definition of “Mining surveyor” in the same subsection the words “Surveyors Act, 1929–1946, and who is specially appointed to carry out surveys under this Act” and by inserting in lieu thereof the words “Surveyors Act, 1929, as amended by subsequent Acts”;

(iii)

Mining (Amendment).

- (iii) by inserting at the end of the same subsection the following new definition :—
 “Value, f.o.b.”, in relation to a mineral,
 means such amount as is determined
 by the Minister as being the value,
 f.o.b., of the mineral at such port in
 Australia as the Minister determines.
- (iv) by omitting from subsection two of the same section the words “that is contiguous to the State of New South Wales and is outside the land beneath the territorial waters of that State” and by inserting in lieu thereof the words “(within the meaning of the Convention entitled ‘Convention on the Continental Shelf’ signed at Geneva on the twenty-ninth day of April, one thousand nine hundred and fifty-eight and to which Australia is a party) that is adjacent to the State of New South Wales”;
- (b) by omitting from subsection one of section six the words “mining surveyors,”;
 Sec. 6.
 (Governor may appoint officers.)
- (c) by omitting from section seven the word “surveyor,”.
 Sec. 7.
 (Minister or officer not to be interested in any mining venture.)
3. Part II of the Principal Act is amended—
 Further amendment of Act No. 49, 1906.
 (Part II—Miners’ rights and business licenses.)
- (a) by inserting in paragraph (e) of subsection one of section fourteen after the words “authority to prospect” wherever occurring the words “or exploration license”;
 Sec. 14.
 (Certain exemptions.)
- (b)

Mining (Amendment).

- (b) (i) by inserting in subsection one of section seventeen after the word "Act" where secondly occurring the words "(not being an exploration license held by the applicant)"; Sec. 17. (Authority to prospect on Crown lands.)
- 5 (ii) by inserting in the same subsection after the word "license" where secondly occurring the words "or of an application for a lease of Crown lands under this Act";
- 10 (iii) by omitting from the same subsection the words "or for such exploration license";
- (iv) by inserting next after subsection two of the same section the following new subsection :—
- 15 (2A) (a) If more than one application is made for an authority to prospect on the same lands the application of the person who has first taken possession shall be first considered and dealt with, and so on, according to priority of possession.
- 20 (b) For the purposes of this subsection "possession" means the act of erecting a datum post, and forthwith taking possession in the manner prescribed by the regulations: Provided that where, under the regulations, a datum post is not required to be erected, the
- 25 time of taking possession shall be deemed to be the time at which the application is lodged.
- (v) by inserting next after subsection six of the same section the following new subsection :—
- 30 (6A) Without limiting the generality of subsection six of this section, the Minister may refuse to grant an authority to prospect for gold or any mineral on any Crown lands if those lands are the subject of a pending application for an authority to prospect made by
- 35 a person who, when he made the application, was the holder of an exploration license over those lands.

(vi)

Mining (Amendment).

- (vi) by omitting from paragraph (b) of subsection seven of the same section the words “, with the consent in writing of the applicant,”;
- (vii) by inserting next after subsection eight of the same section the following new subsections :—

(8A) Where an application is made for the renewal or further renewal of an authority to prospect and the application has not been granted or refused before the date on which the period of the authority to prospect or renewed authority to prospect would, but for this subsection, expire (which date is in this subsection referred to as the date of expiry), the period of the authority to prospect or renewed authority to prospect shall be deemed to be extended until the application is granted or refused and the Minister may grant or refuse the application after the date of the expiry of the authority to prospect or renewed authority to prospect.

During the period that the authority to prospect or renewed authority to prospect is deemed to be extended under this subsection, the provisions of this Act applicable to authorities to prospect and the holders thereof shall apply to and in respect of the authority to prospect or renewed authority to prospect, and to the holder thereof.

(8B) Every authority to prospect granted after the commencement of this subsection shall be deemed to be granted subject to the condition that the person to whom it is granted shall execute it within a period of one month after his being notified in writing by the Under Secretary of the grant of the authority to prospect or within such further period as the

Under

Mining (Amendment).

Under Secretary may allow either before or after the expiration of that period of one month.

5 (8c) Where the application for an authority to prospect is made after the commencement of this subsection by two or more persons, and one or more of those persons fails or fail to execute the authority to prospect in compliance with the condition referred to in subsection (8B) of this section, the Minister may, if he thinks fit, cause the authority to prospect to be issued to such of the applicants as have executed it, and in that case the authority to prospect shall be valid and effective in favour of those applicants.

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4. Part III of the Principal Act is amended—

Further amendment of Act No. 49, 1906.

(Part III—Leases of Crown lands.)

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

Sec. 23. (Governor may grant leases.)

20 (bi) Crown lands held under an authority to prospect or an exploration license, or the subject of an application for an authority to prospect or an exploration license, shall not be leased to any person other than the holder of the authority to prospect or exploration license or the applicant for the authority or license, except with the written consent of the holder of, or the applicant for, the authority or license, as the case may be, if, in the case of an application for an authority

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Mining (Amendment).

authority to prospect or exploration license, the application was made before the marking out of the land the subject of an application for a lease under this Part.

- 5 (b) by inserting next after subsection three of section twenty-seven the following new subsection :— Sec. 27.
(Irregular application may be granted.)

10 (3A) Without limiting the generality of subsection three of this section, the Governor may refuse to grant to a person a lease of Crown lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an authority to prospect on, or an exploration license over, those lands.

- 15 (c) (i) by inserting in subsection four of section thirty after the word "applicant" the words "or his nominee"; Sec. 30.
(When application pending.)

20 (ii) by inserting in the same subsection after the word "shall" the words ", subject to any conditions imposed by the Minister under paragraph (a) of section twenty-eight of this Act,";

25 (iii) by omitting from the same subsection the words "lease granted after the commencement of the Mining (Amendment) Act, 1952" and by inserting in lieu thereof the words "lease under this Part (not being a special lease or a renewal of a lease) granted at the time the gold or mineral was won";

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

35 (5) Where, at the commencement of section ten of the Mining (Amendment) Act, 1967, an applicant for a lease under this Part, or his nominee, is entitled under subsection two of section four of the Mining (Amendment) Act, 1963, to mine during the pendency of the application he shall, on and from that commencement,

Mining (Amendment).

commencement, pay royalty at the prescribed rate on any gold or mineral won by him from the land the subject of the application.

5 (6) In subsection five of this section, the "prescribed rate" means—

(a) in the case of rutile or zircon, the rate of two per centum of the value, f.o.b., or such other rate as may from time to time be fixed by the Minister instead of the firstmentioned rate and specified in a notification published in the Gazette;

15 (b) in the case of gold or any other mineral, such rate as may from time to time be fixed by the Minister and specified in a notification published in the Gazette.

20 (d) (i) by inserting in paragraph (a) of subsection (2D) of section thirty-six after the words "royalty shall" the words " , subject to section 108c of this Act,"; Sec. 36. (Gold and mineral leases—rent and royalty.)

(ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of leases of Crown lands, authorising mining for minerals reserved to the Crown, granted at the time when that lease is granted";

(iii) by omitting from paragraph (b) of the same subsection the words "one and one-half" and by inserting in lieu thereof the word "two";

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

(7) The provisions of subsection five of this section apply to the payment of royalties in respect of gold or minerals won by an applicant for a lease under this Part, or his nominee, carrying on mining operations during the

Mining (Amendment).

the pendency of the application as if the payment were due in respect of gold or minerals won under such a lease granted at the time the gold or minerals were won.

- 5 (e) (i) by omitting from paragraph (a) of subsection four of section 39D the word "shall" and by inserting in lieu thereof the words "in respect of leases under this Division at the time when that lease is granted shall, subject to section 108c of this Act,"; Sec. 39D.
(Application
for lease.)
- 10 (ii) by omitting from paragraph (b) of the same subsection the words "one and three-quarters" and by inserting in lieu thereof the word "two";
- 15 (iii) by inserting next after paragraph (d) of the same subsection the following new paragraph :—
- 20 (di) In respect of any lease granted, or application for a lease made, on or after the day upon which this paragraph commences, the provisions of paragraph (d) of this subsection shall be deemed to be amended by omitting the word "one-seventh" and by inserting in lieu thereof the word "one-eighth".
- 25 (iv) by inserting in paragraph (e) of the same subsection after the words "(d) of this subsection" wherever occurring the words ", or of that paragraph, as deemed to be amended by paragraph (di) of this subsection,";
- 30 (v) by inserting next after paragraph (f) of the same subsection the following new paragraph :—
- 35 (g) The provisions of paragraph (f) of this subsection apply to the payment of royalties in respect of coal or shale not reserved to the Crown won by an applicant for a lease under this

Mining (Amendment).

5 this Part, or his nominee, carrying on mining operations during the pendency of the application as if the payment were due in respect of coal or shale not reserved to the Crown won under such a lease granted at the time the coal or shale was won.

5. Part IV of the Principal Act is amended—

Further amendment of Act No. 49, 1906. (Part IV—Mining on private lands.)

10 (a) by omitting from section forty-five the definition of “Private lands” and by inserting in lieu thereof the following definition :—

“Private lands” means lands other than Crown lands but does not include lands held under a lease granted under Part III, Part V or this Part of this Act.

15 (b) (i) by omitting subsection (2C) of section forty-six ;

Sec. 46. (For gold and other metals.)

20 (ii) by inserting in subsection three of the same section after the word “mineral” where firstly occurring the words “or to carry on operations under an exploration license” ;

25 (iii) by inserting in the same subsection after the word “repealed” where firstly occurring the words “, or in respect of land the subject of an application for an exploration license made before the time of the making of the application for the authority to enter” ;

(c)

Mining (Amendment).

- (c) (i) by inserting next after paragraph (a) of subsection two of section fifty the following new paragraph :— Sec. 50.
(Warden may grant authority.)

5 (ai) if the land applied for is the subject of an authority to enter in force or of an application for a lease under this Part;

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

10 (e) if the land is the subject of another pending application for an authority to enter made by a person who, when he made the application, was the holder of an exploration license over that land.

- 15 (d) (i) by omitting from subsection one of section fifty-two the words "while it is in force and"; Sec. 52.
(Duration and extension of authority.)
(ii) by inserting next after the same subsection the following new subsection :—

20 (1A) Where an application is made for the extension or further extension of an authority to enter and the application has not been granted or refused before the date on which the period of the authority to enter or extension would but for this subsection expire (which
25 date is in this subsection referred to as the date of expiry), the period of the authority to enter or extension shall be deemed to be extended until the application is granted or refused and the warden may grant or refuse
30 the application after the date of the expiry of the authority or extension.

35 During the time that the authority to enter or extension is deemed to be extended under this subsection, the provisions of this Act applicable to authorities to enter and the holders thereof shall apply to and in respect of the authority to enter or extension, as so extended, and to the holder thereof.

(iii)

Mining (Amendment).

- (iii) by omitting from subsection two of the same section the word "duplicate" and by inserting in lieu thereof the words "the prescribed manner";
- 5 (e) (i) by inserting in subsection (5B) of section fifty-seven after the word "applicant" the words "or his nominee";
- (ii) by inserting in the same subsection after the word "shall" the words ", subject to any conditions imposed by the Minister under subsection five of this section,";
- 10 (iii) by omitting subsection six of the same section and by inserting in lieu thereof the following subsections :—
- 15 (6) Except in the prescribed circumstances, every application for a lease shall be accompanied by the prescribed survey fee.
- (7) Where the Minister is of opinion that a survey is unnecessary for the purposes of any such application, or that the cost of the survey is less than the prescribed survey fee lodged by the applicant for the lease, he may refund to such applicant the whole, or such part as he thinks fit, of any prescribed survey fee paid by such applicant.
- 20
- 25
- (8) Where, at the commencement of section ten of the Mining (Amendment) Act, 1967, an applicant for a lease under this Part, or his nominee, is entitled under subsection two of section five of the Mining (Amendment) Act, 1963, to mine during the pendency of the application he shall, on and from that commencement, pay, in respect of any gold or mineral won by him from the land the subject of the application, royalty on the gold or mineral at the prescribed rate.
- 30
- 35
- (9)

Sec. 57.
(Power to
define
boundaries.)

Mining (Amendment).

(9) In subsection eight of this section, the "prescribed rate" means—

- 5 (a) in the case of rutile or zircon the rate of two per centum of the value, f.o.b., or such other rate as may from time to time be fixed by the Minister instead of the firstmentioned rate and specified in a notification published in the Gazette;
- 10 (b) in the case of gold or any other mineral such rate as may from time to time be fixed by the Minister and specified in a notification published in the Gazette.

15 (f) by inserting at the end of section fifty-eight the following new subsection :—

Sec. 58.
(Power to
refuse, &c.)

20 (4) Without limiting the generality of this section, the Governor may refuse to grant to a person a lease of private lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an exploration license over those lands.

25 (g) by inserting in subsection one of section sixty-eight after the word "Part" where firstly occurring the words "or not held under, or the subject of an application for, an exploration license";

Sec. 68.
(Prospecting
by owner or
occupier.)

30 (h) by inserting in subsection one of section 70BA after the word "Act," the words "or are not held under, or the subject of an application for, an exploration license";

Sec. 70BA.
(Application
for lease by
owner of
land and
minerals.)

(i) (i) by inserting in subparagraph (i) of paragraph (a) of subsection five of section 70c after the words "per centum" where firstly occurring the words "of the gross value";

Sec. 70c.
(Royalty
payable.)

(ii)

Mining (Amendment).

- 5 (ii) by omitting from the same subparagraph the words "such rate per centum as may be prescribed" and by inserting in lieu thereof the words "an amount calculated at such rate as may be prescribed in respect";
- 10 (iii) by inserting in paragraph (a) of subsection six of the same section after the word "subsection" where firstly occurring the words "and before the commencement of section 70CA of this Act";
- (iv) by inserting in subparagraph (i) of paragraph (a) of the same subsection after the words "per centum" the words "of the gross value";
- 15 (v) by inserting in the same subparagraph after the word "prescribed" the words "in respect";
- (vi) by inserting at the end of the same section the following new subsection :—
- 20 (8) The provisions of subsections two and four of this section or of those subsections, as amended by subsection five or six of this section, as the case may require, apply, in respect of minerals won before the commencement of section 70CA of this Act, to royalties paid, and to the payment of royalties, by an applicant for a lease under this Division, or his nominee, carrying on mining operations during the pendency of the application as if the royalties were paid or the payment were due in respect of minerals won under such a lease granted at the time the minerals were won.
- 25
- 30 (j) by inserting next after section 70C the following new section :—
- 35 70CA. (1) In respect of any authority or lease granted under this Division after the commencement of this section, the holder of the authority or the lessee, as the case may be, shall at the times and in the manner prescribed pay to the Minister
- New sec.
70CA.

Royalty payable on authorities and leases granted after commencement of this section.
on

Mining (Amendment).

on behalf of the owner of the minerals included in the authority or lease a sum calculated at such rate, in respect of all minerals won from the land, as may be prescribed in respect of leases of private lands, authorising mining for minerals not reserved to the Crown, granted at the time when that authority or lease is granted :

Provided that upon any renewal of a lease under this Division the Governor may in respect of such renewal vary the amount payable by way of royalty under this subsection in such manner as he may determine.

(2) The Minister shall at the times and in the manner prescribed pay to the owner of the minerals the sum paid as aforesaid less one-eighth of that sum, which he is hereby authorised to deduct from that sum; and the amounts so deducted shall be paid by the Minister to the Treasurer and carried to the Consolidated Revenue Fund.

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

(4) The lessee may deduct from the sum payable under subsection one of this section in any one year to the Minister on behalf of the owner of the minerals a sum equal to the amount paid by him to such owner in accordance with the provisions of subsection three of section 70BC of this Act as rent for that year.

(5) The regulations may prescribe rates for the purposes of subsection one of this section according to percentage of the value of the 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

Mining (Amendment).

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 two 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 twenty cents per ton.

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

(6) The provisions of subsections two and four of this section apply, in respect of minerals won on or after the commencement of this section, to royalties paid, and to the payment of royalties, by an applicant for a lease under this Division, or his nominee, carrying on mining operations during the pendency of the application as if the royalties were paid or the payment were due in respect of minerals won under such a lease granted at the time the minerals were won.

- (k) (i) by omitting from subsection four of section 70F the words "The Minister shall at the times and in the manner prescribed pay to the owner of such minerals the sum paid under paragraph (b) of this subsection less one-seventh of such sum 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."
- (Governor may grant special leases of private lands.)

Where any private land the subject of a lease under this section and the minerals for which the lessee is pursuant to such lease entitled to mine in or upon such land are privately owned and in the same ownership, and the royalty payable in respect of such minerals by the lessee during any one year exceeds

Mining (Amendment).

exceeds the rent paid for such year in respect of such land, the amount paid as rent as aforesaid may be deducted from such sum payable as royalty; but if the 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."

(ii) by inserting next after the same subsection the following new subsections :—

(4A) Where royalty is paid under subsection four of this section in respect of minerals, not reserved to the Crown, that have been won from lands so leased the Minister shall at the times and in the manner prescribed—

(a) pay, where the lease was granted before the commencement of this subsection, to the owner of the minerals the sum paid under paragraph (b) of subsection four of this section, less one-seventh of that sum (which the Minister is hereby authorised to deduct from that sum);

(b) pay, where the lease was granted on or after the commencement of this subsection, to the owner of the minerals the sum paid under paragraph (b) of subsection four of this section, less one-eighth of that sum (which the Minister is hereby authorised to deduct from that sum); and

(c) pay the amounts deducted by him under paragraph (a) or (b) of this subsection to the Treasury to be carried to the Consolidated Revenue Fund.

Mining (Amendment).

- (4B) The provisions of subsection (4A) of this section apply, in respect of minerals won on or after the commencement of this section, to royalties paid by an applicant for a special lease under this Division, or his nominee, carrying on operations during the pendency of the application as if the royalties were paid in respect of minerals won under such a lease granted at the time the minerals were won.
- (1) (i) by inserting in paragraph (a) of subsection (2A) of section eighty-two after the word "shall" the words ", subject to section 108c of this Act,"; Sec. 82.
(Amount.)
- (ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of leases of private lands, authorising mining for minerals reserved to the Crown, granted at the time when that authority or lease, as the case may be, was granted".
6. Part IVA of the Principal Act is amended— Further
amendment
of Act No.
49, 1906.
(Part IVA—
Exploration
licenses.)
- (a) (i) by inserting at the end of paragraph (a) of subsection one of section 83B the word "or"; Sec. 83B.
(Exploration
licenses.)
- (ii) by omitting paragraph (c) of the same subsection;
- (iii) by inserting next after the same subsection the following new subsections :—
- (1A) An exploration license for the purpose of prospecting in or on land included in an existing exploration license shall not be granted to a person other than the holder of the existing exploration license except on the recommendation of the prospecting board.
- (1B)

Mining (Amendment).

(1B) An exploration license for the purpose of prospecting in or on land—

5 (a) for gold (whether alone or together with minerals) shall not be granted if there is in force an existing exploration license for the purpose of prospecting for gold (whether alone or together with minerals) in or on that land; or

10 (b) for any mineral (whether alone or together with any other mineral) shall not be granted if there is in force an existing exploration license for the purpose of prospecting for that first-mentioned mineral (whether alone or
15 together with any other mineral).

(iv) by omitting from paragraph (a) of subsection three of the same section the words “twenty cents” and by inserting in lieu thereof the words “fifty cents”;

20 (v) by omitting from paragraph (a) of subsection ten of the same section the words “, with the consent in writing of the applicant therefor,”;

(vi) by inserting at the end of the same subsection the following new paragraph :—

25 (g) if he is of opinion, after investigation and report by the Chief Inspector of Mines appointed under the Mines Inspection Act, 1901, as amended by subsequent Acts, or by the Chief
30 Inspector of Coal Mines appointed under the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, that the cancellation of an exploration license as to part of the land included
35 in the license will not detrimentally affect the operations, or proposed operations,

Mining (Amendment).

operations, of the holder of the exploration license, cancel the exploration license as to that part.

