

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.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 12 March, 1975.*

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. , 1975.

An Act relating to the making of applications under the Coal Mining Act, 1973, and the payment of rent under coal leases; to make further provision with respect to applications for certain leases made under the Mining Act, 1906; for these and other purposes to amend the Coal Mining Act, 1973; to amend the Coal Mines Regulation Act, 1912, in certain respects; to validate certain matters; and for purposes connected therewith.

BE

Coal Mining (Amendment).

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. This Act may be cited as the "Coal Mining Short title.
(Amendment) Act, 1975".

2. (1) Except as provided in subsections (2) and (3), Commence-
this Act shall commence on the date of assent to this Act. ment.

10 (2) Sections 5 (b), 5 (c) (i), (ii), (iv) and (v),
5 (l), 5 (s), 11 (c) and 12 (a) shall commence on such day
or days as may be appointed by the Governor in respect
thereof and as may be notified by proclamation published in
the Gazette.

15 (3) Sections 5 (k), 5 (t) and 13 shall be deemed to
have commenced on 29th March, 1974.

3. Part I of the Coal Mining Act, 1973, is amended—

Amendment
of Act No.
81, 1973.
(Part I.—
Preliminary
and Interpre-
tation.)

20 (a) by omitting from the matter relating to Division 3 Sec. 2.
of Part IV in section 2 the matter "60" and by (Division
inserting instead the matter "60A"; of Act.)

(b) by omitting from section 9 the word "required" Sec. 9.
wherever occurring and by inserting instead the (Service of
words "authorised or required". documents.)

4.

Coal Mining (Amendment).

4. Part III of the Coal Mining Act, 1973, is amended— Further amendment of Act No. 81, 1973. (Part III.— Authorisations.)

- (a) (i) by omitting from section 21 (4) the words “, by instrument in writing” and by inserting instead the words “cause to be”; Sec. 21. (Grant of authorisation to owner of coal, etc.)
- 5 (ii) by omitting from section 21 (4) the word “, require” and by inserting instead the words “an instrument in writing requiring”;
- (b) by omitting from section 23 (4) the word “authority” where secondly occurring and by inserting instead the word “authorisation”. Sec. 23. (Restriction on grant of authorisation.)
- 10

5. Part IV of the Coal Mining Act, 1973, is amended— Further amendment of Act No. 81, 1973. (Part IV.— Concessions.)

- (a) by omitting from section 27 (2) (b) the word “district” and by inserting instead the word “locality”; Sec. 27. (Minister may invite tenders for exploration permit.)
- 15 (b) (i) by omitting from section 29 (1) the word “seven” and by inserting instead the word “twenty-one”; Sec. 29. (Intending for coal applicant lease over private lands, etc., to give notice to owner, etc.)
- (ii) by omitting section 29 (1) (b) and by inserting instead the following paragraph :—
- 20 (b) containing particulars sufficient to lead to the ready identification of the area of land over which the lease is, or is to be, sought, consisting of a plan and a description of that area.

(ii)

Coal Mining (Amendment).

(iii) by omitting section 29 (2) and by inserting instead the following subsection :—

5 (2) Where the application made, or intended to be made, for a coal lease under section 30 does not or will not relate to the surface of any private lands or to the surface of any Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, the applicant, or the person
10 intending to apply, may, instead of serving any notice required by subsection (1) to be served, cause to be published, either before, or within twenty-one days after, lodging the application under section 30, in a newspaper circulating generally in the State and in a
15 newspaper, or more than one newspaper, circulating in the locality in which is situated the area of land over which the lease is, or is to be, sought, a notice—

20 (a) stating that an application for the grant of a lease has been, or will be, lodged, as the case may be; and

25 (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area.

(c) (i) by omitting section 30 (2) (d) and by inserting instead the following paragraph :—

(d) be accompanied by—

30 (i) a copy of every notice relating to the application served on an owner or occupier of land pursuant to section 29 (1) before the application was lodged; and

Sec. 30.
(Applica-
tion for coal
lease by
holder of
exploration
permit.)

(ii)

Coal Mining (Amendment).