- 5 (vii) by inserting at the end of subsection seventeen of the same section the following new proviso :—

10 Provided that where the holder of any such authority applies during the term of the authority for a lease of any lands included in the area that is the subject of the authority this subsection shall not apply to that area unless and until the application is refused.

- (b) by inserting next after section 83B the following new section :—

15 83BA. (1) Where the holder of an exploration license applies during the currency of the license for an authority to enter, an authority to prospect or a lease in respect of any lands over which the license is in force, and there is in force in respect
20 of those lands one or more other exploration licenses, the Minister shall cause notice of the application to be served on the holder of that other exploration license or the holders of those other exploration licenses, as the case may be.

New sec.
83BA.

Lands held
under two
or more
exploration
licenses.

25 (2) The holder of an exploration license on whom a notice has been served under subsection one of this section may, within the prescribed period after the service on him of the notice, by instrument in writing served on the Minister and setting
30 out the grounds of his objection, object to the grant of the application referred to in the notice.

35 (3) Where the holder of an exploration license objects, in accordance with subsection two of this section, to the grant of the application referred to in the notice served on him, the Minister shall refer the application and objection to the warden for inquiry and report.

(4)

Mining (Amendment).

(4) The Minister may, after considering the report of the warden and such other information as he thinks relevant—

- 5 (a) in the case of an application for an authority to enter, direct the warden to grant or refuse the application or direct the warden to grant the application subject to such conditions as the Minister specifies in the direction;
- 10 (b) in the case of an application for an authority to prospect, grant or refuse the application or grant the application subject to such conditions as he thinks fit; or
- 15 (c) in the case of an application for a lease, recommend to the Governor that the application be granted or refused or that the application be granted subject to such conditions as may be specified in the recommendation.

20 (5) The warden shall comply with any direction given to him under paragraph (a) of subsection four of this section.

25 (6) A lease shall not be granted on an application referred to in subsection one of this section otherwise than in accordance with any recommendation with respect to that application made by the Minister under paragraph (c) of subsection four of this section.

30 (7) Where an authority to enter, an authority to prospect or a lease in respect of any lands is granted on an application made under subsection one of this section, the Minister shall, upon that grant being made, cancel any exploration license to the extent that it is in force over those lands.

(8)

Mining (Amendment).

(8) A notice referred to in subsection one of this section may be served—

(a) by delivering it to the person to whom it is directed; or

5 (b) by sending it by certified mail to the person to whom it is addressed at his last known place of abode or business,

10 and, where it is served in accordance with paragraph (b) of this subsection, shall be deemed to be served when it would have been delivered to the person to whom it is addressed in the ordinary course of post.

15 (c) by inserting in subsection one of section 83i after the word "operations" where secondly occurring the words "notify the owner and occupier, if any, of the private lands of his intention to carry out the surveys or operations and".

Sec. 83i.
(Compensation before commencement of operations on private lands covered by exploration license.)

7. Part V of the Principal Act is amended—

Further amendment of Act No. 49, 1906.
(Part V—Dredging leases.)

20 (a) by omitting from subsection one of section eighty-six the words "held under or by virtue of any Act relating to mining, or land in or upon which any bona fide mining operations are being carried on by or with the concurrence of the owner" and by inserting in lieu thereof the words "in or upon which any bona fide mining operations are being carried on by or with the concurrence of the owner or land held under or by virtue of any Act relating to mining, other than land comprised in an exploration license held by the applicant";

25

(b)

Sec. 86.
(Governor may grant leases for purposes of mining by dredging, &c., and of what lands.)

Mining (Amendment).

- (b) (i) by inserting in subsection three of section ninety after the word "applicant" the words "or his nominee"; (Applica-
tions for
leases to be
made to
warden and
forwarded to
Minister.)
- 5 (ii) by inserting in the same subsection after the word "shall" the words ", subject to any conditions imposed by the Minister under section one hundred and one of this Act,";
- 10 (c) (i) by inserting in paragraph (b) of subsection two of section ninety-eight after the word "shall" the words ", subject to section 108c of this Act,"; Sec. 98.
(Rent and
royalty.)
- 15 (ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of dredging leases granted at the time when that lease was granted";
- 20 (iii) by omitting from paragraph (c) of the same subsection the words "The provisions" where secondly occurring and by inserting in lieu thereof the words "In respect of a dredging lease granted before the commencement of subparagraph (iii) of paragraph (c) of section seven of the Mining (Amendment) Act, 1967, the provisions";
- 25 (iv) by inserting at the end of the same paragraph the following new paragraph :—
- 30 In respect of a dredging lease granted on or after the commencement of subparagraph (iv) of paragraph (c) of section seven of the Mining (Amendment) Act, 1967, the provisions of subsection five of section 70CA shall apply to and in respect of regulations prescribing rates of royalty payable under this subsection in respect of minerals not reserved to the Crown.
- (v)

Mining (Amendment).

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

(b) The Minister shall at the times and in the manner prescribed pay to the owner of the minerals the sum so paid as royalty in respect of the minerals less—

(i) where the royalty is paid in respect of minerals won from lands held under a lease granted before the commencement of this paragraph—one-seventh of the sum so paid (which the Minister is hereby authorised to deduct from that sum) ; or

(ii) where the royalty is paid in respect of minerals won from lands held under a lease granted on or after that commencement—one-eighth of the sum so paid (which the Minister is hereby authorised to deduct from that sum).

and shall pay the amounts deducted by him under this paragraph to the Treasury to be carried to the Consolidated Revenue Fund.

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

(4) The provisions of paragraph (e) of subsection two and paragraph (b) of subsection three of this section apply to the payment of royalties, and royalties paid, in respect of gold or minerals by an applicant for a dredging lease, or his nominee, carrying on mining operations during the pendency of the application as if the payment were due or the royalties were paid in respect of gold or minerals won under such a lease granted at the time the gold or minerals were won.

(d)

Mining (Amendment).

- (d) by inserting next after subsection (2A) of section ninety-nine the following new subsection :—

Sec. 99.
(No obligation to grant lease.)

(2B) Without limiting the generality of the preceding provisions of this section, the Governor may refuse to grant to a person a lease of lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an exploration license over those lands.

8. Part VI of the Principal Act is amended—

Further amendment of Act No. 49, 1906.
(Part VI—Tenements and leases generally.)

- (a) by inserting in subsection one of section 108B after the word "Act" where thirdly occurring the words "(other than section 108c of this Act)";

Sec. 108B.
(Royalty on leases comprising land previously leased.)

- (b) by inserting next after section 108B the following new sections :—

New secs. 108c, 108d.

108c. (1) Notwithstanding any other provision of this Act, where a lease is granted on and after the commencement of this section for a period exceeding ten years, the Governor may, at any time after the expiration of a period of ten years from the date on which the lease was granted, review the rate of royalty payable by the lessee in respect of gold or minerals won under the lease and may vary the rate so payable.

Review of royalties.

(2) The lessee shall pay the royalty at the rate as so varied and the variation shall take effect upon notice of the variation, signed by the Under Secretary of the Department of Mines, or an officer of that Department acting on his behalf, being sent by certified mail to the lessee at his last known place of abode or business.

(3)

Mining (Amendment).

(3) Royalty payable under subsection one of this section shall be paid at the times and in the manner prescribed.

5 (4) Not more than one review of the rate of royalty payable by a lessee in respect of gold or minerals won under the lease shall be made under subsection one of this section during the term of the lease.

108D. (1) In this section—

10 “Appropriate amount”, in relation to a royalty period, means—

Exemption from royalty in certain cases.

(a) where the royalty period is twelve months—two thousand dollars; and

15 (b) where the royalty period is less than twelve months—such amount as bears to two thousand dollars the same proportion as the number of days in the royalty period bears to three hundred and sixty-five.

20 “Mining operations” means mining operations carried on—

25 (a) on a parcel of land the subject of or comprised in a mining title held by a person who does not hold any other mining title; or

30 (b) on two or more parcels of land the subject of mining titles held by the same person, each of which parcels adjoins the other or another of those parcels.

“Mining title” means an authority to prospect, authority to enter, lease or right to mine during the pendency of an application for a lease.

“Royalty

Mining (Amendment).

"Royalty period", in relation to royalty payable under this Act in respect of gold or minerals won by a person under a mining title, means—

- 5 (a) the period commencing on the day on which that person first became entitled, pursuant to the mining title, to mine for gold or the minerals in respect of which the royalty is payable and ending on the last day of the first period in respect of which that person is required by or under this Act to pay royalty in respect of the gold or minerals;
- 10 (b) the period commencing on the day after the last day of any period in respect of which that person is required by or under this Act to pay royalty in respect of the gold or minerals and ending on the last day of the next subsequent such period; and
- 15 (c) where, during a period referred to in paragraph (b) of this definition, that person ceases to be entitled to mine for gold or minerals on the whole of the land the subject of the mining title—the period commencing on the day after the last day of the previous royalty period and ending on the day on which that person so ceased to be entitled.
- 20
- 25
- 30
- 35 (2) Where the Minister is satisfied, on an application in writing made by the holder of a mining title, that the value of minerals reserved to the Crown won as a result of mining operations carried on during a royalty period was less than the appropriate amount, no royalty shall be payable under this Act in respect of those minerals.

(c)

Mining (Amendment).

- (c) by inserting at the end of section one hundred and nine the following new subsection :—
- Sec. 109.
(Registration of leases, etc.)

5 (9) The functions of the Registrar under this section may be performed by the Deputy Registrar, Department of Mines, Sydney.

- (d) (i) by inserting in the heading to section one hundred and thirteen after the word "*conditions*" the words "*or mining operations*";
- Sec. 113.
(Holders of claims, etc., may apply.)

10 (ii) by omitting from subsection one of the same section the words "mining operations" and by inserting in lieu thereof the words "labour conditions or mining operations or both labour conditions and mining operations";

15 (iii) by omitting from subsection two of the same section the words "posted on the claim or on the land leased, and also outside the warden's office or the mining registrar's office nearest to the land in respect of which suspension is applied for," and by inserting in lieu thereof the following words :—

"posted—

- (a) by the applicant or applicants on the claim or on the land leased; and
- 25 (b) by the warden's clerk or the mining registrar whose office is nearest to the land in respect of which suspension is applied for, outside the office of that warden's clerk or that
- 30 mining registrar,";

- (iv) by inserting in the same subsection after the word "leases" the words "by the applicant or applicants";

(v)

Mining (Amendment).

(v) by omitting from subsection five of the same section the words "of labour conditions" and by inserting in lieu thereof the words "under this section";

5 (e) (i) by inserting next after subsection two of section 124A the following new subsection :—

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

(2A) The Minister may—

10 (a) pay to the lessee, out of the sum so deposited, any costs recommended by the warden, under paragraph (a) of subsection five of this section, to be paid to the lessee; and

(b) refund to the complainant any balance after the payment of any such costs.

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

20 (5) (a) Where the lessee has entered an appearance, the warden may recommend that costs, not exceeding the amount deposited by the complainant, be allowed to the lessee.

25 (b) The warden shall announce in open court his finding on the complaint and the purport of his recommendation to the Minister.

9. Part VII of the Principal Act is amended by inserting next after subsection one of section one hundred and fifty-five the following new subsection :—

Further
amendment
of Act No.
49, 1906.

30 (1A) Notwithstanding the provisions of paragraph (a) of subsection one of this section, where the compensation to be assessed is not in respect of the entry upon or occupation of, or proposed entry upon or occupation of, the surface of any land and there are

(Part VII—
Wardens'
courts.)
Sec. 155.
(How com-
pensation
assessed.)

ten

Mining (Amendment).

ten or more persons who appear to the warden to be interested in the assessment of the compensation, the warden, instead of giving notice to any such person as required by that paragraph, may, by advertisement published in a newspaper circulating in the district where the land is situated, give notice of the time and place fixed for the assessment of the compensation and, where notice of any such assessment of compensation is so advertised, notice under that paragraph shall be deemed to have been given to every person appearing to the warden to be interested in the assessment.

10. (1) Where—

Validation.

(a) an applicant for a lease, under the Principal Act, of or including Crown lands, or his nominee, carried on mining operations during the pendency of the application for the lease and before the commencement of the Mining (Amendment) Act, 1952; or

(b) an applicant for a lease, under the Principal Act, of or including private lands, or his nominee, carried on mining operations during the pendency of the application for the lease and before the commencement of subsection (5B) of section fifty-seven of the Principal Act,

the applicant or his nominee, as the case may be, shall, subject to subsections two and three of this section, be and be deemed always to have been liable to pay royalty on any gold or mineral won during that pendency and—

(c) in the case of mining operations carried on on Crown lands, before the commencement of the Mining (Amendment) Act, 1952; or

(d) in the case of mining operations carried on on private lands, before the commencement of subsection (5B) of section fifty-seven of the Principal Act,

at

Mining (Amendment).

at the rate that would have been payable on the gold or mineral had the gold or mineral been won from land the subject of an appropriate lease (not being a special lease) granted under the Principal Act at the time the gold or mineral was won.

- (2) Where an applicant for a lease, under the Principal Act, of or including Crown lands, or his nominee, carried on mining operations, under which he won rutile, zircon or ilmenite, during the pendency of the application for the lease on or after the eighth day of April, one thousand nine hundred and forty-nine and before the commencement of this section, he shall be and be deemed always to have been liable, in respect of the rutile, zircon and ilmenite won by him from the Crown lands, to pay, instead of any other royalty, royalty at the rates specified in the following table :—

TABLE.

- Where the mineral was won during the period commencing on 8th April, 1949, and ending on 31st May, 1955, the rate is—
- (a) in the case of rutile, ten shillings per ton ;
- (b) in the case of zircon, two shillings and sixpence per ton ; and
- (c) in the case of ilmenite, one shilling per ton.
- Where the mineral was won during the period commencing on 1st June, 1955, and ending on 30th June, 1956, the rate is—
- (a) in the case of rutile, fifteen shillings per ton ;
- (b) in the case of zircon, two shillings and sixpence per ton ; and
- (c) in the case of ilmenite, one shilling per ton.
- Where the mineral was won during the period commencing on 1st July, 1956, and ending on 30th June, 1959, the rate is—
- (a) in the case of rutile, one pound ten shillings per ton ;
- (b)

Mining (Amendment).

(b) in the case of zircon, two shillings and sixpence per ton; and

(c) in the case of ilmenite, one and one-half per centum of the value of the ilmenite, as determined by the Minister.

Where the mineral was won during the period commencing on 1st July, 1959, and ending on 30th June, 1966, the rate is—

(a) in the case of rutile and zircon, one and one-half per centum of the value, f.o.b., of the rutile or zircon; and

(b) in the case of ilmenite, one and one-half per centum of the value of the ilmenite, as determined by the Minister.

Where the mineral was won during the period commencing on 1st July, 1966, and ending on the day before this section commences, the rate is—

(a) in the case of rutile and zircon, two per centum of the value, f.o.b., of the rutile or zircon; and

(b) in the case of ilmenite, two per centum of the value of the ilmenite, as determined by the Minister.

(3) Where an applicant for a lease, under the Principal Act, of or including private lands, or his nominee, carried on mining operations, under which he won rutile or zircon, during the pendency of the application for the lease on or after the first day of July, one thousand nine hundred and sixty-six, and before the commencement of this section, he shall be and be deemed always to have been liable to pay, instead of any other royalty, royalty on the rutile or zircon won by him from the private lands at the rate of two per centum of the value, f.o.b., of the rutile or zircon.

(4)

Mining (Amendment).

(4) Any payments—

- 5 (a) made out of royalties, referred to in subsection one of this section, in respect of mining operations for minerals (other than minerals reserved to the Crown) carried on on private lands; or
- 10 (b) made out of royalties paid under subsection five or (5B) of section fifty-seven of the Principal Act as applied by section 70BC of the Principal Act to applications for leases under Division 4A of Part IV of the Principal Act or under subsection three of section ninety or section one hundred and one of the Principal Act, in respect of mining operations for minerals carried on by an applicant for a lease or dredging lease, as the case may be, or his
- 15 nominee, under a consent granted before the commencement of this section,

and any deductions made from any such royalties (being payments or deductions that were made before the commencement of this section and that would have been valid had the

20 royalties being paid in respect of minerals won under a lease granted under this Act at the time the mineral was won) are hereby validated and authorised.

11. (1) Where at the commencement of section ten of this Act an applicant for a lease under the Principal Act or
- 25 his nominee is entitled with the consent of the Minister to mine for rutile or zircon, the consent shall as on and from that commencement be deemed to be varied so as to require the applicant or his nominee to pay, in respect of the rutile or zircon won by him from the land the subject of the applica-
- 30 tion, royalty at the rate of two per centum of the value, f.o.b., of the rutile or zircon.

- (2) Nothing in subsection one of this section prevents the Minister from exercising his powers under the Principal Act to revoke any consent referred to in that subsection and,
- 35 in granting any further consent to the applicant or his nominee, to impose conditions for the payment of royalty at a rate different from the rate specified in that subsection.

Mining (Amendment).

12. Where, at the commencement of the amendment made by paragraph (a) of section five of this Act, there is pending any application for an authority to enter or for a lease that would have been valid had the amendment made by that paragraph been in force when the application was made, that application may be dealt with and completed, and an authority to enter or a lease, as the case may be, may be granted pursuant thereto as if the lands the subject of the application had been private lands at the date of the application.
- Pending applications for authorities to enter private lands.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967
[30c]

MINING (AMENDMENT) BILL, 1967

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to exempt from occupation under a mining right or business license Crown lands that are the subject of an exploration license or an application for an exploration license;
- (b) to permit an authority to prospect on Crown lands to be granted to a person who is the holder of an exploration license over those lands;
- (c) to prohibit an authority to prospect from being granted over lands that are the subject of an application or a lease under the Mining Act, 1906, as amended (hereinafter referred to as the "Principal Act") ;
- (d) to confer on an applicant for an authority to prospect who has first taken possession of the lands the subject of the application priority over other applicants;
- (e) to empower the Minister to refuse to grant an authority to prospect over lands the subject of a pending application for an authority to prospect made by a person who when he made the application was the holder of an exploration license over those lands;
- (f) to extend authorities to prospect during the pendency of applications for their renewal;
- (g) to require authorities to prospect, when granted, to be executed by the person or persons to whom they are granted and to provide that where an authority to prospect is granted to two or more persons it shall be valid only in favour of such of those persons who execute it;
- (h) to prohibit the leasing of Crown lands the subject of, or of an application for, an exploration license, other than an exploration license held by the applicant for the lease, unless the holder of the exploration license consents to the granting of the lease;
- (i) to empower the Governor to refuse to grant a lease of Crown lands the subject of a pending application for a lease made by a person who when he made the application was the holder of an exploration license or authority to prospect over those lands;
- (j) to provide that where an applicant for a lease of Crown lands, with the consent of the Minister, carries on mining operations during the pendency of his application and no royalty rate in respect of gold or minerals won is specified in the conditions attaching to the consent, the royalty rate shall be the same rate as if the gold or minerals was or were won from land the subject of a lease granted at the time the gold or minerals was or were won ;
- (k) to provide that persons entitled as of right to mine during the pendency of an application for a lease of Crown lands shall pay royalty at a rate to be fixed by the Minister ;