- 5 (ii) a written statement to the effect
that each such notice was served
on such an owner or occupier and
setting out the name and address
of each such owner or occupier,
or by a copy of every notice relating to
the application published pursuant to
section 29 (2) before the application
was lodged; and
- 10 (ii) by omitting from section 30 (4) the word
“seven” wherever occurring and by inserting
instead the word “twenty-one”;
- 15 (iii) by omitting from section 30 (4) the word
“district” and by inserting instead the word
“locality”;
- (iv) by omitting section 30 (4) (b) and by
inserting instead the following paragraph :—
- 20 (b) containing particulars sufficient to lead
to the ready identification of that area,
consisting of a plan and a description
of that area,
- (v) by omitting section 30 (6) and by inserting
instead the following subsections :—
- 25 (6) A copy of every notice relating to an
application lodged under this section and
served pursuant to section 29 (1) after the
application was lodged shall be lodged with
the Under Secretary within twenty-one days
of the date of the notice, together with a
30 written statement to the effect that each such
notice was served on an owner or occupier of
land pursuant to section 29 (1) and setting
out the name and address of each such
owner or occupier.

Coal Mining (Amendment).

5 (6A) A copy of every notice relating to an application lodged under this section and published pursuant to section 29 (2) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of publication of the notice.

(d) by omitting from section 31 (1) the word "district" and by inserting instead the word "locality"; Sec. 31. (Minister to publish notice of intention to invite tenders for coal lease, etc.)

10 (e) by omitting from section 32 (3) (b) the word "district" and by inserting instead the word "locality"; Sec. 32. (Minister may invite tenders for coal lease.)

(f) by omitting from section 33 (2) (c) the word "permit" and by inserting instead the word "lease"; Sec. 33. (Tender for coal lease.)

15 (g) by omitting from section 34 (1) the words "served on any person, invite that person" and by inserting instead the words "invite any person"; Sec. 34. (Minister may invite persons to apply for coal lease.)

20 (h) (i) by omitting from section 36 the words ", by instrument in writing served on an applicant or a tenderer for the grant of a concession, require" and by inserting instead the words "cause to be served on an applicant or a tenderer for the grant of a concession an instrument in writing requiring"; Sec. 36. (Minister may require further information from applicant or tenderer.)

(ii)

Coal Mining (Amendment).

- (ii) by omitting from section 36 (b) the word "Australia." and by inserting instead the following words :—

"Australia,

5

and the applicant or the tenderer, as the case may be, shall comply with the requirement.";

- (i) by omitting from section 41 (1) the words "under section 30 or 35";

Sec. 41.
(Power of Governor in relation to application for coal lease.)

10

- (j) (i) by omitting from section 42 (1) the words "under section 30 or 35";

Sec. 42.
(Grant of coal lease subject to amendment.)

- (ii) by omitting from section 42 (3) (c) the words "relating to expenditure or";

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- (k) (i) by inserting in section 44 (2) after the word "Act" the words "or the Mining Act, 1906, and the regulations under that Act";

Sec. 44.
(Exercise of powers under this Act.)

- (ii) by inserting in section 44 (5) after the word "not" the words "in every respect";

20

- (iii) by inserting in section 44 (5) after the word "regulations" the words "or the regulations under the Mining Act, 1906";

- (l) by inserting after section 50 (6) the following sub-sections :—

Sec. 50.
(Lodging of application for renewal of concession with Under Secretary.)

25

- (7) Subject to subsection (8), where the registered holder of a coal lease applies after the commencement of this subsection, or intends so to

apply,

Coal Mining (Amendment).

apply, for the renewal of the lease over any private lands or Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, he shall, either before, or within twenty-one days after, lodging the application, serve on every owner and occupier of private lands and on every occupier of Crown lands, a notice—

(a) stating that an application for the renewal of a lease has been, or will be, lodged, as the case may be; and

(b) containing particulars sufficient to lead to the ready identification of the area of land to which the application relates, consisting of a plan and a description of that area.

(8) Where the application made, or intended to be made, for the renewal of a coal lease does not or will not relate to the surface of any private lands or to the surface of any Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, the applicant, or the person intending to apply, may, instead of serving any notice required by subsection (7) to be served, cause to be published, either before, or within twenty-one days after, lodging the application under this section, in a newspaper, or more than one newspaper, circulating in the locality in which is situated the area of land over which the renewal of the lease is, or is to be, sought, a notice—

(a) stating that an application for the renewal of a coal lease has been, or will be, lodged, as the case may be; and

(b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area.

(9)

Coal Mining (Amendment).

5 (9) Where the registered holder of an exploration permit applies after the commencement of this subsection, or intends so to apply, for the renewal of the permit, he shall, either before, or within twenty-one days after, lodging the application, cause to be published in a newspaper, or more than one newspaper, circulating in the locality in which is situated the area of land over which the renewal of the permit is, or is to be, sought, a notice—

10 (a) stating that an application for the renewal of an exploration permit has been, or will be, lodged, as the case may be; and

15 (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area.

20 (10) An application for the renewal of a concession shall be accompanied by a copy of every notice served or published under subsection (7), (8) or (9) in relation to the application before the application was lodged.

25 (11) A copy of every notice relating to an application for the renewal of a coal lease and served pursuant to subsection (7) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of the notice, together with a written statement to the effect that each such notice was served on an owner or occupier of land pursuant to subsection (7) and
30 setting out the name and address of each such owner or occupier.

Coal Mining (Amendment).

5 (12) A copy of every notice relating to an application for the renewal of a concession published pursuant to subsection (8) or (9) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of publication of the notice.

(m) by inserting after section 53 (4) the following subsection :—

10 (4A) The period for which a coal lease is renewed shall not on any one occasion exceed twenty-one years.

Sec. 53.
(Powers of Minister or Governor on application for renewal of concession.)

(n) (i) by omitting from section 54 (1) (b) the word "and";

15 (ii) by omitting from section 54 (1) (c) the word "renewed." and by inserting instead the words "renewed; and";

Sec. 54.
(Notice of renewal, etc., to be served on registered holder of concession.)

(iii) by inserting after section 54 (1) (c) the following paragraph :—

20 (d) if the area of land over which the concession is renewed differs from the area that was subject to the concession immediately before the renewal—containing a description of the land over which the concession is renewed.

(o) (i) by omitting from section 56 (2) the words "served on the registered holder of the concession";

Sec. 56.
(Concession to have effect until application for renewal dealt with.)

(ii)

Coal Mining (Amendment).

(ii) by omitting from section 56 (2) the words
“, and the amendment shall have effect from
and including the date on which the instrument
is so served”;

5 (iii) by inserting after section 56 (2) the following
subsection :—

10 (3) Where the Minister amends the con-
ditions of a concession under subsection (2),
he shall cause to be served on the registered
holder of the concession a notice informing
him of the amendment, and the amendment
has effect from and including the date on
which the notice is served.

15 (p) (i) by omitting from section 60 (2) the words Sec. 60.
“served on the registered holder of the (Suspension
concession”; of con-
conditions of
concession.)

(ii) by inserting after section 60 (2) the following
subsection :—

20 (2A) Where the Minister suspends any of
the conditions of a concession under this
section, he shall cause to be served on the
registered holder of the concession a notice
informing him of the suspension.

25 (q) by inserting after section 60 the following Sec. 60A.
section :—

30 60A. (1) The Governor may, during the Amendment
currency of a coal lease containing a condition of coal
relating to labour, amend the lease so as to allow lease in
the registered holder of the lease to comply with a respect of
condition relating to expenditure instead of the certain
condition relating to labour. con-
ditions.

Coal Mining (Amendment).

- 5 (2) The Minister shall cause to be served on the registered holder of a coal lease an instrument in writing setting out any amendment made under subsection (1) to the lease, and the amendment has effect as from the date on which the instrument is served.
- (r) (i) by omitting from section 70 (4) the words "served on the registered holder of a coal lease"; Sec. 70. (Rights of registered holder of coal lease.)
- 10 (ii) by inserting in section 70 (4) (a) after the word "holder" the words "of the coal lease to which the order relates";
- (iii) by inserting in section 70 (4) after the words "the coal lease" the words "to which the order relates";
- 15 (iv) by inserting after section 70 (4) the following subsection :—
- (4A) The Minister shall cause to be served on the registered holder of a coal lease to which an order under subsection (4) relates an instrument in writing setting out the details of the order, and the order has effect as from the date on which the instrument is served.
- 20
- 25 (s) by omitting from section 72 (5) the word "fourteen" and by inserting instead the word "twenty-one"; Sec. 72. (Addition of mineral to lease.)
- (t) (i) by omitting section 75 (4) and by inserting instead the following subsections :— Sec. 75. (Rent.)
- 30 (4) The Governor may, by instrument in writing, increase or decrease, or waive payment of, the rent payable in respect of a coal lease for any period when the lease has effect under section 56 (being a period that is before or after, or partly before and partly after, the date of the instrument).