- (l) to provide that the prescribed rates of royalty on gold or minerals (other than coal or shale) won from Crown lands shall not exceed 2 per centum of the value of the gold or minerals instead of $1\frac{1}{2}$ per centum of the value;
- (m) to extend the provisions of section 36 (5) of the Principal Act (which relate to the deduction of rent payable from the amount of royalty payable by lessees of Crown lands) to applicants for leases of those lands;
- (n) to provide that the prescribed rate of royalty in respect of privately owned minerals shall not exceed 2 per centum instead of $1\frac{1}{2}$ per centum and that the Crown deduction from any such royalties shall be one-eighth instead of one-seventh;
- (o) to amend the definition of "Private lands" in Part IV of the Principal Act (which relates to mining on private lands) so that lands situated within the boundaries of a town or village will be included in the definition;
- (p) to prohibit the granting of authorities to enter private lands where those lands are the subject of an exploration license held by a person other than the applicant for the authority to enter or are the subject of an application for an exploration license made before the application for the authority to enter was made;
- (q) to extend authorities to enter during the pendency of applications for their renewal;
- (r) to provide that every application for a lease of private lands shall, except in the prescribed circumstances, be accompanied by the prescribed survey fee and to empower the Minister to refund that fee in certain circumstances;
- (s) to provide that persons entitled as of right to mine during the pendency of an application for a lease of private lands shall pay royalty at a rate to be fixed by the Minister;
- (t) to empower the Governor to refuse to grant a lease of private lands the subject of a pending application for a lease made by a person who when he made the application was the holder of an exploration license over those lands;
- (u) to prohibit an owner of private lands from carrying on prospecting operations on the land or obtaining a lease of the land if the lands are held under, or are the subject of an application for, an exploration license;
- (v) to prohibit a lease of private lands being granted if the lands are the subject of an application for an authority to enter made by a person who when he made the application was the holder of an exploration license;
- (w) to amend the provisions of section 70c (5) and (6) of the Principal Act relating to the payment of royalties in respect of minerals won from private lands before the commencement of the new section 70cA of the Principal Act referred to in paragraph (y) below;
- (x) to apply the provisions of section 70c of the Principal Act to the payment of royalties by an applicant for a lease of private lands who mines during the pendency of the application;
- (y) to insert a new section 70cA in the Principal Act requiring a lessee of private lands and an applicant for such a lease who mines during the pendency of his application to pay royalty on minerals won by him at the prescribed rate not exceeding, where the rate is fixed according to the value

of the mineral won, two per centum of that value and to provide that seven-eighths of the royalty so paid shall be paid to the owner of the land and that one-eighth shall be retained by the Crown ;

- (z) to provide that seven-eighths of the royalties collected in respect of minerals won under special leases of private lands shall be paid to the owner of the minerals and that one-eighth shall be retained by the Crown ;
- (aa) to authorise the Minister to issue exploration licenses over lands the subject of another exploration license if the prospecting board so recommends but only if the exploration licenses relate to different minerals;
- (bb) to increase the fee for an exploration license to fifty cents instead of twenty cents for each square mile or part of a square mile included in the license ;
- (cc) to empower the Minister when granting an exploration license to alter, enlarge or reduce the area of the lands applied for without obtaining the consent of the applicant;
- (dd) to empower the Minister to cancel an exploration license as to part of the land comprised in it where he is of opinion, after investigation and report by the Chief Inspector of Mines or the Chief Inspector of Coal Mines, that the cancellation will not detrimentally affect the operations or proposed operations of the license;
- (ee) to prevent lands which are within the external boundaries of an exploration license and are the subject of an authority to prospect or an authority to enter that is determined from being included in the area comprised in the exploration license where the holder of the authority has applied for a lease and the application has not been refused;
- (ff) to specify the rights of holders of two or more exploration licenses over the same lands where an application for an authority to enter, authority to prospect or lease is made by one of them in respect of those lands or any part of those lands;
- (gg) to prohibit the holder of an exploration license who desires to carry out any surveys or prospecting operations on private lands from doing so unless he has first notified the owner and occupier, if any, of the lands ;
- (hh) to provide that seven-eighths of royalties paid in respect of minerals that are won under a dredging lease and are not reserved to the Crown shall be paid to the owner of the minerals and that the remaining one-eighth shall be retained by the Crown ;
- (ii) to empower the Governor to refuse to grant a dredging lease of lands the subject of a pending application for a dredging lease made by a person who when he made the application was the holder of an exploration license over those lands;
- (jj) to empower the Governor to review the rate of royalty payable under any lease granted under the Principal Act at the expiration of ten years from the date on which the lease was granted ;
- (kk) to exempt from the payment of royalties under the Principal Act a person carrying on mining operations where the value of minerals produced is less than a specified amount;
- (ll) to enable the holder of a lease under the Principal Act to obtain suspension of the provisions of the lease relating to labour conditions and to vary the procedure in respect of applications for suspensions;

- (mm) to provide, in respect of complaints as to non-compliance with labour conditions, that the Minister may refund to the complainant the amount deposited by him less any costs ordered to be paid by him;
- (nn) to provide that where the warden is required to assess compensation under the Principal Act and more than ten persons appear to be interested in the assessment, he may advertise notice of the assessment instead of serving each person with a notice;
- (oo) to validate certain payments of royalty by applicants for leases where the applications were made at certain times before the commencement of the validation provision; to require the payment of royalties by those applicants who have not paid them; to validate and authorise certain payments and deductions from those royalties where those royalties were paid in respect of minerals not reserved to the Crown;
- (pp) to vary consents to mine for rutile or zircon during the pendency of an application for a lease so that the royalty rate in respect of the rutile or zircon shall be two per centum of the value, f.o.b., of the value of that mineral;
- (qq) to make other amendments of a minor or ancillary character.

No. , 1967.

A BILL

To amend the law relating to mining; to validate certain matters; for this and other purposes to amend the Mining Act, 1906, and certain other Acts; and for purposes connected therewith.

[MR FIFE—2 November, 1967.]

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, 1967".

(2) Short title, citation and commencement.

Mining (Amendment).

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

(3) The Principal Act, as amended by this Act, may be cited as the Mining Act, 1906–1967.

5 (4) Subject to subsections five and six of this section, this Act shall commence upon such day or days as may be appointed in respect thereof and notified by proclamation published in the Gazette.

10 (5) Section ten of this Act shall commence upon the day upon which the assent of Her Majesty to this Act is signified.

(6) The amendments made by—

15 (a) subparagraphs (i) and (ii) of paragraph (i) of section five of this Act shall be deemed to have commenced on the day upon which the Mining (Amendment) Act, 1952, commenced; and

20 (b) subparagraphs (iii) and (iv) of that paragraph shall be deemed to have commenced on the day upon which subsection six of section 70c of the Principal Act commenced.

2. Part I of the Principal Act is amended—

Amendment
of Act No.
49, 1906.

(Part I—
Prelimi-
nary.)

25 (a) (i) by omitting from the definition of “Adjoining” in subsection one of section three the words “or stream” and by inserting in lieu thereof the words “, stream or railway”;

Sec. 3.
(Interpre-
tation.)

30 (ii) by omitting from the definition of “Mining surveyor” in the same subsection the words “Surveyors Act, 1929–1946, and who is specially appointed to carry out surveys under this Act” and by inserting in lieu thereof the words “Surveyors Act, 1929, as amended by subsequent Acts”;

(iii)

Mining (Amendment).

- (iii) by inserting at the end of the same subsection the following new definition :—
 “Value, f.o.b.”, in relation to a mineral, means such amount as is determined by the Minister as being the value, f.o.b., of the mineral at such port in Australia as the Minister determines.
- (iv) by omitting from subsection two of the same section the words “that is contiguous to the State of New South Wales and is outside the land beneath the territorial waters of that State” and by inserting in lieu thereof the words “(within the meaning of the Convention entitled ‘Convention on the Continental Shelf’ signed at Geneva on the twenty-ninth day of April, one thousand nine hundred and fifty-eight and to which Australia is a party) that is adjacent to the State of New South Wales”;
- (b) by omitting from subsection one of section six the words “mining surveyors,”; Sec. 6.
(Governor may appoint officers.)
- (c) by omitting from section seven the word “surveyor,”. Sec. 7.
(Minister or officer not to be interested in any mining venture.)
- 3. Part II of the Principal Act is amended—** Further amendment of Act No. 49, 1906.
(Part II—Miners’ rights and business licenses.)
- (a) by inserting in paragraph (e) of subsection one of section fourteen after the words “authority to prospect” wherever occurring the words “or exploration license”; Sec. 14.
(Certain exemptions.)

(b)

Mining (Amendment).

- (b) (i) by inserting in subsection one of section seventeen after the word "Act" where secondly occurring the words "(not being an exploration license held by the applicant)"; Sec. 17.
(Authority to prospect on Crown lands.)
- 5 (ii) by inserting in the same subsection after the word "license" where secondly occurring the words "or of an application for a lease of Crown lands under this Act";
- 10 (iii) by omitting from the same subsection the words "or for such exploration license";
- (iv) by inserting next after subsection two of the same section the following new subsection :—
- 15 (2A) (a) If more than one application is made for an authority to prospect on the same lands the application of the person who has first taken possession shall be first considered and dealt with, and so on, according to priority of possession.
- 20 (b) For the purposes of this subsection "possession" means the act of erecting a datum post, and forthwith taking possession in the manner prescribed by the regulations: Provided that where, under the regulations, a datum post is not required to be erected, the
- 25 time of taking possession shall be deemed to be the time at which the application is lodged.
- (v) by inserting next after subsection six of the same section the following new subsection :—
- 30 (6A) Without limiting the generality of subsection six of this section, the Minister may refuse to grant an authority to prospect for gold or any mineral on any Crown lands if those lands are the subject of a pending application for an authority to prospect made by
- 35 a person who, when he made the application, was the holder of an exploration license over those lands.
- (vi)

Mining (Amendment).

(vi) by omitting from paragraph (b) of subsection seven of the same section the words “, with the consent in writing of the applicant,”;

5 (vii) by inserting next after subsection eight of the same section the following new subsections :—

10 (8A) Where an application is made for the renewal or further renewal of an authority to prospect and the application has not been granted or refused before the date on which the period of the authority to prospect or renewed authority to prospect would, but for this subsection, expire (which date is in this subsection referred to as the date of expiry),
15 the period of the authority to prospect or renewed authority to prospect shall be deemed to be extended until the application is granted or refused and the Minister may grant or refuse the application after the date of the expiry of the authority to prospect or renewed authority to prospect.
20

25 During the period that the authority to prospect or renewed authority to prospect is deemed to be extended under this subsection, the provisions of this Act applicable to authorities to prospect and the holders thereof shall apply to and in respect of the authority to prospect or renewed authority to prospect, and to the holder thereof.

30 (8B) Every authority to prospect granted after the commencement of this subsection shall be deemed to be granted subject to the condition that the person to whom it is granted shall execute it within a period of one month after his being notified in writing by the Under Secretary of the grant of the authority to prospect or within such further period as the
35

Under

Mining (Amendment).

Under Secretary may allow either before or after the expiration of that period of one month.

5 (8c) Where the application for an authority to prospect is made after the commencement of this subsection by two or more persons, and one or more of those persons fails or fail to execute the authority to prospect in compliance with the condition referred to
10 in subsection (8B) of this section, the Minister may, if he thinks fit, cause the authority to prospect to be issued to such of the applicants as have executed it, and in that case the
15 authority to prospect shall be valid and effectual in favour of those applicants.

4. Part III of the Principal Act is amended—

Further amendment of Act No. 49, 1906.
(Part III—Leases of Crown lands.)

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

Sec. 23.
(Governor may grant leases.)

20 (bi) Crown lands held under an authority to prospect or an exploration license, or the subject of an application for an authority to prospect or an exploration license, shall
25 not be leased to any person other than the holder of the authority to prospect or exploration license or the applicant for the authority or license, except with the written consent of the holder of, or the applicant for, the authority or license, as the case may
30 be, if, in the case of an application for an authority

Mining (Amendment).

authority to prospect or exploration license, the application was made before the marking out of the land the subject of an application for a lease under this Part.

- 5 (b) by inserting next after subsection three of section twenty-seven the following new subsection :— (Irregular application may be granted.)
- (3A) Without limiting the generality of subsection three of this section, the Governor may refuse to grant to a person a lease of Crown lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an authority to prospect on, or an exploration license over, those lands.
- 10
- 15 (c) (i) by inserting in subsection four of section thirty after the word "applicant" the words "or his nominee"; (When application pending.)
- (ii) by inserting in the same subsection after the word "shall" the words ", subject to any conditions imposed by the Minister under paragraph (a) of section twenty-eight of this Act,";
- 20
- (iii) by omitting from the same subsection the words "lease granted after the commencement of the Mining (Amendment) Act, 1952" and by inserting in lieu thereof the words "lease under this Part (not being a special lease or a renewal of a lease) granted at the time the gold or mineral was won";
- 25
- 30 (iv) by inserting at the end of the same section the following new subsections :—
- (5) Where, at the commencement of section ten of the Mining (Amendment) Act, 1967, an applicant for a lease under this Part, or his nominee, is entitled under subsection two of section four of the Mining (Amendment) Act, 1963, to mine during the pendency of the application he shall, on and from that commencement,
- 35

Mining (Amendment).

commencement, pay royalty at the prescribed rate on any gold or mineral won by him from the land the subject of the application.

5 (6) In subsection five of this section, the "prescribed rate" means—

(a) in the case of rutile or zircon, the rate of two per centum of the value, f.o.b., or such other rate as may from time to time be fixed by the Minister instead of the firstmentioned rate and specified in a notification published in the Gazette;

10 (b) in the case of gold or any other mineral, such rate as may from time to time be fixed by the Minister and specified in a notification published in the Gazette.

20 (d) (i) by inserting in paragraph (a) of subsection (2D) of section thirty-six after the words "royalty shall" the words ", subject to section 108c of this Act,"; Sec. 36.
(Gold and mineral leases—rent and royalty.)

(ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of leases of Crown lands, authorising mining for minerals reserved to the Crown, granted at the time when that lease is granted";

25 (iii) by omitting from paragraph (b) of the same subsection the words "one and one-half" and by inserting in lieu thereof the word "two";

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

35 (7) The provisions of subsection five of this section apply to the payment of royalties in respect of gold or minerals won by an applicant for a lease under this Part, or his nominee, carrying on mining operations during the

Mining (Amendment).

the pendency of the application as if the payment were due in respect of gold or minerals won under such a lease granted at the time the gold or minerals were won.

- 5 (e) (i) by omitting from paragraph (a) of subsection four of section 39D the word "shall" and by inserting in lieu thereof the words "in respect of leases under this Division at the time when that lease is granted shall, subject to section 108c of this Act,"; Sec. 39D.
(Application
for lease.)
- 10 (ii) by omitting from paragraph (b) of the same subsection the words "one and three-quarters" and by inserting in lieu thereof the word "two";
- 15 (iii) by inserting next after paragraph (d) of the same subsection the following new paragraph :—
- (di) In respect of any lease granted, or application for a lease made, on or after the day upon which this paragraph commences, the provisions of paragraph (d) of this subsection shall be deemed to be amended by omitting the word "one-seventh" and by inserting in lieu thereof the word "one-eighth".
- 20 (iv) by inserting in paragraph (e) of the same subsection after the words "(d) of this subsection" wherever occurring the words ", or of that paragraph, as deemed to be amended by paragraph (di) of this subsection,";
- 25 (v) by inserting next after paragraph (f) of the same subsection the following new paragraph :—
- (g) The provisions of paragraph (f) of this subsection apply to the payment of royalties in respect of coal or shale not reserved to the Crown won by an applicant for a lease under this
- 30
- 35

Mining (Amendment).

5 this Part, or his nominee, carrying on mining operations during the pendency of the application as if the payment were due in respect of coal or shale not reserved to the Crown won under such a lease granted at the time the coal or shale was won.

5. Part IV of the Principal Act is amended—

Further amendment of Act No. 49, 1906. (Part IV—Mining on private lands.)

10 (a) by omitting from section forty-five the definition of “Private lands” and by inserting in lieu thereof the following definition :—

Sec. 45. (Interpretation.)

“Private lands” means lands other than Crown lands but does not include lands held under a lease granted under Part III, Part V or this Part of this Act.

15 (b) (i) by omitting subsection (2c) of section forty-six;

Sec. 46. (For gold and other metals.)

20 (ii) by inserting in subsection three of the same section after the word “mineral” where firstly occurring the words “or to carry on operations under an exploration license”;

25 (iii) by inserting in the same subsection after the word “repealed” where firstly occurring the words “, or in respect of land the subject of an application for an exploration license made before the time of the making of the application for the authority to enter”;

(c)

Mining (Amendment).

- (c) (i) by inserting next after paragraph (a) of sub- Sec. 50.
section two of section fifty the following new (Warden
paragraph :— may grant
authority.)
- 5 (ai) if the land applied for is the subject
of an authority to enter in force or of
an application for a lease under this
Part;
- (ii) by inserting at the end of the same subsection
the following new paragraph :—
- 10 (e) if the land is the subject of another
pending application for an authority to
enter made by a person who, when he
made the application, was the holder
of an exploration license over that land.
- 15 (d) (i) by omitting from subsection one of section Sec. 52.
fifty-two the words "while it is in force and"; (Duration
and extension
of authority.)
- (ii) by inserting next after the same subsection
the following new subsection :—
- 20 (1A) Where an application is made for the
extension or further extension of an authority
to enter and the application has not been
granted or refused before the date on which
the period of the authority to enter or extension
25 would but for this subsection expire (which
date is in this subsection referred to as the
date of expiry), the period of the authority
to enter or extension shall be deemed to be
extended until the application is granted or
refused and the warden may grant or refuse
30 the application after the date of the expiry of
the authority or extension.
- 35 During the time that the authority to enter
or extension is deemed to be extended under
this subsection, the provisions of this Act
applicable to authorities to enter and the
holders thereof shall apply to and in respect
of the authority to enter or extension, as so
extended, and to the holder thereof.
- (iii)

Mining (Amendment).

- (iii) by omitting from subsection two of the same section the word "duplicate" and by inserting in lieu thereof the words "the prescribed manner";
- 5 (e) (i) by inserting in subsection (5B) of section fifty-seven after the word "applicant" the words "or his nominee"; Sec. 57.
(Power to define boundaries.)
- (ii) by inserting in the same subsection after the word "shall" the words ", subject to any conditions imposed by the Minister under subsection five of this section,";
- 10 (iii) by omitting subsection six of the same section and by inserting in lieu thereof the following subsections :—
- 15 (6) Except in the prescribed circumstances, every application for a lease shall be accompanied by the prescribed survey fee.
- (7) Where the Minister is of opinion that a survey is unnecessary for the purposes of any such application, or that the cost of the survey is less than the prescribed survey fee lodged by the applicant for the lease, he may refund to such applicant the whole, or such part as he thinks fit, of any prescribed survey fee paid by such applicant.
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- 25
- (8) Where, at the commencement of section ten of the Mining (Amendment) Act, 1967, an applicant for a lease under this Part, or his nominee, is entitled under subsection two of section five of the Mining (Amendment) Act, 1963, to mine during the pendency of the application he shall, on and from that commencement, pay, in respect of any gold or mineral won by him from the land the subject of the application, royalty on the gold or mineral at the prescribed rate.
- 30
- 35
- (9)

Mining (Amendment).

(9) In subsection eight of this section, the "prescribed rate" means—

5 (a) in the case of rutile or zircon the rate of two per centum of the value, f.o.b., or such other rate as may from time to time be fixed by the Minister instead of the firstmentioned rate and specified in a notification published in the Gazette;

10 (b) in the case of gold or any other mineral such rate as may from time to time be fixed by the Minister and specified in a notification published in the Gazette.

15 (f) by inserting at the end of section fifty-eight the following new subsection :—

Sec. 58.
(Power to refuse, &c.)

(4) Without limiting the generality of this section, the Governor may refuse to grant to a person a lease of private lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an exploration license over those lands.

25 (g) by inserting in subsection one of section sixty-eight after the word "Part" where firstly occurring the words "or not held under, or the subject of an application for, an exploration license";

Sec. 68.
(Prospecting by owner or occupier.)

30 (h) by inserting in subsection one of section 70BA after the word "Act," the words "or are not held under, or the subject of an application for, an exploration license";

Sec. 70BA.
(Application for lease by owner of land and minerals.)

(i) (i) by inserting in subparagraph (i) of paragraph (a) of subsection five of section 70c after the words "per centum" where firstly occurring the words "of the gross value";

Sec. 70c.
(Royalty payable.)

(ii)

Mining (Amendment).