(4A)

Coal Mining (Amendment).

- 5 (4A) Where the rent payable for a period in respect of a coal lease is increased or decreased, or payment thereof is waived, under subsection (4), the Minister shall cause to be served on the person who was or is, as the case may be, the registered holder of the lease an instrument in writing setting out the details of the increase, decrease or waiver, and—
- 10 (a) as from the date on which the instrument is served, the increase, decrease or waiver has effect in relation to that period (whether that period is before or after, or partly before and partly after, that date);
- 15 (b) where the rent is increased or decreased—the rent as so increased or decreased is payable by that person or, if when the instrument is served the rent for the period has been paid, the amount of any increase is payable by,
- 20 or the amount of any decrease is payable to, that person; and
- 25 (c) where payment of the rent is waived—the rent for the period is not payable by that person and, if when that instrument is served the rent for the period has been paid, the amount of that rent so paid is payable to that person.
- 30 (ii) by inserting in section 75 (6) after the word “increase” the words “or decrease”;
- (iii) by inserting in section 75 (6) after the word “renewed” the words “or waive payment of the rent payable during that period”;
- 35 (u) (i) by omitting from section 77 (5) the words Sec. 77. “served on the registered holder of the lease”; (Rate of royalty.)

(ii)

Coal Mining (Amendment).

- (ii) by omitting from section 77 (5) the words "that notice is so served" and by inserting instead the words "notice of the rate so fixed is served pursuant to subsection (5A)";
- 5 (iii) by inserting after section 77 (5) the following subsection :—
- (5A) The Minister shall cause to be served on the registered holder of a lease to which an instrument under subsection (5) relates a
- 10 notice in writing setting out the details of the rate fixed thereby, and the rate so fixed is payable as from the date on which the notice is served.
- 15 (v) by omitting from section 79 (1) the words " , by Sec. 79. instrument in writing served on that person, require" (Minister may require information to be furnished, etc.) and by inserting instead the words "cause to be served on that person an instrument in writing requiring".
6. Part V of the Coal Mining Act, 1973, is amended by Further amendment of Act No. 81, 1973. (Part V.—Objection to Grant of Concession Over, or the Exercise of Powers Under an Authorisation or an Exploration Permit In, Agricultural Land.) Sec. 83. (Objection to grant of concession, etc.)
- 20 omitting from section 83 (1) the word "within" wherever occurring and by inserting instead the words "before or within".

Coal Mining (Amendment).

7. Part VI of the Coal Mining Act, 1973, is amended— Further amendment of Act No. 81, 1973.

(Part VI.— Objections to Granting Coal Leases, and References of Applications to Government Departments and Other Authorities.)

(a) by omitting from section 86 (2) the words “within thirty days after” and by inserting instead the words “either before, or within thirty days after,”; Sec. 86. (Objection to grant of coal lease, etc.)

5 (b) (i) by omitting from section 88 (4) the words “served on the registered holder of the lease”; Sec. 88. (Granting of coal lease, etc., if objection made under sec. 87.)

(ii) by inserting after section 88 (4) the following subsection :—

10 (4A) The Minister shall cause to be served on the registered holder of a coal lease amended under subsection (4) a notice in writing setting out the details of the amendment, and the amendment has effect from the date on which the notice is served.

15 (c) (i) by omitting from section 91 (1) the words “by instrument in writing served” and “cause an instrument in writing to be served”; Sec. 91. (Grant of coal lease applied for over land subject to a scheme.)

20 (ii) by omitting from section 91 (1) (a) the word “require” and by inserting instead the word “requiring”;

(iii)

Coal Mining (Amendment).