- 5 (ii) by omitting from the same subparagraph the words "such rate per centum as may be prescribed" and by inserting in lieu thereof the words "an amount calculated at such rate as may be prescribed in respect";
- 10 (iii) by inserting in paragraph (a) of subsection six of the same section after the word "subsection" where firstly occurring the words "and before the commencement of section 70CA of this Act";
- (iv) by inserting in subparagraph (i) of paragraph (a) of the same subsection after the words "per centum" the words "of the gross value";
- 15 (v) by inserting in the same subparagraph after the word "prescribed" the words "in respect";
- (vi) by inserting at the end of the same section the following new subsection :—
- 20 (8) The provisions of subsections two and four of this section or of those subsections, as amended by subsection five or six of this section, as the case may require, apply, in respect of minerals won before the commencement of section 70CA of this Act, to royalties paid, and to the payment of royalties, by an applicant
- 25 for a lease under this Division, or his nominee, carrying on mining operations during the pendency of the application as if the royalties were paid or the payment were due in respect of minerals won under such a lease granted at
- 30 the time the minerals were won.
- (j) by inserting next after section 70C the following new section :—
- 35 70CA. (1) In respect of any authority or lease granted under this Division after the commencement of this section, the holder of the authority or the lessee, as the case may be, shall at the times and in the manner prescribed pay to the Minister
- New sec.
70CA.

Royalty payable on authorities and leases granted after commencement of this section.
on

Mining (Amendment).

on behalf of the owner of the minerals included in the authority or lease a sum calculated at such rate, in respect of all minerals won from the land, as may be prescribed in respect of leases of private lands, authorising mining for minerals not reserved to the Crown, granted at the time when that authority or lease is granted :

Provided that upon any renewal of a lease under this Division the Governor may in respect of such renewal vary the amount payable by way of royalty under this subsection in such manner as he may determine.

(2) The Minister shall at the times and in the manner prescribed pay to the owner of the minerals the sum paid as aforesaid less one-eighth of that sum, which he is hereby authorised to deduct from that sum ; and the amounts so deducted shall be paid by the Minister to the Treasurer and carried to the Consolidated Revenue Fund.

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

(4) The lessee may deduct from the sum payable under subsection one of this section in any one year to the Minister on behalf of the owner of the minerals a sum equal to the amount paid by him to such owner in accordance with the provisions of subsection three of section 70BC of this Act as rent for that year.

(5) The regulations may prescribe rates for the purposes of subsection one of this section according to percentage of the value of the 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

Mining (Amendment).

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 two 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 twenty cents per ton.

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

(6) The provisions of subsections two and four of this section apply, in respect of minerals won on or after the commencement of this section, to royalties paid, and to the payment of royalties, by an applicant for a lease under this Division, or his nominee, carrying on mining operations during the pendency of the application as if the royalties were paid or the payment were due in respect of minerals won under such a lease granted at the time the minerals were won.

(k) (i) by omitting from subsection four of section 70F the words "The Minister shall at the times and in the manner prescribed pay to the owner of such minerals the sum paid under paragraph (b) of this subsection less one-seventh of such sum 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."

Sec. 70F.
(Governor may grant special leases of private lands.)

Where any private land the subject of a lease under this section and the minerals for which the lessee is pursuant to such lease entitled to mine in or upon such land are privately owned and in the same ownership, and the royalty payable in respect of such minerals by the lessee during any one year exceeds

Mining (Amendment).

exceeds the rent paid for such year in respect of such land, the amount paid as rent as aforesaid may be deducted from such sum payable as royalty; but if the 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."

(ii) by inserting next after the same subsection the following new subsections :—

(4A) Where royalty is paid under subsection four of this section in respect of minerals, not reserved to the Crown, that have been won from lands so leased the Minister shall at the times and in the manner prescribed—

(a) pay, where the lease was granted before the commencement of this subsection, to the owner of the minerals the sum paid under paragraph (b) of subsection four of this section, less one-seventh of that sum (which the Minister is hereby authorised to deduct from that sum);

(b) pay, where the lease was granted on or after the commencement of this subsection, to the owner of the minerals the sum paid under paragraph (b) of subsection four of this section, less one-eighth of that sum (which the Minister is hereby authorised to deduct from that sum); and

(c) pay the amounts deducted by him under paragraph (a) or (b) of this subsection to the Treasury to be carried to the Consolidated Revenue Fund.

Mining (Amendment).

5 (4B) The provisions of subsection (4A) of this section apply, in respect of minerals won on or after the commencement of this section, to royalties paid by an applicant for a special lease under this Division, or his nominee, carrying on operations during the pendency of the application as if the royalties were paid in respect of minerals won under such a lease granted at the time the minerals were won.

10 (1) (i) by inserting in paragraph (a) of subsection (2A) of section eighty-two after the word "shall" the words ", subject to section 108c of this Act,"; Sec. 82.
(Amount.)

15 (ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of leases of private lands, authorising mining for minerals reserved to the Crown, granted at the time when that authority or lease, as the case may be, was granted".

20 6. Part IVA of the Principal Act is amended—

Further
amendment
of Act No.
49, 1906.
(Part IVA—
Exploration
licenses.)

(a) (i) by inserting at the end of paragraph (a) of subsection one of section 83B the word "or"; Sec. 83B.
(Exploration
licenses.)

(ii) by omitting paragraph (c) of the same subsection;

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

30 (1A) An exploration license for the purpose of prospecting in or on land included in an existing exploration license shall not be granted to a person other than the holder of the existing exploration license except on the recommendation of the prospecting board.

(1B)

Mining (Amendment).

(1B) An exploration license for the purpose of prospecting in or on land—

5 (a) for gold (whether alone or together with minerals) shall not be granted if there is in force an existing exploration license for the purpose of prospecting for gold (whether alone or together with minerals) in or on that land; or

10 (b) for any mineral (whether alone or together with any other mineral) shall not be granted if there is in force an existing exploration license for the purpose of prospecting for that first-mentioned mineral (whether alone or
15 together with any other mineral).

(iv) by omitting from paragraph (a) of subsection three of the same section the words “twenty cents” and by inserting in lieu thereof the words “fifty cents”;

20 (v) by omitting from paragraph (a) of subsection ten of the same section the words “, with the consent in writing of the applicant therefor,”;

(vi) by inserting at the end of the same subsection the following new paragraph :—

25 (g) if he is of opinion, after investigation and report by the Chief Inspector of Mines appointed under the Mines Inspection Act, 1901, as amended by subsequent Acts, or by the Chief
30 Inspector of Coal Mines appointed under the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, that the cancellation of an exploration license as to part of the land included
35 in the license will not detrimentally affect the operations, or proposed operations,

Mining (Amendment).

operations, of the holder of the exploration license, cancel the exploration license as to that part.

- 5 (vii) by inserting at the end of subsection seventeen of the same section the following new proviso :—

10 Provided that where the holder of any such authority applies during the term of the authority for a lease of any lands included in the area that is the subject of the authority this subsection shall not apply to that area unless and until the application is refused.

- (b) by inserting next after section 83B the following new section :—

15 83BA. (1) Where the holder of an exploration license applies during the currency of the license for an authority to enter, an authority to prospect or a lease in respect of any lands over which the license is in force, and there is in force in respect of those lands one or more other exploration licenses, the Minister shall cause notice of the application to be served on the holder of that other exploration license or the holders of those other exploration licenses, as the case may be.

25 (2) The holder of an exploration license on whom a notice has been served under subsection one of this section may, within the prescribed period after the service on him of the notice, by instrument in writing served on the Minister and setting out the grounds of his objection, object to the grant of the application referred to in the notice.

30 (3) Where the holder of an exploration license objects, in accordance with subsection two of this section, to the grant of the application referred to in the notice served on him, the Minister shall refer the application and objection to the warden for inquiry and report.

(4)

Mining (Amendment).

(4) The Minister may, after considering the report of the warden and such other information as he thinks relevant—

- 5 (a) in the case of an application for an authority to enter, direct the warden to grant or refuse the application or direct the warden to grant the application subject to such conditions as the Minister specifies in the direction;
- 10 (b) in the case of an application for an authority to prospect, grant or refuse the application or grant the application subject to such conditions as he thinks fit; or
- 15 (c) in the case of an application for a lease, recommend to the Governor that the application be granted or refused or that the application be granted subject to such conditions as may be specified in the recommendation.

20 (5) The warden shall comply with any direction given to him under paragraph (a) of subsection four of this section.

25 (6) A lease shall not be granted on an application referred to in subsection one of this section otherwise than in accordance with any recommendation with respect to that application made by the Minister under paragraph (c) of subsection four of this section.

30 (7) Where an authority to enter, an authority to prospect or a lease in respect of any lands is granted on an application made under subsection one of this section, the Minister shall, upon that grant being made, cancel any exploration license to the extent that it is in force over those lands.

(8)

Mining (Amendment).

(8) A notice referred to in subsection one of this section may be served—

(a) by delivering it to the person to whom it is directed; or

5 (b) by sending it by certified mail to the person to whom it is addressed at his last known place of abode or business,

and, where it is served in accordance with paragraph (b) of this subsection, shall be deemed to be served
10 when it would have been delivered to the person to whom it is addressed in the ordinary course of post.

(c) by inserting in subsection one of section 83i after the word “operations” where secondly occurring the words “notify the owner and occupier, if any, of the private lands of his intention to carry out the surveys or operations and”.
15

Sec. 83i.
(Compensation before commencement of operations on private lands covered by exploration license.)

7. Part V of the Principal Act is amended—

Further amendment of Act No. 49, 1906.
(Part V—Dredging leases.)

(a) by omitting from subsection one of section eighty-six the words “held under or by virtue of any Act relating to mining, or land in or upon which any bona fide mining operations are being carried on by or with the concurrence of the owner” and by inserting in lieu thereof the words “in or upon which any bona fide mining operations are being carried on by or with the concurrence of the owner or land held under or by virtue of any Act relating to mining, other than land comprised in an exploration license held by the applicant”;
20
25

Sec. 86.
(Governor may grant leases for purposes of mining by dredging, &c., and of what lands.)

(b)

Mining (Amendment).

- (b) (i) by inserting in subsection three of section ninety after the word "applicant" the words "or his nominee"; Sec. 90.
(Applications for leases to be made to warden and forwarded to Minister.)
- 5 (ii) by inserting in the same subsection after the word "shall" the words ", subject to any conditions imposed by the Minister under section one hundred and one of this Act,";
- 10 (c) (i) by inserting in paragraph (b) of subsection two of section ninety-eight after the word "shall" the words ", subject to section 108c of this Act,"; Sec. 98. 01
(Rent and royalty.)
- 15 (ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of dredging leases granted at the time when that lease was granted";
- 20 (iii) by omitting from paragraph (c) of the same subsection the words "The provisions" where secondly occurring and by inserting in lieu thereof the words "In respect of a dredging lease granted before the commencement of subparagraph (iii) of paragraph (c) of section seven of the Mining (Amendment) Act, 1967, the provisions";
- 25 (iv) by inserting at the end of the same paragraph the following new paragraph :—
- 30 In respect of a dredging lease granted on or after the commencement of subparagraph (iv) of paragraph (c) of section seven of the Mining (Amendment) Act, 1967, the provisions of subsection five of section 70CA shall apply to and in respect of regulations prescribing rates of royalty payable under this subsection in respect of minerals not reserved to the Crown.
- (v)

Mining (Amendment).

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

(b) The Minister shall at the times and in the manner prescribed pay to the owner of the minerals the sum so paid as royalty in respect of the minerals less—

(i) where the royalty is paid in respect of minerals won from lands held under a lease granted before the commencement of this paragraph—one-seventh of the sum so paid (which the Minister is hereby authorised to deduct from that sum); or

(ii) where the royalty is paid in respect of minerals won from lands held under a lease granted on or after that commencement—one-eighth of the sum so paid (which the Minister is hereby authorised to deduct from that sum),

and shall pay the amounts deducted by him under this paragraph to the Treasury to be carried to the Consolidated Revenue Fund.

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

(4) The provisions of paragraph (e) of subsection two and paragraph (b) of subsection three of this section apply to the payment of royalties, and royalties paid, in respect of gold or minerals by an applicant for a dredging lease, or his nominee, carrying on mining operations during the pendency of the application as if the payment were due or the royalties were paid in respect of gold or minerals won under such a lease granted at the time the gold or minerals were won.

(d)

Mining (Amendment).

- (d) by inserting next after subsection (2A) of section ninety-nine the following new subsection :—

Sec. 99.
(No obligation to grant lease.)

- (2B) Without limiting the generality of the preceding provisions of this section, the Governor may refuse to grant to a person a lease of lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an exploration license over those lands.

10 **8. Part VI of the Principal Act is amended—**

Further amendment of Act No. 49, 1906.
(Part VI—Tenements and leases generally.)

- (a) by inserting in subsection one of section 108B after the word "Act" where thirdly occurring the words "(other than section 108c of this Act)";
- (b) by inserting next after section 108B the following new sections :—

Sec. 108B.
(Royalty on leases comprising land previously leased.)

New secs. 108c, 108d.

- 15 108c. (1) Notwithstanding any other provision of this Act, where a lease is granted on and after the commencement of this section for a period exceeding ten years, the Governor may, at any time after the expiration of a period of ten years from the date on which the lease was granted, review the rate of royalty payable by the lessee in respect of gold or minerals won under the lease and may vary the rate so payable.

Review of royalties.

- 25 (2) The lessee shall pay the royalty at the rate as so varied and the variation shall take effect upon notice of the variation, signed by the Under Secretary of the Department of Mines, or an officer of that Department acting on his behalf, being sent by certified mail to the lessee at his last known place of abode or business.
- 30

(3)

Mining (Amendment).

(3) Royalty payable under subsection one of this section shall be paid at the times and in the manner prescribed.

5 (4) Not more than one review of the rate of royalty payable by a lessee in respect of gold or minerals won under the lease shall be made under subsection one of this section during the term of the lease.

108D. (1) In this section—

10 “Appropriate amount”, in relation to a royalty period, means—

Exemption from royalty in certain cases.

(a) where the royalty period is twelve months—two thousand dollars; and

15 (b) where the royalty period is less than twelve months—such amount as bears to two thousand dollars the same proportion as the number of days in the royalty period bears to three hundred and sixty-five.

20 “Mining operations” means mining operations carried on—

(a) on a parcel of land the subject of or comprised in a mining title held by a person who does not hold any other mining title; or

25 (b) on two or more parcels of land the subject of mining titles held by the same person, each of which parcels adjoins the other or another of those parcels.

30 “Mining title” means an authority to prospect, authority to enter, lease or right to mine during the pendency of an application for a lease.

“Royalty

Mining (Amendment).

“Royalty period”, in relation to royalty payable under this Act in respect of gold or minerals won by a person under a mining title, means—

- 5 (a) the period commencing on the day
on which that person first became
entitled, pursuant to the mining
title, to mine for gold or the minerals
10 in respect of which the royalty is
payable and ending on the last day
of the first period in respect of which
that person is required by or under
this Act to pay royalty in respect of
the gold or minerals;
- 15 (b) the period commencing on the day
after the last day of any period in
respect of which that person is
required by or under this Act to pay
royalty in respect of the gold or
20 minerals and ending on the last day
of the next subsequent such period;
and
- 25 (c) where, during a period referred to
in paragraph (b) of this definition,
that person ceases to be entitled to
mine for gold or minerals on the
whole of the land the subject of the
mining title—the period commenc-
30 ing on the day after the last day of
the previous royalty period and
ending on the day on which that
person so ceased to be entitled.

- 35 (2) Where the Minister is satisfied, on an
application in writing made by the holder of a
mining title, that the value of minerals reserved to
the Crown won as a result of mining operations
carried on during a royalty period was less than
the appropriate amount, no royalty shall be pay-
able under this Act in respect of those minerals.

(c)

Mining (Amendment).

- (c) by inserting at the end of section one hundred and nine the following new subsection :—

Sec. 109.
(Registration of leases, etc.)

5 (9) The functions of the Registrar under this section may be performed by the Deputy Registrar, Department of Mines, Sydney.

- (d) (i) by inserting in the heading to section one hundred and thirteen after the word "*conditions*" the words "*or mining operations*";

Sec. 113.
(Holders of claims, etc., may apply.)

10 (ii) by omitting from subsection one of the same section the words "mining operations" and by inserting in lieu thereof the words "labour conditions or mining operations or both labour conditions and mining operations";

15 (iii) by omitting from subsection two of the same section the words "posted on the claim or on the land leased, and also outside the warden's office or the mining registrar's office nearest to the land in respect of which suspension is applied for," and by inserting in lieu thereof

20 the following words :—

"posted—

(a) by the applicant or applicants on the claim or on the land leased; and

25 (b) by the warden's clerk or the mining registrar whose office is nearest to the land in respect of which suspension is applied for, outside the office of that warden's clerk or that

30 mining registrar,";

- (iv) by inserting in the same subsection after the word "leases" the words "by the applicant or applicants";

(v)

Mining (Amendment).

(v) by omitting from subsection five of the same section the words "of labour conditions" and by inserting in lieu thereof the words "under this section";

5 (e) (i) by inserting next after subsection two of section 124A the following new subsection :— Sec. 124A.
(Complaint as to non-compliance with labour conditions.)

(2A) The Minister may—

10 (a) pay to the lessee, out of the sum so deposited, any costs recommended by the warden, under paragraph (a) of subsection five of this section, to be paid to the lessee; and

(b) refund to the complainant any balance after the payment of any such costs.

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

20 (5) (a) Where the lessee has entered an appearance, the warden may recommend that costs, not exceeding the amount deposited by the complainant, be allowed to the lessee.

25 (b) The warden shall announce in open court his finding on the complaint and the purport of his recommendation to the Minister.

9. Part VII of the Principal Act is amended by inserting next after subsection one of section one hundred and fifty-five the following new subsection :— Further amendment of Act No. 49, 1906.

30 (1A) Notwithstanding the provisions of paragraph (a) of subsection one of this section, where the compensation to be assessed is not in respect of the entry upon or occupation of, or proposed entry upon or occupation of, the surface of any land and there are (Part VII—Wardens' courts.)
Sec. 155.
(How compensation assessed.)
ten

Mining (Amendment).

ten or more persons who appear to the warden to be interested in the assessment of the compensation, the warden, instead of giving notice to any such person as required by that paragraph, may, by advertisement published in a newspaper circulating in the district where the land is situated, give notice of the time and place fixed for the assessment of the compensation and, where notice of any such assessment of compensation is so advertised, notice under that paragraph shall be deemed to have been given to every person appearing to the warden to be interested in the assessment.

10. (1) Where—

Validation.

- (a) an applicant for a lease, under the Principal Act, of or including Crown lands, or his nominee, carried on mining operations during the pendency of the application for the lease and before the commencement of the Mining (Amendment) Act, 1952; or
- (b) an applicant for a lease, under the Principal Act, of or including private lands, or his nominee, carried on mining operations during the pendency of the application for the lease and before the commencement of subsection (5B) of section fifty-seven of the Principal Act,
- the applicant or his nominee, as the case may be, shall, subject to subsections two and three of this section, be and be deemed always to have been liable to pay royalty on any gold or mineral won during that pendency and—
- (c) in the case of mining operations carried on on Crown lands, before the commencement of the Mining (Amendment) Act, 1952; or
- (d) in the case of mining operations carried on on private lands, before the commencement of subsection (5B) of section fifty-seven of the Principal Act,

at

Mining (Amendment).

at the rate that would have been payable on the gold or mineral had the gold or mineral been won from land the subject of an appropriate lease (not being a special lease) granted under the Principal Act at the time the gold or
 5 mineral was won.

(2) Where an applicant for a lease, under the Principal Act, of or including Crown lands, or his nominee, carried on mining operations, under which he won rutile, zircon or ilmenite, during the pendency of the application for the
 10 lease on or after the eighth day of April, one thousand nine hundred and forty-nine and before the commencement of this section, he shall be and be deemed always to have been liable, in respect of the rutile, zircon and ilmenite won by him from the Crown lands, to pay, instead of any other
 15 royalty, royalty at the rates specified in the following table :—

TABLE.

20	Where the mineral was won during the period commencing on 8th April, 1949, and ending on 31st May, 1955, the rate is—
	(a) in the case of rutile, ten shillings per ton; (b) in the case of zircon, two shillings and sixpence per ton; and (c) in the case of ilmenite, one shilling per ton.
25	Where the mineral was won during the period commencing on 1st June, 1955, and ending on 30th June, 1956, the rate is—
30	(a) in the case of rutile, fifteen shillings per ton; (b) in the case of zircon, two shillings and sixpence per ton; and (c) in the case of ilmenite, one shilling per ton.
35	Where the mineral was won during the period commencing on 1st July, 1956, and ending on 30th June, 1959, the rate is—
	(a) in the case of rutile, one pound ten shillings per ton; (b)

Mining (Amendment).

- (b) in the case of zircon, two shillings and sixpence per ton; and
- (c) in the case of ilmenite, one and one-half per centum of the value of the ilmenite, as determined by the Minister.

Where the mineral was won during the period commencing on 1st July, 1959, and ending on 30th June, 1966, the rate is—

- (a) in the case of rutile and zircon, one and one-half per centum of the value, f.o.b., of the rutile or zircon; and
- (b) in the case of ilmenite, one and one-half per centum of the value of the ilmenite, as determined by the Minister.

Where the mineral was won during the period commencing on 1st July, 1966, and ending on the day before this section commences, the rate is—

- (a) in the case of rutile and zircon, two per centum of the value, f.o.b., of the rutile or zircon; and
- (b) in the case of ilmenite, two per centum of the value of the ilmenite, as determined by the Minister.

(3) Where an applicant for a lease, under the Principal Act, of or including private lands, or his nominee, carried on mining operations, under which he won rutile or zircon, during the pendency of the application for the lease on or after the first day of July, one thousand nine hundred and sixty-six, and before the commencement of this section, he shall be and be deemed always to have been liable to pay, instead of any other royalty, royalty on the rutile or zircon won by him from the private lands at the rate of two per centum of the value, f.o.b., of the rutile or zircon.

(4)

Mining (Amendment).

(4) Any payments—

- (a) made out of royalties, referred to in subsection one of this section, in respect of mining operations for minerals (other than minerals reserved to the Crown) carried on on private lands; or
- (b) made out of royalties paid under subsection five or (5B) of section fifty-seven of the Principal Act as applied by section 70BC of the Principal Act to applications for leases under Division 4A of Part IV of the Principal Act or under subsection three of section ninety or section one hundred and one of the Principal Act, in respect of mining operations for minerals carried on by an applicant for a lease or dredging lease, as the case may be, or his nominee, under a consent granted before the commencement of this section,

and any deductions made from any such royalties (being payments or deductions that were made before the commencement of this section and that would have been valid had the royalties being paid in respect of minerals won under a lease granted under this Act at the time the mineral was won) are hereby validated and authorised.

11. (1) Where at the commencement of section ten of this Act an applicant for a lease under the Principal Act or his nominee is entitled with the consent of the Minister to mine for rutile or zircon, the consent shall as on and from that commencement be deemed to be varied so as to require the applicant or his nominee to pay, in respect of the rutile or zircon won by him from the land the subject of the application, royalty at the rate of two per centum of the value, f.o.b., of the rutile or zircon.

(2) Nothing in subsection one of this section prevents the Minister from exercising his powers under the Principal Act to revoke any consent referred to in that subsection and, in granting any further consent to the applicant or his nominee, to impose conditions for the payment of royalty at a rate different from the rate specified in that subsection.

Mining (Amendment).

12. Where, at the commencement of the amendment Pending
made by paragraph (a) of section five of this Act, there is applications
pending any application for an authority to enter or for a for authori-
lease that would have been valid had the amendment made ties to enter
5 by that paragraph been in force when the application was private lands.
made, that application may be dealt with and completed, and
an authority to enter or a lease, as the case may be, may be
granted pursuant thereto as if the lands the subject of the
application had been private lands at the date of the
10 application.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 67, 1967.

An Act to amend the law relating to mining; to validate certain matters; for this and other purposes to amend the Mining Act, 1906, and certain other Acts; and for purposes connected therewith.
[Assented to, 7th December, 1967.]

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, 1967".

Short title,
citation and
commence-
ment.

(2)

Mining (Amendment).

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

(3) The Principal Act, as amended by this Act, may be cited as the Mining Act, 1906–1967.

(4) Subject to subsections five and six of this section, this Act shall commence upon such day or days as may be appointed in respect thereof and notified by proclamation published in the Gazette.

(5) Section ten of this Act shall commence upon the day upon which the assent of Her Majesty to this Act is signified.

(6) The amendments made by—

- (a) subparagraphs (i) and (ii) of paragraph (i) of section five of this Act shall be deemed to have commenced on the day upon which the Mining (Amendment) Act, 1952, commenced; and
- (b) subparagraphs (iii) and (iv) of that paragraph shall be deemed to have commenced on the day upon which subsection six of section 70c of the Principal Act commenced.

Amendment
of Act No.
49, 1906.

(Part I—
Prelimi-
nary.)

Sec. 3.
(Interpre-
tation.)

2. Part I of the Principal Act is amended—

- (a) (i) by omitting from the definition of “Adjoining” in subsection one of section three the words “or stream” and by inserting in lieu thereof the words “, stream or railway”;
- (ii) by omitting from the definition of “Mining surveyor” in the same subsection the words “Surveyors Act, 1929–1946, and who is specially appointed to carry out surveys under this Act” and by inserting in lieu thereof the words “Surveyors Act, 1929, as amended by subsequent Acts”;

(iii)

Mining (Amendment).

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

“Value, f.o.b.”, in relation to a mineral, means such amount as is determined by the Minister as being the value, f.o.b., of the mineral at such port in Australia as the Minister determines.

(iv) by omitting from subsection two of the same section the words “that is contiguous to the State of New South Wales and is outside the land beneath the territorial waters of that State” and by inserting in lieu thereof the words “(within the meaning of the Convention entitled ‘Convention on the Continental Shelf’ signed at Geneva on the twenty-ninth day of April, one thousand nine hundred and fifty-eight and to which Australia is a party) that is adjacent to the State of New South Wales”;

(b) by omitting from subsection one of section six the words “mining surveyors,”; Sec. 6.
(Governor may appoint officers.)

(c) by omitting from section seven the word “surveyor,”. Sec. 7.
(Minister or officer not to be interested in any mining venture.)

3. Part II of the Principal Act is amended—

Further amendment of Act No. 49, 1906.
(Part II—Miners’ rights and business licenses.)

(a) by inserting in paragraph (e) of subsection one of section fourteen after the words “authority to prospect” wherever occurring the words “or exploration license”;

Sec. 14.
(Certain exemptions.)

(b)

Mining (Amendment).

Sec. 17.
(Authority
to prospect
on Crown
lands.)

- (b) (i) by inserting in subsection one of section seventeen after the word "Act" where secondly occurring the words "(not being an exploration license held by the applicant)";
- (ii) by inserting in the same subsection after the word "license" where secondly occurring the words "or of an application for a lease of Crown lands under this Act";
- (iii) by omitting from the same subsection the words "or for such exploration license";
- (iv) by inserting next after subsection two of the same section the following new subsection :—

(2A) (a) If more than one application is made for an authority to prospect on the same lands the application of the person who has first taken possession shall be first considered and dealt with, and so on, according to priority of possession.

(b) For the purposes of this subsection "possession" means the act of erecting a datum post, and forthwith taking possession in the manner prescribed by the regulations: Provided that where, under the regulations, a datum post is not required to be erected, the time of taking possession shall be deemed to be the time at which the application is lodged.

- (v) by inserting next after subsection six of the same section the following new subsection :—

(6A) Without limiting the generality of subsection six of this section, the Minister may refuse to grant an authority to prospect for gold or any mineral on any Crown lands if those lands are the subject of a pending application for an authority to prospect made by a person who, when he made the application, was the holder of an exploration license over those lands.

(vi)

Mining (Amendment).

- (vi) by omitting from paragraph (b) of subsection seven of the same section the words “, with the consent in writing of the applicant,”;
- (vii) by inserting next after subsection eight of the same section the following new subsections :—

(8A) Where an application is made for the renewal or further renewal of an authority to prospect and the application has not been granted or refused before the date on which the period of the authority to prospect or renewed authority to prospect would, but for this subsection, expire (which date is in this subsection referred to as the date of expiry), the period of the authority to prospect or renewed authority to prospect shall be deemed to be extended until the application is granted or refused and the Minister may grant or refuse the application after the date of the expiry of the authority to prospect or renewed authority to prospect.

During the period that the authority to prospect or renewed authority to prospect is deemed to be extended under this subsection, the provisions of this Act applicable to authorities to prospect and the holders thereof shall apply to and in respect of the authority to prospect or renewed authority to prospect, and to the holder thereof.

(8B) Every authority to prospect granted after the commencement of this subsection shall be deemed to be granted subject to the condition that the person to whom it is granted shall execute it within a period of one month after his being notified in writing by the Under Secretary of the grant of the authority to prospect or within such further period as the

Under

Mining (Amendment).

Under Secretary may allow either before or after the expiration of that period of one month.

(8C) Where the application for an authority to prospect is made after the commencement of this subsection by two or more persons, and one or more of those persons fails or fail to execute the authority to prospect in compliance with the condition referred to in subsection (8B) of this section, the Minister may, if he thinks fit, cause the authority to prospect to be issued to such of the applicants as have executed it, and in that case the authority to prospect shall be valid and effectual in favour of those applicants.

Further
amendment
of Act No.
49, 1906.

(Part III—
Leases of
Crown
lands.)

Sec. 23.
(Governor
may grant
leases.)

4. Part III of the Principal Act is amended—

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

(bi) Crown lands held under an authority to prospect or an exploration license, or the subject of an application for an authority to prospect or an exploration license, shall not be leased to any person other than the holder of the authority to prospect or exploration license or the applicant for the authority or license, except with the written consent of the holder of, or the applicant for, the authority or license, as the case may be, if, in the case of an application for an
authority

Mining (Amendment).

authority to prospect or exploration license, the application was made before the marking out of the land the subject of an application for a lease under this Part.

- (b) by inserting next after subsection three of section twenty-seven the following new subsection :— Sec. 27.
(Irregular application may be granted.)
- (3A) Without limiting the generality of subsection three of this section, the Governor may refuse to grant to a person a lease of Crown lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an authority to prospect on, or an exploration license over, those lands.
- (c) (i) by inserting in subsection four of section thirty after the word “applicant” the words “or his nominee”; Sec. 30.
(When application pending.)
- (ii) by inserting in the same subsection after the word “shall” the words “, subject to any conditions imposed by the Minister under paragraph (a) of section twenty-eight of this Act,”;
- (iii) by omitting from the same subsection the words “lease granted after the commencement of the Mining (Amendment) Act, 1952” and by inserting in lieu thereof the words “lease under this Part (not being a special lease or a renewal of a lease) granted at the time the gold or mineral was won”;
- (iv) by inserting at the end of the same section the following new subsections :—
- (5) Where, at the commencement of section ten of the Mining (Amendment) Act, 1967, an applicant for a lease under this Part, or his nominee, is entitled under subsection two of section four of the Mining (Amendment) Act, 1963, to mine during the pendency of the application he shall, on and from that commencement,

Mining (Amendment).

commencement, pay royalty at the prescribed rate on any gold or mineral won by him from the land the subject of the application.

(6) In subsection five of this section, the "prescribed rate" means—

- (a) in the case of rutile or zircon, the rate of two per centum of the value, f.o.b., or such other rate as may from time to time be fixed by the Minister instead of the firstmentioned rate and specified in a notification published in the Gazette;
- (b) in the case of gold or any other mineral, such rate as may from time to time be fixed by the Minister and specified in a notification published in the Gazette.

Sec. 36.
(Gold and
mineral
leases—
rent and
royalty.)

- (d) (i) by inserting in paragraph (a) of subsection (2D) of section thirty-six after the words "royalty shall" the words ", subject to section 108c of this Act,";
- (ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of leases of Crown lands, authorising mining for minerals reserved to the Crown, granted at the time when that lease is granted";
- (iii) by omitting from paragraph (b) of the same subsection the words "one and one-half" and by inserting in lieu thereof the word "two";
- (iv) by inserting at the end of the same section the following new subsection :—

(7) The provisions of subsection five of this section apply to the payment of royalties in respect of gold or minerals won by an applicant for a lease under this Part, or his nominee, carrying on mining operations during
the

Mining (Amendment).

the pendency of the application as if the payment were due in respect of gold or minerals won under such a lease granted at the time the gold or minerals were won.

- (e) (i) by omitting from paragraph (a) of subsection four of section 39D the word "shall" and by inserting in lieu thereof the words "in respect of leases under this Division at the time when that lease is granted shall, subject to section 108c of this Act,"; Sec. 39D.
(Application
for lease.)
- (ii) by omitting from paragraph (b) of the same subsection the words "one and three-quarters" and by inserting in lieu thereof the word "two";
- (iii) by inserting next after paragraph (d) of the same subsection the following new paragraph :—
- (di) In respect of any lease granted, or application for a lease made, on or after the day upon which this paragraph commences, the provisions of paragraph (d) of this subsection shall be deemed to be amended by omitting the word "one-seventh" and by inserting in lieu thereof the word "one-eighth".
- (iv) by inserting in paragraph (e) of the same subsection after the words "(d) of this subsection" wherever occurring the words ", or of that paragraph, as deemed to be amended by paragraph (di) of this subsection,";
- (v) by inserting next after paragraph (f) of the same subsection the following new paragraph :—
- (g) The provisions of paragraph (f) of this subsection apply to the payment of royalties in respect of coal or shale not reserved to the Crown won by an applicant for a lease under this

Mining (Amendment).

this Part, or his nominee, carrying on mining operations during the pendency of the application as if the payment were due in respect of coal or shale not reserved to the Crown won under such a lease granted at the time the coal or shale was won.

Further amendment of Act No. 49, 1906.
(Part IV—Mining on private lands.)

5. Part IV of the Principal Act is amended—

Sec. 45.
(Interpretation.)

- (a) by omitting from section forty-five the definition of “Private lands” and by inserting in lieu thereof the following definition :—

“Private lands” means lands other than Crown lands but does not include lands held under a lease granted under Part III, Part V or this Part of this Act.

Sec. 46.
(For gold and other metals.)

- (b) (i) by omitting subsection (2c) of section forty-six ;
- (ii) by inserting in subsection three of the same section after the word “mineral” where firstly occurring the words “or to carry on operations under an exploration license” ;
- (iii) by inserting in the same subsection after the word “repealed” where firstly occurring the words “, or in respect of land the subject of an application for an exploration license made before the time of the making of the application for the authority to enter” ;

(c)

Mining (Amendment).

- (c) (i) by inserting next after paragraph (a) of subsection two of section fifty the following new paragraph :— Sec. 50.
(Warden may grant authority.)
- (ai) if the land applied for is the subject of an authority to enter in force or of an application for a lease under this Part;
- (ii) by inserting at the end of the same subsection the following new paragraph :—
- (e) if the land is the subject of another pending application for an authority to enter made by a person who, when he made the application, was the holder of an exploration license over that land.
- (d) (i) by omitting from subsection one of section fifty-two the words “while it is in force and”; Sec. 52.
(Duration and extension of authority.)
- (ii) by inserting next after the same subsection the following new subsection :—

(1A) Where an application is made for the extension or further extension of an authority to enter and the application has not been granted or refused before the date on which the period of the authority to enter or extension would but for this subsection expire (which date is in this subsection referred to as the date of expiry), the period of the authority to enter or extension shall be deemed to be extended until the application is granted or refused and the warden may grant or refuse the application after the date of the expiry of the authority or extension.

During the time that the authority to enter or extension is deemed to be extended under this subsection, the provisions of this Act applicable to authorities to enter and the holders thereof shall apply to and in respect of the authority to enter or extension, as so extended, and to the holder thereof.

(iii)

Mining (Amendment).

Sec. 57.
(Power to
define
boundaries.)

- (iii) by omitting from subsection two of the same section the word "duplicate" and by inserting in lieu thereof the words "the prescribed manner";
- (e) (i) by inserting in subsection (5B) of section fifty-seven after the word "applicant" the words "or his nominee";
- (ii) by inserting in the same subsection after the word "shall" the words ", subject to any conditions imposed by the Minister under subsection five of this section,";
- (iii) by omitting subsection six of the same section and by inserting in lieu thereof the following subsections :—

(6) Except in the prescribed circumstances, every application for a lease shall be accompanied by the prescribed survey fee.

(7) Where the Minister is of opinion that a survey is unnecessary for the purposes of any such application, or that the cost of the survey is less than the prescribed survey fee lodged by the applicant for the lease, he may refund to such applicant the whole, or such part as he thinks fit, of any prescribed survey fee paid by such applicant.

(8) Where, at the commencement of section ten of the Mining (Amendment) Act, 1967, an applicant for a lease under this Part, or his nominee, is entitled under subsection two of section five of the Mining (Amendment) Act, 1963, to mine during the pendency of the application he shall, on and from that commencement, pay, in respect of any gold or mineral won by him from the land the subject of the application, royalty on the gold or mineral at the prescribed rate.

(9)

Mining (Amendment).

- (9) In subsection eight of this section, the "prescribed rate" means—
- (a) in the case of rutile or zircon the rate of two per centum of the value, f.o.b., or such other rate as may from time to time be fixed by the Minister instead of the firstmentioned rate and specified in a notification published in the Gazette;
 - (b) in the case of gold or any other mineral such rate as may from time to time be fixed by the Minister and specified in a notification published in the Gazette.
- (f) by inserting at the end of section fifty-eight the following new subsection :—
- Sec. 58.
(Power to refuse, &c.)
- (4) Without limiting the generality of this section, the Governor may refuse to grant to a person a lease of private lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an exploration license over those lands.
- (g) by inserting in subsection one of section sixty-eight after the word "Part" where firstly occurring the words "or not held under, or the subject of an application for, an exploration license";
- Sec. 68.
(Prospecting by owner or occupier.)
- (h) by inserting in subsection one of section 70BA after the word "Act," the words "or are not held under, or the subject of an application for, an exploration license";
- Sec. 70BA.
(Application for lease by owner of land and minerals.)
- (i) (i) by inserting in subparagraph (i) of paragraph (a) of subsection five of section 70C after the words "per centum" where firstly occurring the words "of the gross value";
- Sec. 70C.
(Royalty payable.)
- (ii)

Mining (Amendment).

- (ii) by omitting from the same subparagraph the words "such rate per centum as may be prescribed" and by inserting in lieu thereof the words "an amount calculated at such rate as may be prescribed in respect";
- (iii) by inserting in paragraph (a) of subsection six of the same section after the word "subsection" where firstly occurring the words "and before the commencement of section 70CA of this Act";
- (iv) by inserting in subparagraph (i) of paragraph (a) of the same subsection after the words "per centum" the words "of the gross value";
- (v) by inserting in the same subparagraph after the word "prescribed" the words "in respect";
- (vi) by inserting at the end of the same section the following new subsection :—

(8) The provisions of subsections two and four of this section or of those subsections, as amended by subsection five or six of this section, as the case may require, apply, in respect of minerals won before the commencement of section 70CA of this Act, to royalties paid, and to the payment of royalties, by an applicant for a lease under this Division, or his nominee, carrying on mining operations during the pendency of the application as if the royalties were paid or the payment were due in respect of minerals won under such a lease granted at the time the minerals were won.

New sec.
70CA.

- (j) by inserting next after section 70c the following new section :—

Royalty payable on authorities and leases granted after commencement of this section.

70CA. (1) In respect of any authority or lease granted under this Division after the commencement of this section, the holder of the authority or the lessee, as the case may be, shall at the times and in the manner prescribed pay to the Minister

on

Mining (Amendment).

on behalf of the owner of the minerals included in the authority or lease a sum calculated at such rate, in respect of all minerals won from the land, as may be prescribed in respect of leases of private lands, authorising mining for minerals not reserved to the Crown, granted at the time when that authority or lease is granted :

Provided that upon any renewal of a lease under this Division the Governor may in respect of such renewal vary the amount payable by way of royalty under this subsection in such manner as he may determine.

(2) The Minister shall at the times and in the manner prescribed pay to the owner of the minerals the sum paid as aforesaid less one-eighth of that sum, which he is hereby authorised to deduct from that sum; and the amounts so deducted shall be paid by the Minister to the Treasurer and carried to the Consolidated Revenue Fund.