- (iii) by omitting from section 91 (1) (b) the word "notify" and by inserting instead the word "notifying";
- 5 (iv) by omitting from section 91 (1) (b) the word "state" and by inserting instead the word "stating";
- (v) by omitting from section 91 the words "by the Minister" wherever occurring;
- 10 (vi) by omitting from section 91 (4) (a) the words "of the Minister".

8. Part VII of the Coal Mining Act, 1973, is amended— Further amendment of Act No. 81, 1973. (Part VII.— Protection of the Environment.)

- 15 (a) by inserting in section 93 after the word "sought" the words ", and may cause such studies (including environmental impact studies) to be carried out as he may deem necessary to enable him to decide whether or not to invite tenders or an application or to grant a concession"; Sec. 93. (Need to protect natural resources, etc., to be taken into account.)
- 20 (b) by omitting from section 95 (2) the words "require the person to whom it is proposed to grant the lease to lodge with him, within such time as he may require" and by inserting instead the words "cause to be served on the person to whom it is proposed to grant the lease an instrument in writing requiring that person to lodge with him, within such time as is specified in the instrument"; Sec. 95. (Rehabilitation, etc., of area damaged by mining.)
- 25

(c)

Coal Mining (Amendment).

- (c) (i) by omitting from section 96 (1) the words “, by instrument in writing” and by inserting instead the words “cause to be”; Sec. 96.
(Direction to comply with conditions of concession for protection of environment.)
- 5 (ii) by omitting from section 96 (1) the word “, direct” and by inserting instead the words “an instrument in writing directing”.

9. Part VIII of the Coal Mining Act, 1973, is amended by omitting section 98 (1) (a) and by inserting instead the following paragraphs :— Further amendment of Act No. 81, 1973.
(Part VIII.—Compensation.)

10 (a) shall be made in the manner prescribed ;

(a1) shall not be made until after either—

- 15 (i) if there are ten or more persons who appear to the warden to be interested in the assessment—notice in the approved form is published in a newspaper circulating generally in the State and in a newspaper, or more than one newspaper, circulating in the locality in which the land concerned is situated ; or
- 20 (ii) in any case—notice in the approved form is served on each person who appears to the warden to be interested in the assessment.

10. Part IX of the Coal Mining Act, 1973, is amended by omitting from section 103 (2) the word “authority” and 25 by inserting instead the word “concession”. Further amendment of Act No. 81, 1973.
(Part IX.—Records and Registration.)
Sec. 103.
(Interest in concession to be created by instrument in writing.)

Coal Mining (Amendment).

11. Part XI of the Coal Mining Act, 1973, is amended—

Further amendment of Act No. 81, 1973. (Part XI.—Miscellaneous.)

5 (a) (i) by omitting from section 114 the words “, by instrument in writing, direct the applicant or the registered holder of the concession, as the case may be,” and by inserting instead the words “cause to be served on the applicant or the registered holder of the concession, as the case may be, an instrument in writing directing him”;

10 (ii) by inserting in section 114 after the word “concerned” the words “, and the applicant or the registered holder, as the case may be, shall comply with the direction”;

15 (b) (i) by omitting from section 115 (2) (b) the words “served on him”;

(ii) by inserting after section 115 (2) the following subsection :—

Sec. 114. (Minister may direct survey to be carried out.)

Sec. 115. (Removal of mining plant.)

20 (2A) Where the Minister gives a direction to a person under subsection (2) (b), the Minister shall cause to be served on that person a notice setting out the details of the direction, and the direction has effect from the date on which notice is served.

25 (c) by inserting after section 128 (3) the following subsection :—

Sec. 128. (Disposal of certain moneys.)

(4) Where any amount authorised to be refunded under the regulations is credited to the account referred to in subsection (1), the amount is payable from the account.

(d)

Coal Mining (Amendment).

- (d) by inserting in section 129 after the word "Crown" the words "and land containing any such seams or containing seams of coal owned by or reserved to the Crown".
- Sec. 129.
(Purchase of coal not owned by or reserved to Crown.)

- 5 **12.** Part XII of the Coal Mining Act, 1973, is amended—
- Further amendment of Act No. 81, 1973. (Part XII.—Regulations.)

- (a) by omitting section 135 (2) (n) and by inserting instead the following paragraphs :—
- Sec. 135. (Regulations.)

- (n) authorising the refund of the whole or any part of—

- 10 (i) any fee paid under this Act, other than a fee paid in respect of a tender for the grant of an exploration permit lodged under section 28 or for the grant of a coal lease under section 33;
- 15

- (ii) any moneys referred to in section 128 (1) (b); or

- (iii) any fee, deposit or rent paid under the Mining Act, 1906, other than a fee, deposit or rent paid in connection with an application deemed by the Mining Act, 1973, to be an application for an authority;
- 20

- (n1) determining the person to whom a refund referred to in paragraph (n) is payable, and, in particular, providing that such a refund of any fee, moneys, deposit or rent referred to in paragraph (n) (i), (ii) or
- 25

(iii)

Coal Mining (Amendment).

(iii) and paid in connection with an application for the grant of a concession is payable to the applicant for the concession;

- 5 (b) by inserting after section 136 (2) the following subsection :—
- Sec. 136.
(Exercise of power under sec. 135.)

(3) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by any person or body specified therein.

- 10 **13.** The Second Schedule to the Coal Mining Act, 1973, is amended—
- Further amendment of Act No. 81, 1973.
(Second Schedule.)

- (a) by omitting from paragraph 8 (5) the word “duly” wherever occurring;
- Para. 8.
(Authority to prospect and prospecting license under 1906 Act.)

- (b) (i) by omitting from paragraph 9 the word “duly” wherever occurring;
- Para. 9.
(Coal and shale leases, etc., under the 1906 Act.)
- 15 (ii) by inserting after paragraph 9 (11) the following subparagraphs :—

(11A) The provisions of section 43 (1) and section 62 (8) do not apply to an application deemed under subparagraph (7) to be an application for a coal lease.

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(11B)

Coal Mining (Amendment).

(11B) For the purposes of section 62, the prescribed date is, in the case of an application deemed under subparagraph (7) to be an application for a coal lease that was—

- 5 (a) made by a person when he was the holder of an authority to enter or an authority to prospect granted under the 1906 Act in respect of the land the subject of the application—the
- 10 date when the application for the authority was made; or
- (b) made by any other person—the date when the marking out of the land the subject of the application for the lease
- 15 was carried out.

(iii) by inserting after paragraph 9 (12) the following subparagraph :—

 (13) The Minister may modify an application deemed under subparagraph (7) to be an application for a coal lease so as to include within the land applied for any land—

20

- (a) that adjoins, or is within the boundaries of, the land applied for; and
- (b) that, in the opinion of the Minister, is of so limited an area as may only be practicably worked for the winning of coal by the applicant for the lease,
- 25

but the application shall not be so modified so as to include that land without the consent of every owner of that land (to the extent to

30

which

Coal Mining (Amendment).

which it is comprised of private lands) and of every occupier (to the extent to which it is comprised of Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes).

5

14. The Coal Mines Regulation Act, 1912, is amended—

Amendment
of Act No.
37, 1912.

(a) by omitting from section 35A (3) (c) the words "Mining Act, 1906, as amended by subsequent Acts" and by inserting instead the words "Coal Mining Act, 1973";

Sec. 35A.
(Plans to be
furnished.)

10

(b) by omitting section 35A (3) (d) and by inserting instead the following paragraph:—

(d) upon any order under section 67 (4) of the Coal Mining Act, 1973, taking effect; or.

15 15. (1) An amendment made by section 5 (section 5 (k) excepted) does not affect, or apply to or in respect of, an application lodged or made under the Coal Mining Act, 1973, before the commencement of that amendment.

Savings and
transitional
provisions.

(2) Nothing in section 5 (k) applies to an application that was made under the Mining Act, 1906, and was refused after the commencement of the Coal Mining Act, 1973 (section 139 (1) excepted), but before the date of assent to this Act.

(3) An amendment made by this Act does not affect, or apply to or in respect of, a direction, order, requirement, notice or instrument given, made, served, published or lodged before the commencement of that amendment.

(4)

Coal Mining (Amendment).