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

(4) The lessee may deduct from the sum payable under subsection one of this section in any one year to the Minister on behalf of the owner of the minerals a sum equal to the amount paid by him to such owner in accordance with the provisions of subsection three of section 70BC of this Act as rent for that year.

(5) The regulations may prescribe rates for the purposes of subsection one of this section according to percentage of the value of the 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

Mining (Amendment).

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 two 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 twenty cents per ton.

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

(6) The provisions of subsections two and four of this section apply, in respect of minerals won on or after the commencement of this section, to royalties paid, and to the payment of royalties, by an applicant for a lease under this Division, or his nominee, carrying on mining operations during the pendency of the application as if the royalties were paid or the payment were due in respect of minerals won under such a lease granted at the time the minerals were won.

Sec. 70F.
(Governor
may grant
special
leases of
private
lands.)

- (k) (i) by omitting from subsection four of section 70F the words "The Minister shall at the times and in the manner prescribed pay to the owner of such minerals the sum paid under paragraph (b) of this subsection less one-seventh of such sum 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.

Where any private land the subject of a lease under this section and the minerals for which the lessee is pursuant to such lease entitled to mine in or upon such land are privately owned and in the same ownership, and the royalty payable in respect of such minerals by the lessee during any one year exceeds

Mining (Amendment).

exceeds the rent paid for such year in respect of such land, the amount paid as rent as aforesaid may be deducted from such sum payable as royalty; but if the 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."

- (ii) by inserting next after the same subsection the following new subsections :—

(4A) Where royalty is paid under subsection four of this section in respect of minerals, not reserved to the Crown, that have been won from lands so leased the Minister shall at the times and in the manner prescribed—

- (a) pay, where the lease was granted before the commencement of this subsection, to the owner of the minerals the sum paid under paragraph (b) of subsection four of this section, less one-seventh of that sum (which the Minister is hereby authorised to deduct from that sum) ;
- (b) pay, where the lease was granted on or after the commencement of this subsection, to the owner of the minerals the sum paid under paragraph (b) of subsection four of this section, less one-eighth of that sum (which the Minister is hereby authorised to deduct from that sum) ; and
- (c) pay the amounts deducted by him under paragraph (a) or (b) of this subsection to the Treasury to be carried to the Consolidated Revenue Fund.

Mining (Amendment).

(4B) The provisions of subsection (4A) of this section apply, in respect of minerals won on or after the commencement of this section, to royalties paid by an applicant for a special lease under this Division, or his nominee, carrying on operations during the pendency of the application as if the royalties were paid in respect of minerals won under such a lease granted at the time the minerals were won.

Sec. 82.
(Amount.)

- (1) (i) by inserting in paragraph (a) of subsection (2A) of section eighty-two after the word "shall" the words ", subject to section 108c of this Act,";
- (ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of leases of private lands, authorising mining for minerals reserved to the Crown, granted at the time when that authority or lease, as the case may be, was granted".

Further
amendment
of Act No.
49, 1906.
(Part IVA—
Exploration
licenses.)

6. Part IVA of the Principal Act is amended—

Sec. 83B.
(Exploration
licenses.)

- (a) (i) by inserting at the end of paragraph (a) of subsection one of section 83B the word "or";
- (ii) by omitting paragraph (c) of the same subsection;
- (iii) by inserting next after the same subsection the following new subsections :—

(1A) An exploration license for the purpose of prospecting in or on land included in an existing exploration license shall not be granted to a person other than the holder of the existing exploration license except on the recommendation of the prospecting board.

(1B)

Mining (Amendment).

(1B) An exploration license for the purpose of prospecting in or on land—

- (a) for gold (whether alone or together with minerals) shall not be granted if there is in force an existing exploration license for the purpose of prospecting for gold (whether alone or together with minerals) in or on that land; or
 - (b) for any mineral (whether alone or together with any other mineral) shall not be granted if there is in force an existing exploration license for the purpose of prospecting for that first-mentioned mineral (whether alone or together with any other mineral).
- (iv) by omitting from paragraph (a) of subsection three of the same section the words “twenty cents” and by inserting in lieu thereof the words “fifty cents”;
- (v) by omitting from paragraph (a) of subsection ten of the same section the words “, with the consent in writing of the applicant therefor,”;
- (vi) by inserting at the end of the same subsection the following new paragraph :—
- (g) if he is of opinion, after investigation and report by the Chief Inspector of Mines appointed under the Mines Inspection Act, 1901, as amended by subsequent Acts, or by the Chief Inspector of Coal Mines appointed under the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, that the cancellation of an exploration license as to part of the land included in the license will not detrimentally affect the operations, or proposed operations,

Mining (Amendment).

operations, of the holder of the exploration license, cancel the exploration license as to that part.

- (vii) by inserting at the end of subsection seventeen of the same section the following new proviso :—

Provided that where the holder of any such authority applies during the term of the authority for a lease of any lands included in the area that is the subject of the authority this subsection shall not apply to that area unless and until the application is refused.

New sec.
83BA.

- (b) by inserting next after section 83B the following new section :—

Lands held
under two
or more
exploration
licenses.

83BA. (1) Where the holder of an exploration license applies during the currency of the license for an authority to enter, an authority to prospect or a lease in respect of any lands over which the license is in force, and there is in force in respect of those lands one or more other exploration licenses, the Minister shall cause notice of the application to be served on the holder of that other exploration license or the holders of those other exploration licenses, as the case may be.

(2) The holder of an exploration license on whom a notice has been served under subsection one of this section may, within the prescribed period after the service on him of the notice, by instrument in writing served on the Minister and setting out the grounds of his objection, object to the grant of the application referred to in the notice.

(3) Where the holder of an exploration license objects, in accordance with subsection two of this section, to the grant of the application referred to in the notice served on him, the Minister shall refer the application and objection to the warden for inquiry and report.

(4)

Mining (Amendment).

(4) The Minister may, after considering the report of the warden and such other information as he thinks relevant—

- (a) in the case of an application for an authority to enter, direct the warden to grant or refuse the application or direct the warden to grant the application subject to such conditions as the Minister specifies in the direction;
- (b) in the case of an application for an authority to prospect, grant or refuse the application or grant the application subject to such conditions as he thinks fit; or
- (c) in the case of an application for a lease, recommend to the Governor that the application be granted or refused or that the application be granted subject to such conditions as may be specified in the recommendation.

(5) The warden shall comply with any direction given to him under paragraph (a) of subsection four of this section.

(6) A lease shall not be granted on an application referred to in subsection one of this section otherwise than in accordance with any recommendation with respect to that application made by the Minister under paragraph (c) of subsection four of this section.

(7) Where an authority to enter, an authority to prospect or a lease in respect of any lands is granted on an application made under subsection one of this section, the Minister shall, upon that grant being made, cancel any exploration license to the extent that it is in force over those lands.

(8)

Mining (Amendment).

(8) A notice referred to in subsection one of this section may be served—

- (a) by delivering it to the person to whom it is directed; or
- (b) by sending it by certified mail to the person to whom it is addressed at his last known place of abode or business,

and, where it is served in accordance with paragraph (b) of this subsection, shall be deemed to be served when it would have been delivered to the person to whom it is addressed in the ordinary course of post.

Sec. 83I.
(Compensation before commencement of operations on private lands covered by exploration license.)

- (c) by inserting in subsection one of section 83I after the word "operations" where secondly occurring the words "notify the owner and occupier, if any, of the private lands of his intention to carry out the surveys or operations and".

Further amendment of Act No. 49, 1906.
(Part V—Dredging leases.)

7. Part V of the Principal Act is amended—

Sec. 86.
(Governor may grant leases for purposes of mining by dredging, &c., and of what lands.)

- (a) by omitting from subsection one of section eighty-six the words "held under or by virtue of any Act relating to mining, or land in or upon which any bona fide mining operations are being carried on by or with the concurrence of the owner" and by inserting in lieu thereof the words "in or upon which any bona fide mining operations are being carried on by or with the concurrence of the owner or land held under or by virtue of any Act relating to mining, other than land comprised in an exploration license held by the applicant";

(b)

Mining (Amendment).

- (b) (i) by inserting in subsection three of section ninety after the word "applicant" the words "or his nominee"; Sec. 90.
(Applications for leases to be made to warden and forwarded to Minister.)
- (ii) by inserting in the same subsection after the word "shall" the words ", subject to any conditions imposed by the Minister under section one hundred and one of this Act,";
- (c) (i) by inserting in paragraph (b) of subsection two of section ninety-eight after the word "shall" the words ", subject to section 108c of this Act,"; Sec. 98.
(Rent and royalty.)
- (ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of dredging leases granted at the time when that lease was granted";
- (iii) by omitting from paragraph (c) of the same subsection the words "The provisions" where secondly occurring and by inserting in lieu thereof the words "In respect of a dredging lease granted before the commencement of subparagraph (iii) of paragraph (c) of section seven of the Mining (Amendment) Act, 1967, the provisions";
- (iv) by inserting at the end of the same paragraph the following new paragraph :—
- In respect of a dredging lease granted on or after the commencement of subparagraph (iv) of paragraph (c) of section seven of the Mining (Amendment) Act, 1967, the provisions of subsection five of section 70CA shall apply to and in respect of regulations prescribing rates of royalty payable under this subsection in respect of minerals not reserved to the Crown.

(v)

Mining (Amendment).

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

(b) The Minister shall at the times and in the manner prescribed pay to the owner of the minerals the sum so paid as royalty in respect of the minerals less—

(i) where the royalty is paid in respect of minerals won from lands held under a lease granted before the commencement of this paragraph—one-seventh of the sum so paid (which the Minister is hereby authorised to deduct from that sum); or

(ii) where the royalty is paid in respect of minerals won from lands held under a lease granted on or after that commencement—one-eighth of the sum so paid (which the Minister is hereby authorised to deduct from that sum),

and shall pay the amounts deducted by him under this paragraph to the Treasury to be carried to the Consolidated Revenue Fund.

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

(4) The provisions of paragraph (e) of subsection two and paragraph (b) of subsection three of this section apply to the payment of royalties, and royalties paid, in respect of gold or minerals by an applicant for a dredging lease, or his nominee, carrying on mining operations during the pendency of the application as if the payment were due or the royalties were paid in respect of gold or minerals won under such a lease granted at the time the gold or minerals were won.

(d)

Mining (Amendment).

- (d) by inserting next after subsection (2A) of section ninety-nine the following new subsection :—
- (2B) Without limiting the generality of the preceding provisions of this section, the Governor may refuse to grant to a person a lease of lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an exploration license over those lands.
- Sec. 99.
(No obligation to grant lease.)

8. Part VI of the Principal Act is amended—

Further amendment of Act No. 49, 1906.
(Part VI—Tenements and leases generally.)

- (a) by inserting in subsection one of section 108B after the word “Act” where thirdly occurring the words “(other than section 108c of this Act)”;
- (b) by inserting next after section 108B the following new sections :—
- Sec. 108B.
(Royalty on leases comprising land previously leased.)
- New secs. 108c, 108d.

108c. (1) Notwithstanding any other provision of this Act, where a lease is granted on and after the commencement of this section for a period exceeding ten years, the Governor may, at any time after the expiration of a period of ten years from the date on which the lease was granted, review the rate of royalty payable by the lessee in respect of gold or minerals won under the lease and may vary the rate so payable.

Review of royalties.

(2) The lessee shall pay the royalty at the rate as so varied and the variation shall take effect upon notice of the variation, signed by the Under Secretary of the Department of Mines, or an officer of that Department acting on his behalf, being sent by certified mail to the lessee at his last known place of abode or business.

(3)

Mining (Amendment).

(3) Royalty payable under subsection one of this section shall be paid at the times and in the manner prescribed.

(4) Not more than one review of the rate of royalty payable by a lessee in respect of gold or minerals won under the lease shall be made under subsection one of this section during the term of the lease.

Exemption
from
royalty in
certain
cases.

108D. (1) In this section—

“Appropriate amount”, in relation to a royalty period, means—

- (a) where the royalty period is twelve months—two thousand dollars; and
- (b) where the royalty period is less than twelve months—such amount as bears to two thousand dollars the same proportion as the number of days in the royalty period bears to three hundred and sixty-five.

“Mining operations” means mining operations carried on—

- (a) on a parcel of land the subject of or comprised in a mining title held by a person who does not hold any other mining title; or
- (b) on two or more parcels of land the subject of mining titles held by the same person, each of which parcels adjoins the other or another of those parcels.

“Mining title” means an authority to prospect, authority to enter, lease or right to mine during the pendency of an application for a lease.

“Royalty

Mining (Amendment).

“Royalty period”, in relation to royalty payable under this Act in respect of gold or minerals won by a person under a mining title, means—

- (a) the period commencing on the day on which that person first became entitled, pursuant to the mining title, to mine for gold or the minerals in respect of which the royalty is payable and ending on the last day of the first period in respect of which that person is required by or under this Act to pay royalty in respect of the gold or minerals;
- (b) the period commencing on the day after the last day of any period in respect of which that person is required by or under this Act to pay royalty in respect of the gold or minerals and ending on the last day of the next subsequent such period; and
- (c) where, during a period referred to in paragraph (b) of this definition, that person ceases to be entitled to mine for gold or minerals on the whole of the land the subject of the mining title—the period commencing on the day after the last day of the previous royalty period and ending on the day on which that person so ceased to be entitled.

(2) Where the Minister is satisfied, on an application in writing made by the holder of a mining title, that the value of minerals reserved to the Crown won as a result of mining operations carried on during a royalty period was less than the appropriate amount, no royalty shall be payable under this Act in respect of those minerals.

(c)

Mining (Amendment).

Sec. 109.
(Registration of
leases, etc.)

- (c) by inserting at the end of section one hundred and nine the following new subsection :—

(9) The functions of the Registrar under this section may be performed by the Deputy Registrar, Department of Mines, Sydney.

Sec. 113.
(Holders of
claims, etc.,
may apply.)

- (d) (i) by inserting in the heading to section one hundred and thirteen after the word "*conditions*" the words "*or mining operations*";

- (ii) by omitting from subsection one of the same section the words "*mining operations*" and by inserting in lieu thereof the words "*labour conditions or mining operations or both labour conditions and mining operations*";

- (iii) by omitting from subsection two of the same section the words "*posted on the claim or on the land leased, and also outside the warden's office or the mining registrar's office nearest to the land in respect of which suspension is applied for,*" and by inserting in lieu thereof the following words :—

"posted—

- (a) by the applicant or applicants on the claim or on the land leased;
and

- (b) by the warden's clerk or the mining registrar whose office is nearest to the land in respect of which suspension is applied for, outside the office of that warden's clerk or that mining registrar,";

- (iv) by inserting in the same subsection after the word "*leases*" the words "*by the applicant or applicants*";

(v)

Mining (Amendment).

- (v) by omitting from subsection five of the same section the words "of labour conditions" and by inserting in lieu thereof the words "under this section";
- (e) (i) by inserting next after subsection two of section 124A the following new subsection :—
- Sec. 124A.
(Complaint as to non-compliance with labour conditions.)
- (2A) The Minister may—
- (a) pay to the lessee, out of the sum so deposited, any costs recommended by the warden, under paragraph (a) of subsection five of this section, to be paid to the lessee; and
- (b) refund to the complainant any balance after the payment of any such costs.
- (ii) by omitting subsection five of the same section and by inserting in lieu thereof the following subsection :—
- (5) (a) Where the lessee has entered an appearance, the warden may recommend that costs, not exceeding the amount deposited by the complainant, be allowed to the lessee.
- (b) The warden shall announce in open court his finding on the complaint and the purport of his recommendation to the Minister.
9. Part VII of the Principal Act is amended by inserting next after subsection one of section one hundred and fifty-five the following new subsection :—
- Further amendment of Act No. 49, 1906.
(Part VII—Wardens' courts.)
Sec. 155.
(How compensation assessed.)
- (1A) Notwithstanding the provisions of paragraph (a) of subsection one of this section, where the compensation to be assessed is not in respect of the entry upon or occupation of, or proposed entry upon or occupation of, the surface of any land and there are
- ten

Mining (Amendment).

ten or more persons who appear to the warden to be interested in the assessment of the compensation, the warden, instead of giving notice to any such person as required by that paragraph, may, by advertisement published in a newspaper circulating in the district where the land is situated, give notice of the time and place fixed for the assessment of the compensation and, where notice of any such assessment of compensation is so advertised, notice under that paragraph shall be deemed to have been given to every person appearing to the warden to be interested in the assessment.

Validation.

10. (1) Where—

- (a) an applicant for a lease, under the Principal Act, of or including Crown lands, or his nominee, carried on mining operations during the pendency of the application for the lease and before the commencement of the Mining (Amendment) Act, 1952; or
- (b) an applicant for a lease, under the Principal Act, of or including private lands, or his nominee, carried on mining operations during the pendency of the application for the lease and before the commencement of subsection (5B) of section fifty-seven of the Principal Act,

the applicant or his nominee, as the case may be, shall, subject to subsections two and three of this section, be and be deemed always to have been liable to pay royalty on any gold or mineral won during that pendency and—

- (c) in the case of mining operations carried on on Crown lands, before the commencement of the Mining (Amendment) Act, 1952; or
- (d) in the case of mining operations carried on on private lands, before the commencement of subsection (5B) of section fifty-seven of the Principal Act,

at

Mining (Amendment).

at the rate that would have been payable on the gold or mineral had the gold or mineral been won from land the subject of an appropriate lease (not being a special lease) granted under the Principal Act at the time the gold or mineral was won.

(2) Where an applicant for a lease, under the Principal Act, of or including Crown lands, or his nominee, carried on mining operations, under which he won rutile, zircon or ilmenite, during the pendency of the application for the lease on or after the eighth day of April, one thousand nine hundred and forty-nine and before the commencement of this section, he shall be and be deemed always to have been liable, in respect of the rutile, zircon and ilmenite won by him from the Crown lands, to pay, instead of any other royalty, royalty at the rates specified in the following table :—

TABLE.

Where the mineral was won during the period commencing on 8th April, 1949, and ending on 31st May, 1955, the rate is—

- (a) in the case of rutile, ten shillings per ton;
- (b) in the case of zircon, two shillings and sixpence per ton; and
- (c) in the case of ilmenite, one shilling per ton.

Where the mineral was won during the period commencing on 1st June, 1955, and ending on 30th June, 1956, the rate is—

- (a) in the case of rutile, fifteen shillings per ton;
- (b) in the case of zircon, two shillings and sixpence per ton; and
- (c) in the case of ilmenite, one shilling per ton.

Where the mineral was won during the period commencing on 1st July, 1956, and ending on 30th June, 1959, the rate is—

- (a) in the case of rutile, one pound ten shillings per ton;

(b)

Mining (Amendment).

- (b) in the case of zircon, two shillings and sixpence per ton; and
- (c) in the case of ilmenite, one and one-half per centum of the value of the ilmenite, as determined by the Minister.

Where the mineral was won during the period commencing on 1st July, 1959, and ending on 30th June, 1966, the rate is—

- (a) in the case of rutile and zircon, one and one-half per centum of the value, f.o.b., of the rutile or zircon; and
- (b) in the case of ilmenite, one and one-half per centum of the value of the ilmenite, as determined by the Minister.

Where the mineral was won during the period commencing on 1st July, 1966, and ending on the day before this section commences, the rate is—

- (a) in the case of rutile and zircon, two per centum of the value, f.o.b., of the rutile or zircon; and
- (b) in the case of ilmenite, two per centum of the value of the ilmenite, as determined by the Minister.

(3) Where an applicant for a lease, under the Principal Act, of or including private lands, or his nominee, carried on mining operations, under which he won rutile or zircon, during the pendency of the application for the lease on or after the first day of July, one thousand nine hundred and sixty-six, and before the commencement of this section, he shall be and be deemed always to have been liable to pay, instead of any other royalty, royalty on the rutile or zircon won by him from the private lands at the rate of two per centum of the value, f.o.b., of the rutile or zircon.

(4)

Mining (Amendment).

(4) Any payments—

- (a) made out of royalties, referred to in subsection one of this section, in respect of mining operations for minerals (other than minerals reserved to the Crown) carried on on private lands; or
- (b) made out of royalties paid under subsection five or (5B) of section fifty-seven of the Principal Act as applied by section 70BC of the Principal Act to applications for leases under Division 4A of Part IV of the Principal Act or under subsection three of section ninety or section one hundred and one of the Principal Act, in respect of mining operations for minerals carried on by an applicant for a lease or dredging lease, as the case may be, or his nominee, under a consent granted before the commencement of this section,

and any deductions made from any such royalties (being payments or deductions that were made before the commencement of this section and that would have been valid had the royalties being paid in respect of minerals won under a lease granted under this Act at the time the mineral was won) are hereby validated and authorised.

11. (1) Where at the commencement of section ten of this Act an applicant for a lease under the Principal Act or his nominee is entitled with the consent of the Minister to mine for rutile or zircon, the consent shall as on and from that commencement be deemed to be varied so as to require the applicant or his nominee to pay, in respect of the rutile or zircon won by him from the land the subject of the application, royalty at the rate of two per centum of the value, f.o.b., of the rutile or zircon.

(2) Nothing in subsection one of this section prevents the Minister from exercising his powers under the Principal Act to revoke any consent referred to in that subsection and, in granting any further consent to the applicant or his nominee, to impose conditions for the payment of royalty at a rate different from the rate specified in that subsection.

Mining (Amendment).

Pending
applications
for authori-
ties to enter
private lands.

12. Where, at the commencement of the amendment made by paragraph (a) of section five of this Act, there is pending any application for an authority to enter or for a lease that would have been valid had the amendment made by that paragraph been in force when the application was made, that application may be dealt with and completed, and an authority to enter or a lease, as the case may be, may be granted pursuant thereto as if the lands the subject of the application had been private lands at the date of the application.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1968

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.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 29 November, 1967.*

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 67, 1967.

An Act to amend the law relating to mining; to validate certain matters; for this and other purposes to amend the Mining Act, 1906, and certain other Acts; and for purposes connected therewith.
[Assented to, 7th December, 1967.]

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, 1967".
- (2)
- Short title,
citation and
commence-
ment.

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

G. R. CRAWFORD,
Chairman of Committees of the Legislative Assembly.

Mining (Amendment).

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

(3) The Principal Act, as amended by this Act, may be cited as the Mining Act, 1906–1967.

(4) Subject to subsections five and six of this section, this Act shall commence upon such day or days as may be appointed in respect thereof and notified by proclamation published in the Gazette.

(5) Section ten of this Act shall commence upon the day upon which the assent of Her Majesty to this Act is signified.

(6) The amendments made by—

(a) subparagraphs (i) and (ii) of paragraph (i) of section five of this Act shall be deemed to have commenced on the day upon which the Mining (Amendment) Act, 1952, commenced; and

(b) subparagraphs (iii) and (iv) of that paragraph shall be deemed to have commenced on the day upon which subsection six of section 70C of the Principal Act commenced.

Amendment
of Act No.
49, 1906.

(Part I—
Prelimi-
nary.)

Sec. 3.

(Interpre-
tation.)

2. Part I of the Principal Act is amended—

(a) (i) by omitting from the definition of “Adjoining” in subsection one of section three the words “or stream” and by inserting in lieu thereof the words “, stream or railway”;

(ii) by omitting from the definition of “Mining surveyor” in the same subsection the words “Surveyors Act, 1929–1946, and who is specially appointed to carry out surveys under this Act” and by inserting in lieu thereof the words “Surveyors Act, 1929, as amended by subsequent Acts”;

(iii)

Mining (Amendment).

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

“Value, f.o.b.”, in relation to a mineral, means such amount as is determined by the Minister as being the value, f.o.b., of the mineral at such port in Australia as the Minister determines.

(iv) by omitting from subsection two of the same section the words “that is contiguous to the State of New South Wales and is outside the land beneath the territorial waters of that State” and by inserting in lieu thereof the words “(within the meaning of the Convention entitled ‘Convention on the Continental Shelf’ signed at Geneva on the twenty-ninth day of April, one thousand nine hundred and fifty-eight and to which Australia is a party) that is adjacent to the State of New South Wales”;

(b) by omitting from subsection one of section six the words “mining surveyors,”;

Sec. 6.
(Governor may appoint officers.)

(c) by omitting from section seven the word “surveyor,”.

Sec. 7.
(Minister or officer not to be interested in any mining venture.)

3. Part II of the Principal Act is amended—

Further amendment of Act No. 49, 1906.
(Part II—Miners’ rights and business licenses.)

(a) by inserting in paragraph (e) of subsection one of section fourteen after the words “authority to prospect” wherever occurring the words “or exploration license”;

Sec. 14.
(Certain exemptions.)

(b)

Mining (Amendment).

Sec. 17.
(Authority
to prospect
on Crown
lands.)

(b) (i) by inserting in subsection one of section seventeen after the word "Act" where secondly occurring the words "(not being an exploration license held by the applicant)";

(ii) by inserting in the same subsection after the word "license" where secondly occurring the words "or of an application for a lease of Crown lands under this Act";

(iii) by omitting from the same subsection the words "or for such exploration license";

(iv) by inserting next after subsection two of the same section the following new subsection :—

(2A) (a) If more than one application is made for an authority to prospect on the same lands the application of the person who has first taken possession shall be first considered and dealt with, and so on, according to priority of possession.

(b) For the purposes of this subsection "possession" means the act of erecting a datum post, and forthwith taking possession in the manner prescribed by the regulations: Provided that where, under the regulations, a datum post is not required to be erected, the time of taking possession shall be deemed to be the time at which the application is lodged.

(v) by inserting next after subsection six of the same section the following new subsection :—

(6A) Without limiting the generality of subsection six of this section, the Minister may refuse to grant an authority to prospect for gold or any mineral on any Crown lands if those lands are the subject of a pending application for an authority to prospect made by a person who, when he made the application, was the holder of an exploration license over those lands.

(vi)

Mining (Amendment).

(vi) by omitting from paragraph (b) of subsection seven of the same section the words “, with the consent in writing of the applicant,”;

(vii) by inserting next after subsection eight of the same section the following new subsections :—

(8A) Where an application is made for the renewal or further renewal of an authority to prospect and the application has not been granted or refused before the date on which the period of the authority to prospect or renewed authority to prospect would, but for this subsection, expire (which date is in this subsection referred to as the date of expiry), the period of the authority to prospect or renewed authority to prospect shall be deemed to be extended until the application is granted or refused and the Minister may grant or refuse the application after the date of the expiry of the authority to prospect or renewed authority to prospect.

During the period that the authority to prospect or renewed authority to prospect is deemed to be extended under this subsection, the provisions of this Act applicable to authorities to prospect and the holders thereof shall apply to and in respect of the authority to prospect or renewed authority to prospect, and to the holder thereof.

(8B) Every authority to prospect granted after the commencement of this subsection shall be deemed to be granted subject to the condition that the person to whom it is granted shall execute it within a period of one month after his being notified in writing by the Under Secretary of the grant of the authority to prospect or within such further period as the

Under

Mining (Amendment).

Under Secretary may allow either before or after the expiration of that period of one month.

(8c) Where the application for an authority to prospect is made after the commencement of this subsection by two or more persons, and one or more of those persons fails or fail to execute the authority to prospect in compliance with the condition referred to in subsection (8b) of this section, the Minister may, if he thinks fit, cause the authority to prospect to be issued to such of the applicants as have executed it, and in that case the authority to prospect shall be valid and effectual in favour of those applicants.

Further
amendment
of Act No.
49, 1906.

(Part III—
Leases of
Crown
lands.)

Sec. 23.
(Governor
may grant
leases.)

4. Part III of the Principal Act is amended—

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

(bi) Crown lands held under an authority to prospect or an exploration license, or the subject of an application for an authority to prospect or an exploration license, shall not be leased to any person other than the holder of the authority to prospect or exploration license or the applicant for the authority or license, except with the written consent of the holder of, or the applicant for, the authority or license, as the case may be, if, in the case of an application for an authority

Mining (Amendment).

authority to prospect or exploration license, the application was made before the marking out of the land the subject of an application for a lease under this Part.

- (b) by inserting next after subsection three of section twenty-seven the following new subsection :— Sec. 27.
(Irregular application may be granted.)

(3A) Without limiting the generality of subsection three of this section, the Governor may refuse to grant to a person a lease of Crown lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an authority to prospect on, or an exploration license over, those lands.

- (c) (i) by inserting in subsection four of section thirty after the word "applicant" the words "or his nominee"; Sec. 30.
(When application pending.)

(ii) by inserting in the same subsection after the word "shall" the words ", subject to any conditions imposed by the Minister under paragraph (a) of section twenty-eight of this Act,";

(iii) by omitting from the same subsection the words "lease granted after the commencement of the Mining (Amendment) Act, 1952" and by inserting in lieu thereof the words "lease under this Part (not being a special lease or a renewal of a lease) granted at the time the gold or mineral was won";

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

(5) Where, at the commencement of section ten of the Mining (Amendment) Act, 1967, an applicant for a lease under this Part, or his nominee, is entitled under subsection two of section four of the Mining (Amendment) Act, 1963, to mine during the pendency of the application he shall, on and from that commencement,

Mining (Amendment).

commencement, pay royalty at the prescribed rate on any gold or mineral won by him from the land the subject of the application.

(6) In subsection five of this section, the "prescribed rate" means—

- (a) in the case of rutile or zircon, the rate of two per centum of the value, f.o.b., or such other rate as may from time to time be fixed by the Minister instead of the firstmentioned rate and specified in a notification published in the Gazette;
- (b) in the case of gold or any other mineral, such rate as may from time to time be fixed by the Minister and specified in a notification published in the Gazette.

Sec. 36.
(Gold and
mineral
leases—
rent and
royalty.)

- (d) (i) by inserting in paragraph (a) of subsection (2D) of section thirty-six after the words "royalty shall" the words ", subject to section 108c of this Act,";
- (ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of leases of Crown lands, authorising mining for minerals reserved to the Crown, granted at the time when that lease is granted";
- (iii) by omitting from paragraph (b) of the same subsection the words "one and one-half" and by inserting in lieu thereof the word "two";
- (iv) by inserting at the end of the same section the following new subsection :—

(7) The provisions of subsection five of this section apply to the payment of royalties in respect of gold or minerals won by an applicant for a lease under this Part, or his nominee, carrying on mining operations during the

Mining (Amendment).

the pendency of the application as if the payment were due in respect of gold or minerals won under such a lease granted at the time the gold or minerals were won.

- (e) (i) by omitting from paragraph (a) of subsection four of section 39D the word "shall" and by inserting in lieu thereof the words "in respect of leases under this Division at the time when that lease is granted shall, subject to section 108c of this Act,";

Sec. 39D.
(Application
for lease.)

- (ii) by omitting from paragraph (b) of the same subsection the words "one and three-quarters" and by inserting in lieu thereof the word "two";

- (iii) by inserting next after paragraph (d) of the same subsection the following new paragraph :—

(di) In respect of any lease granted, or application for a lease made, on or after the day upon which this paragraph commences, the provisions of paragraph (d) of this subsection shall be deemed to be amended by omitting the word "one-seventh" and by inserting in lieu thereof the word "one-eighth".

- (iv) by inserting in paragraph (e) of the same subsection after the words "(d) of this subsection" wherever occurring the words ", or of that paragraph, as deemed to be amended by paragraph (di) of this subsection,";

- (v) by inserting next after paragraph (f) of the same subsection the following new paragraph :—

(g) The provisions of paragraph (f) of this subsection apply to the payment of royalties in respect of coal or shale not reserved to the Crown won by an applicant for a lease under this

Mining (Amendment).

this Part, or his nominee, carrying on mining operations during the pendency of the application as if the payment were due in respect of coal or shale not reserved to the Crown won under such a lease granted at the time the coal or shale was won.

Further
amendment
of Act No.
49, 1906.
(Part IV—
Mining on
private
lands.)

5. Part IV of the Principal Act is amended—

Sec. 45.
(Interpre-
tation.)

- (a) by omitting from section forty-five the definition of “Private lands” and by inserting in lieu thereof the following definition :—

“Private lands” means lands other than Crown lands but does not include lands held under a lease granted under Part III, Part V or this Part of this Act.

Sec. 46.
(For gold
and other
metals.)

- (b) (i) by omitting subsection (2c) of section forty-six;

- (ii) by inserting in subsection three of the same section after the word “mineral” where firstly occurring the words “or to carry on operations under an exploration license”;

- (iii) by inserting in the same subsection after the word “repealed” where firstly occurring the words “, or in respect of land the subject of an application for an exploration license made before the time of the making of the application for the authority to enter”;

(c)

Mining (Amendment).

- (c) (i) by inserting next after paragraph (a) of sub- Sec. 50.
section two of section fifty the following new (Warden
paragraph :— may grant
authority.)

(ai) if the land applied for is the subject
of an authority to enter in force or of
an application for a lease under this
Part;

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

(e) if the land is the subject of another
pending application for an authority to
enter made by a person who, when he
made the application, was the holder
of an exploration license over that land.

- (d) (i) by omitting from subsection one of section Sec. 52.
fifty-two the words “while it is in force and”; (Duration
and extension
of authority.)

- (ii) by inserting next after the same subsection
the following new subsection :—

(1A) Where an application is made for the
extension or further extension of an authority
to enter and the application has not been
granted or refused before the date on which
the period of the authority to enter or extension
would but for this subsection expire (which
date is in this subsection referred to as the
date of expiry), the period of the authority
to enter or extension shall be deemed to be
extended until the application is granted or
refused and the warden may grant or refuse
the application after the date of the expiry of
the authority or extension.

During the time that the authority to enter
or extension is deemed to be extended under
this subsection, the provisions of this Act
applicable to authorities to enter and the
holders thereof shall apply to and in respect
of the authority to enter or extension, as so
extended, and to the holder thereof.

(iii)

Mining (Amendment).

Sec. 57.
(Power to
define
boundaries.)

(iii) by omitting from subsection two of the same section the word "duplicate" and by inserting in lieu thereof the words "the prescribed manner";

(e) (i) by inserting in subsection (5B) of section fifty-seven after the word "applicant" the words "or his nominee";

(ii) by inserting in the same subsection after the word "shall" the words ", subject to any conditions imposed by the Minister under subsection five of this section,";

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

(6) Except in the prescribed circumstances, every application for a lease shall be accompanied by the prescribed survey fee.

(7) Where the Minister is of opinion that a survey is unnecessary for the purposes of any such application, or that the cost of the survey is less than the prescribed survey fee lodged by the applicant for the lease, he may refund to such applicant the whole, or such part as he thinks fit, of any prescribed survey fee paid by such applicant.

(8) Where, at the commencement of section ten of the Mining (Amendment) Act, 1967, an applicant for a lease under this Part, or his nominee, is entitled under subsection two of section five of the Mining (Amendment) Act, 1963, to mine during the pendency of the application he shall, on and from that commencement, pay, in respect of any gold or mineral won by him from the land the subject of the application, royalty on the gold or mineral at the prescribed rate.

(9)

Mining (Amendment).

(9) In subsection eight of this section, the "prescribed rate" means—

- (a) in the case of rutile or zircon the rate of two per centum of the value, f.o.b., or such other rate as may from time to time be fixed by the Minister instead of the firstmentioned rate and specified in a notification published in the Gazette;
- (b) in the case of gold or any other mineral such rate as may from time to time be fixed by the Minister and specified in a notification published in the Gazette.

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

Sec. 58.
(Power to
refuse, &c.)

(4) Without limiting the generality of this section, the Governor may refuse to grant to a person a lease of private lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an exploration license over those lands.

(g) by inserting in subsection one of section sixty-eight after the word "Part" where firstly occurring the words "or not held under, or the subject of an application for, an exploration license";

Sec. 68.
(Prospecting
by owner or
occupier.)

(h) by inserting in subsection one of section 70BA after the word "Act," the words "or are not held under, or the subject of an application for, an exploration license";

Sec. 70BA.
(Application
for lease by
owner of
land and
minerals.)

(i) (i) by inserting in subparagraph (i) of paragraph (a) of subsection five of section 70c after the words "per centum" where firstly occurring the words "of the gross value";

Sec. 70c.
(Royalty
payable.)

(ii)

Mining (Amendment).

- (ii) by omitting from the same subparagraph the words "such rate per centum as may be prescribed" and by inserting in lieu thereof the words "an amount calculated at such rate as may be prescribed in respect";
- (iii) by inserting in paragraph (a) of subsection six of the same section after the word "subsection" where firstly occurring the words "and before the commencement of section 70CA of this Act";
- (iv) by inserting in subparagraph (i) of paragraph (a) of the same subsection after the words "per centum" the words "of the gross value";
- (v) by inserting in the same subparagraph after the word "prescribed" the words "in respect";
- (vi) by inserting at the end of the same section the following new subsection :—

(8) The provisions of subsections two and four of this section or of those subsections, as amended by subsection five or six of this section, as the case may require, apply, in respect of minerals won before the commencement of section 70CA of this Act, to royalties paid, and to the payment of royalties, by an applicant for a lease under this Division, or his nominee, carrying on mining operations during the pendency of the application as if the royalties were paid or the payment were due in respect of minerals won under such a lease granted at the time the minerals were won.

New sec.
70CA.

- (j) by inserting next after section 70c the following new section :—

Royalty payable on authorities and leases granted after commencement of this section.

70CA. (1) In respect of any authority or lease granted under this Division after the commencement of this section, the holder of the authority or the lessee, as the case may be, shall at the times and in the manner prescribed pay to the Minister

on

Mining (Amendment).

on behalf of the owner of the minerals included in the authority or lease a sum calculated at such rate, in respect of all minerals won from the land, as may be prescribed in respect of leases of private lands, authorising mining for minerals not reserved to the Crown, granted at the time when that authority or lease is granted :

Provided that upon any renewal of a lease under this Division the Governor may in respect of such renewal vary the amount payable by way of royalty under this subsection in such manner as he may determine.

(2) The Minister shall at the times and in the manner prescribed pay to the owner of the minerals the sum paid as aforesaid less one-eighth of that sum, which he is hereby authorised to deduct from that sum; and the amounts so deducted shall be paid by the Minister to the Treasurer and carried to the Consolidated Revenue Fund.

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

(4) The lessee may deduct from the sum payable under subsection one of this section in any one year to the Minister on behalf of the owner of the minerals a sum equal to the amount paid by him to such owner in accordance with the provisions of subsection three of section 70BC of this Act as rent for that year.

(5) The regulations may prescribe rates for the purposes of subsection one of this section according to percentage of the value of the 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

Mining (Amendment).

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 two 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 twenty cents per ton.

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

(6) The provisions of subsections two and four of this section apply, in respect of minerals won on or after the commencement of this section, to royalties paid, and to the payment of royalties, by an applicant for a lease under this Division, or his nominee, carrying on mining operations during the pendency of the application as if the royalties were paid or the payment were due in respect of minerals won under such a lease granted at the time the minerals were won.

Sec. 70F.
(Governor
may grant
special
leases of
private
lands.)

- (k) (i) by omitting from subsection four of section 70F the words "The Minister shall at the times and in the manner prescribed pay to the owner of such minerals the sum paid under paragraph (b) of this subsection less one-seventh of such sum 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.

Where any private land the subject of a lease under this section and the minerals for which the lessee is pursuant to such lease entitled to mine in or upon such land are privately owned and in the same ownership, and the royalty payable in respect of such minerals by the lessee during any one year exceeds

Mining (Amendment).

exceeds the rent paid for such year in respect of such land, the amount paid as rent as afore-said may be deducted from such sum payable as royalty; but if the 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."

(ii) by inserting next after the same subsection the following new subsections :—

(4A) Where royalty is paid under subsection four of this section in respect of minerals, not reserved to the Crown, that have been won from lands so leased the Minister shall at the times and in the manner prescribed—

(a) pay, where the lease was granted before the commencement of this subsection, to the owner of the minerals the sum paid under paragraph (b) of subsection four of this section, less one-seventh of that sum (which the Minister is hereby authorised to deduct from that sum);

(b) pay, where the lease was granted on or after the commencement of this subsection, to the owner of the minerals the sum paid under paragraph (b) of subsection four of this section, less one-eighth of that sum (which the Minister is hereby authorised to deduct from that sum); and

(c) pay the amounts deducted by him under paragraph (a) or (b) of this subsection to the Treasury to be carried to the Consolidated Revenue Fund.

(in)

(4B)

Mining (Amendment).

(4B) The provisions of subsection (4A) of this section apply, in respect of minerals won on or after the commencement of this section, to royalties paid by an applicant for a special lease under this Division, or his nominee, carrying on operations during the pendency of the application as if the royalties were paid in respect of minerals won under such a lease granted at the time the minerals were won.

Sec. 82.
(Amount.)

- (1) (i) by inserting in paragraph (a) of subsection (2A) of section eighty-two after the word "shall" the words ", subject to section 108c of this Act,";
- (ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of leases of private lands, authorising mining for minerals reserved to the Crown, granted at the time when that authority or lease, as the case may be, was granted".

Further
amendment
of Act No.
49, 1906.
(Part IVA—
Exploration
licenses.)

6. Part IVA of the Principal Act is amended—

Sec. 83B.
(Exploration
licenses.)

- (a) (i) by inserting at the end of paragraph (a) of subsection one of section 83B the word "or";
- (ii) by omitting paragraph (c) of the same subsection;
- (iii) by inserting next after the same subsection the following new subsections :—

(1A) An exploration license for the purpose of prospecting in or on land included in an existing exploration license shall not be granted to a person other than the holder of the existing exploration license except on the recommendation of the prospecting board.

(1B)

Mining (Amendment).

(1B) An exploration license for the purpose of prospecting in or on land—

(a) for gold (whether alone or together with minerals) shall not be granted if there is in force an existing exploration license for the purpose of prospecting for gold (whether alone or together with minerals) in or on that land; or

(b) for any mineral (whether alone or together with any other mineral) shall not be granted if there is in force an existing exploration license for the purpose of prospecting for that first-mentioned mineral (whether alone or together with any other mineral).

(iv) by omitting from paragraph (a) of subsection three of the same section the words “twenty cents” and by inserting in lieu thereof the words “fifty cents”;

(v) by omitting from paragraph (a) of subsection ten of the same section the words “, with the consent in writing of the applicant therefor,”;

(vi) by inserting at the end of the same subsection the following new paragraph :—

(g) if he is of opinion, after investigation and report by the Chief Inspector of Mines appointed under the Mines Inspection Act, 1901, as amended by subsequent Acts, or by the Chief Inspector of Coal Mines appointed under the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, that the cancellation of an exploration license as to part of the land included in the license will not detrimentally affect the operations, or proposed operations,

Mining (Amendment).

operations, of the holder of the exploration license, cancel the exploration license as to that part.

- (vii) by inserting at the end of subsection seventeen of the same section the following new proviso :—

Provided that where the holder of any such authority applies during the term of the authority for a lease of any lands included in the area that is the subject of the authority this subsection shall not apply to that area unless and until the application is refused.

New sec.
83BA.

Lands held
under two
or more
exploration
licenses.

- (b) by inserting next after section 83B the following new section :—

83BA. (1) Where the holder of an exploration license applies during the currency of the license for an authority to enter, an authority to prospect or a lease in respect of any lands over which the license is in force, and there is in force in respect of those lands one or more other exploration licenses, the Minister shall cause notice of the application to be served on the holder of that other exploration license or the holders of those other exploration licenses, as the case may be.

(2) The holder of an exploration license on whom a notice has been served under subsection one of this section may, within the prescribed period after the service on him of the notice, by instrument in writing served on the Minister and setting out the grounds of his objection, object to the grant of the application referred to in the notice.

(3) Where the holder of an exploration license objects, in accordance with subsection two of this section, to the grant of the application referred to in the notice served on him, the Minister shall refer the application and objection to the warden for inquiry and report.

(4)

Mining (Amendment).

(4) The Minister may, after considering the report of the warden and such other information as he thinks relevant—

- (a) in the case of an application for an authority to enter, direct the warden to grant or refuse the application or direct the warden to grant the application subject to such conditions as the Minister specifies in the direction;
- (b) in the case of an application for an authority to prospect, grant or refuse the application or grant the application subject to such conditions as he thinks fit; or
- (c) in the case of an application for a lease, recommend to the Governor that the application be granted or refused or that the application be granted subject to such conditions as may be specified in the recommendation.

(5) The warden shall comply with any direction given to him under paragraph (a) of subsection four of this section.

(6) A lease shall not be granted on an application referred to in subsection one of this section otherwise than in accordance with any recommendation with respect to that application made by the Minister under paragraph (c) of subsection four of this section.

(7) Where an authority to enter, an authority to prospect or a lease in respect of any lands is granted on an application made under subsection one of this section, the Minister shall, upon that grant being made, cancel any exploration license to the extent that it is in force over those lands.

(8)

Mining (Amendment).

(8) A notice referred to in subsection one of this section may be served—

(a) by delivering it to the person to whom it is directed; or

(b) by sending it by certified mail to the person to whom it is addressed at his last known place of abode or business,

and, where it is served in accordance with paragraph (b) of this subsection, shall be deemed to be served when it would have been delivered to the person to whom it is addressed in the ordinary course of post.

Sec. 83i.
(Compensation before commencement of operations on private lands covered by exploration license.)

(c) by inserting in subsection one of section 83i after the word "operations" where secondly occurring the words "notify the owner and occupier, if any, of the private lands of his intention to carry out the surveys or operations and".

Further amendment of Act No. 49, 1906.
(Part V—Dredging leases.)

7. Part V of the Principal Act is amended—

Sec. 86.
(Governor may grant leases for purposes of mining by dredging, &c., and of what lands.)

(a) by omitting from subsection one of section eighty-six the words "held under or by virtue of any Act relating to mining, or land in or upon which any bona fide mining operations are being carried on by or with the concurrence of the owner" and by inserting in lieu thereof the words "in or upon which any bona fide mining operations are being carried on by or with the concurrence of the owner or land held under or by virtue of any Act relating to mining, other than land comprised in an exploration license held by the applicant";

(b)

Mining (Amendment).

(b) (i) by inserting in subsection three of section ninety after the word "applicant" the words "or his nominee"; Sec. 90.
(Applications for leases to be made to warden and forwarded to Minister.)

(ii) by inserting in the same subsection after the word "shall" the words ", subject to any conditions imposed by the Minister under section one hundred and one of this Act,";

(c) (i) by inserting in paragraph (b) of subsection two of section ninety-eight after the word "shall" the words ", subject to section 108c of this Act,"; Sec. 98.
(Rent and royalty.)

(ii) by inserting in the same paragraph after the word "prescribed" the words "in respect of dredging leases granted at the time when that lease was granted";

(iii) by omitting from paragraph (c) of the same subsection the words "The provisions" where secondly occurring and by inserting in lieu thereof the words "In respect of a dredging lease granted before the commencement of subparagraph (iii) of paragraph (c) of section seven of the Mining (Amendment) Act, 1967, the provisions";

(iv) by inserting at the end of the same paragraph the following new paragraph :—

In respect of a dredging lease granted on or after the commencement of subparagraph (iv) of paragraph (c) of section seven of the Mining (Amendment) Act, 1967, the provisions of subsection five of section 70CA shall apply to and in respect of regulations prescribing rates of royalty payable under this subsection in respect of minerals not reserved to the Crown.

(b)

(v)

Mining (Amendment).

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

(b) The Minister shall at the times and in the manner prescribed pay to the owner of the minerals the sum so paid as royalty in respect of the minerals less—

(i) where the royalty is paid in respect of minerals won from lands held under a lease granted before the commencement of this paragraph—one-seventh of the sum so paid (which the Minister is hereby authorised to deduct from that sum); or

(ii) where the royalty is paid in respect of minerals won from lands held under a lease granted on or after that commencement—one-eighth of the sum so paid (which the Minister is hereby authorised to deduct from that sum),

and shall pay the amounts deducted by him under this paragraph to the Treasury to be carried to the Consolidated Revenue Fund.

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

(4) The provisions of paragraph (e) of subsection two and paragraph (b) of subsection three of this section apply to the payment of royalties, and royalties paid, in respect of gold or minerals by an applicant for a dredging lease, or his nominee, carrying on mining operations during the pendency of the application as if the payment were due or the royalties were paid in respect of gold or minerals won under such a lease granted at the time the gold or minerals were won.

(d)

Mining (Amendment).

- (d) by inserting next after subsection (2A) of section ninety-nine the following new subsection :—

Sec. 99.
(No obligation to grant lease.)

(2B) Without limiting the generality of the preceding provisions of this section, the Governor may refuse to grant to a person a lease of lands if those lands are the subject of a pending application for a lease made by another person who, when he made the application, was the holder of an exploration license over those lands.

8. Part VI of the Principal Act is amended—

Further amendment of Act No. 49, 1906.
(Part VI—Tenements and leases generally.)

- (a) by inserting in subsection one of section 108B after the word "Act" where thirdly occurring the words "(other than section 108c of this Act)";

Sec. 108B.
(Royalty on leases comprising land previously leased.)

- (b) by inserting next after section 108B the following new sections :—

New secs. 108C, 108D.

108C. (1) Notwithstanding any other provision of this Act, where a lease is granted on and after the commencement of this section for a period exceeding ten years, the Governor may, at any time after the expiration of a period of ten years from the date on which the lease was granted, review the rate of royalty payable by the lessee in respect of gold or minerals won under the lease and may vary the rate so payable.

Review of royalties.

(2) The lessee shall pay the royalty at the rate as so varied and the variation shall take effect upon notice of the variation, signed by the Under Secretary of the Department of Mines, or an officer of that Department acting on his behalf, being sent by certified mail to the lessee at his last known place of abode or business.

(3)

Mining (Amendment).

(3) Royalty payable under subsection one of this section shall be paid at the times and in the manner prescribed.

(4) Not more than one review of the rate of royalty payable by a lessee in respect of gold or minerals won under the lease shall be made under subsection one of this section during the term of the lease.

Exemption
from
royalty in
certain
cases.

108D. (1) In this section—

“Appropriate amount”, in relation to a royalty period, means—

- (a) where the royalty period is twelve months—two thousand dollars; and
- (b) where the royalty period is less than twelve months—such amount as bears to two thousand dollars the same proportion as the number of days in the royalty period bears to three hundred and sixty-five.

“Mining operations” means mining operations carried on—

- (a) on a parcel of land the subject of or comprised in a mining title held by a person who does not hold any other mining title; or
- (b) on two or more parcels of land the subject of mining titles held by the same person, each of which parcels adjoins the other or another of those parcels.

“Mining title” means an authority to prospect, authority to enter, lease or right to mine during the pendency of an application for a lease.

“Royalty

Mining (Amendment).

“Royalty period”, in relation to royalty payable under this Act in respect of gold or minerals won by a person under a mining title, means—

- (a) the period commencing on the day on which that person first became entitled, pursuant to the mining title, to mine for gold or the minerals in respect of which the royalty is payable and ending on the last day of the first period in respect of which that person is required by or under this Act to pay royalty in respect of the gold or minerals;
- (b) the period commencing on the day after the last day of any period in respect of which that person is required by or under this Act to pay royalty in respect of the gold or minerals and ending on the last day of the next subsequent such period; and
- (c) where, during a period referred to in paragraph (b) of this definition, that person ceases to be entitled to mine for gold or minerals on the whole of the land the subject of the mining title—the period commencing on the day after the last day of the previous royalty period and ending on the day on which that person so ceased to be entitled.

(2) Where the Minister is satisfied, on an application in writing made by the holder of a mining title, that the value of minerals reserved to the Crown won as a result of mining operations carried on during a royalty period was less than the appropriate amount, no royalty shall be payable under this Act in respect of those minerals.

(v)

(c)

Mining (Amendment).

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

- (c) by inserting at the end of section one hundred and nine the following new subsection :—

(9) The functions of the Registrar under this section may be performed by the Deputy Registrar, Department of Mines, Sydney.

Sec. 113.
(Holders of
claims, etc.,
may apply.)

- (d) (i) by inserting in the heading to section one hundred and thirteen after the word "*con-*
ditions" the words "*or mining operations*";

(ii) by omitting from subsection one of the same section the words "mining operations" and by inserting in lieu thereof the words "labour conditions or mining operations or both labour conditions and mining operations";

(iii) by omitting from subsection two of the same section the words "posted on the claim or on the land leased, and also outside the warden's office or the mining registrar's office nearest to the land in respect of which suspension is applied for," and by inserting in lieu thereof the following words :—

"posted—

(a) by the applicant or applicants on the claim or on the land leased;
and

(b) by the warden's clerk or the mining registrar whose office is nearest to the land in respect of which suspension is applied for, outside the office of that warden's clerk or that mining registrar,";

(iv) by inserting in the same subsection after the word "leases" the words "by the applicant or applicants";

(v)

Mining (Amendment).

- (v) by omitting from subsection five of the same section the words "of labour conditions" and by inserting in lieu thereof the words "under this section";
- (e) (i) by inserting next after subsection two of section 124A the following new subsection :— Sec. 124A.
(Complaint as to non-compliance with labour conditions.)
- (2A) The Minister may—
- (a) pay to the lessee, out of the sum so deposited, any costs recommended by the warden, under paragraph (a) of subsection five of this section, to be paid to the lessee; and
- (b) refund to the complainant any balance after the payment of any such costs.
- (ii) by omitting subsection five of the same section and by inserting in lieu thereof the following subsection :—
- (5) (a) Where the lessee has entered an appearance, the warden may recommend that costs, not exceeding the amount deposited by the complainant, be allowed to the lessee.
- (b) The warden shall announce in open court his finding on the complaint and the purport of his recommendation to the Minister.
9. Part VII of the Principal Act is amended by inserting next after subsection one of section one hundred and fifty-five the following new subsection :— Further amendment of Act No. 49, 1906.
(Part VII—Wardens' courts.)
Sec. 155.
(How compensation assessed.)
- (1A) Notwithstanding the provisions of paragraph (a) of subsection one of this section, where the compensation to be assessed is not in respect of the entry upon or occupation of, or proposed entry upon or occupation of, the surface of any land and there are
- ten

Mining (Amendment).

ten or more persons who appear to the warden to be interested in the assessment of the compensation, the warden, instead of giving notice to any such person as required by that paragraph, may, by advertisement published in a newspaper circulating in the district where the land is situated, give notice of the time and place fixed for the assessment of the compensation and, where notice of any such assessment of compensation is so advertised, notice under that paragraph shall be deemed to have been given to every person appearing to the warden to be interested in the assessment.

Validation. **10. (1) Where—**

- (a) an applicant for a lease, under the Principal Act, of or including Crown lands, or his nominee, carried on mining operations during the pendency of the application for the lease and before the commencement of the Mining (Amendment) Act, 1952; or
- (b) an applicant for a lease, under the Principal Act, of or including private lands, or his nominee, carried on mining operations during the pendency of the application for the lease and before the commencement of subsection (5B) of section fifty-seven of the Principal Act,

the applicant or his nominee, as the case may be, shall, subject to subsections two and three of this section, be and be deemed always to have been liable to pay royalty on any gold or mineral won during that pendency and—

- (c) in the case of mining operations carried on on Crown lands, before the commencement of the Mining (Amendment) Act, 1952; or
- (d) in the case of mining operations carried on on private lands, before the commencement of subsection (5B) of section fifty-seven of the Principal Act,

at

Mining (Amendment).

at the rate that would have been payable on the gold or mineral had the gold or mineral been won from land the subject of an appropriate lease (not being a special lease) granted under the Principal Act at the time the gold or mineral was won.

(2) Where an applicant for a lease, under the Principal Act, of or including Crown lands, or his nominee, carried on mining operations, under which he won rutile, zircon or ilmenite, during the pendency of the application for the lease on or after the eighth day of April, one thousand nine hundred and forty-nine and before the commencement of this section, he shall be and be deemed always to have been liable, in respect of the rutile, zircon and ilmenite won by him from the Crown lands, to pay, instead of any other royalty, royalty at the rates specified in the following table :—

TABLE.

Where the mineral was won during the period commencing on 8th April, 1949, and ending on 31st May, 1955, the rate is—

- (a) in the case of rutile, ten shillings per ton;
- (b) in the case of zircon, two shillings and sixpence per ton; and
- (c) in the case of ilmenite, one shilling per ton.

Where the mineral was won during the period commencing on 1st June, 1955, and ending on 30th June, 1956, the rate is—

- (a) in the case of rutile, fifteen shillings per ton;
- (b) in the case of zircon, two shillings and sixpence per ton; and
- (c) in the case of ilmenite, one shilling per ton.

Where the mineral was won during the period commencing on 1st July, 1956, and ending on 30th June, 1959, the rate is—

- (a) in the case of rutile, one pound ten shillings per ton;

(b)

Mining (Amendment).

- (b) in the case of zircon, two shillings and sixpence per ton; and
- (c) in the case of ilmenite, one and one-half per centum of the value of the ilmenite, as determined by the Minister.

Where the mineral was won during the period commencing on 1st July, 1959, and ending on 30th June, 1966, the rate is—

- (a) in the case of rutile and zircon, one and one-half per centum of the value, f.o.b., of the rutile or zircon; and
- (b) in the case of ilmenite, one and one-half per centum of the value of the ilmenite, as determined by the Minister.

Where the mineral was won during the period commencing on 1st July, 1966, and ending on the day before this section commences, the rate is—

- (a) in the case of rutile and zircon, two per centum of the value, f.o.b., of the rutile or zircon; and
- (b) in the case of ilmenite, two per centum of the value of the ilmenite, as determined by the Minister.

(3) Where an applicant for a lease, under the Principal Act, of or including private lands, or his nominee, carried on mining operations, under which he won rutile or zircon, during the pendency of the application for the lease on or after the first day of July, one thousand nine hundred and sixty-six, and before the commencement of this section, he shall be and be deemed always to have been liable to pay, instead of any other royalty, royalty on the rutile or zircon won by him from the private lands at the rate of two per centum of the value, f.o.b., of the rutile or zircon.

(4)

Mining (Amendment).

(4) Any payments—

- (a) made out of royalties, referred to in subsection one of this section, in respect of mining operations for minerals (other than minerals reserved to the Crown) carried on on private lands; or
- (b) made out of royalties paid under subsection five or (5B) of section fifty-seven of the Principal Act as applied by section 70BC of the Principal Act to applications for leases under Division 4A of Part IV of the Principal Act or under subsection three of section ninety or section one hundred and one of the Principal Act, in respect of mining operations for minerals carried on by an applicant for a lease or dredging lease, as the case may be, or his nominee, under a consent granted before the commencement of this section,

and any deductions made from any such royalties (being payments or deductions that were made before the commencement of this section and that would have been valid had the royalties being paid in respect of minerals won under a lease granted under this Act at the time the mineral was won) are hereby validated and authorised.

11. (1) Where at the commencement of section ten of this Act an applicant for a lease under the Principal Act or his nominee is entitled with the consent of the Minister to mine for rutile or zircon, the consent shall as on and from that commencement be deemed to be varied so as to require the applicant or his nominee to pay, in respect of the rutile or zircon won by him from the land the subject of the application, royalty at the rate of two per centum of the value, f.o.b., of the rutile or zircon. Variation
of consents,

(2) Nothing in subsection one of this section prevents the Minister from exercising his powers under the Principal Act to revoke any consent referred to in that subsection and, in granting any further consent to the applicant or his nominee, to impose conditions for the payment of royalty at a rate different from the rate specified in that subsection.

12.

Mining (Amendment).

Pending
applications
for authori-
ties to enter
private lands.

12. Where, at the commencement of the amendment made by paragraph (a) of section five of this Act, there is pending any application for an authority to enter or for a lease that would have been valid had the amendment made by that paragraph been in force when the application was made, that application may be dealt with and completed, and an authority to enter or a lease, as the case may be, may be granted pursuant thereto as if the lands the subject of the application had been private lands at the date of the application.

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

A. R. CUTLER,
Governor.

*Government House,
Sydney, 7th December, 1967.*