(4) Nothing in section 13 applies to an application that was made under the Mining Act, 1906, and was refused after the commencement of the Coal Mining Act, 1973 (section 139 (1) excepted), but before the date of assent to
5 this Act.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1975
[24c]

1973
Coal Mine
(4) Nothing in section 15 applies to an application
that was made under the Mining Act, 1900 and was referred
to the Commission of the Coal Mining Act, 1973
(section 15 (1) excepted). It is the duty of the
Coal Mine

BY AUTHORITY
WEST COASTERN
1973

No. , 1975.

A BILL

Relating to the making of applications under the Coal Mining Act, 1973, and the payment of rent under coal leases; to make further provision with respect to applications for certain leases made under the Mining Act, 1906; for these and other purposes to amend the Coal Mining Act, 1973; to amend the Coal Mines Regulation Act, 1912, in certain respects; to validate certain matters; and for purposes connected therewith.

[MR FREUDENSTEIN—5 *March*, 1975.]

BE

Coal Mining (Amendment).

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
5 follows:—

1. This Act may be cited as the "Coal Mining Short title.
(Amendment) Act, 1975".

2. (1) Except as provided in subsections (2) and (3), Commence-
this Act shall commence on the date of assent to this Act. ment.

10 (2) Sections 5 (b), 5 (c) (i), (ii), (iv) and (v),
5 (l), 5 (s), 11 (c) and 12 (a) shall commence on such day
or days as may be appointed by the Governor in respect
thereof and as may be notified by proclamation published in
the Gazette.

15 (3) Sections 5 (k), 5 (t) and 13 shall be deemed to
have commenced on 29th March, 1974.

3. Part I of the Coal Mining Act, 1973, is amended—

Amendment
of Act No.
81, 1973.
(Part I.—
Preliminary
and Interpre-
tation.)

20 (a) by omitting from the matter relating to Division 3 Sec. 2.
of Part IV in section 2 the matter "60" and by (Division
inserting instead the matter "60A"; of Act.)

(b) by omitting from section 9 the word "required" Sec. 9.
wherever occurring and by inserting instead the (Service of
words "authorised or required". documents.)

Coal Mining (Amendment).

4. Part III of the Coal Mining Act, 1973, is amended—

Further amendment of Act No. 81, 1973. (Part III.—Authorisations.)

 - (a) (i) by omitting from section 21 (4) the words “, by instrument in writing” and by inserting instead the words “cause to be”;

Sec. 21. (Grant of authorisation to owner of coal, etc.)
 - 5 (ii) by omitting from section 21 (4) the word “, require” and by inserting instead the words “an instrument in writing requiring”;
 - (b) by omitting from section 23 (4) the word “authority” where secondly occurring and by inserting instead the word “authorisation”.

Sec. 23. (Restriction on grant of authorisation.)
- 10 5. Part IV of the Coal Mining Act, 1973, is amended—

Further amendment of Act No. 81, 1973. (Part IV.—Concessions.)

 - (a) by omitting from section 27 (2) (b) the word “district” and by inserting instead the word “locality”;

Sec. 27. (Minister may invite tenders for exploration permit.)
 - 15 (b) (i) by omitting from section 29 (1) the word “seven” and by inserting instead the word “twenty-one”;

Sec. 29. (Intending for coal applicant lease over private lands, etc., to give notice to owner, etc.)
 - 20 (ii) by omitting section 29 (1) (b) and by inserting instead the following paragraph :—
 - (b) containing particulars sufficient to lead to the ready identification of the area of land over which the lease is, or is to be, sought, consisting of a plan and a description of that area.

(iii)

Coal Mining (Amendment).

(iii) by omitting section 29 (2) and by inserting instead the following subsection :—

5 (2) Where the application made, or intended to be made, for a coal lease under section 30 does not or will not relate to the surface of any private lands or to the surface of any Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, the applicant, or the person
10 intending to apply, may, instead of serving any notice required by subsection (1) to be served, cause to be published, either before, or within twenty-one days after, lodging the application under section 30, in a newspaper circulating generally in the State and in a newspaper, or more than one newspaper, circulating in the locality in which is situated the area of land over which the lease is, or is to be, sought, a notice—

20 (a) stating that an application for the grant of a lease has been, or will be, lodged, as the case may be; and

25 (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area.

(c) (i) by omitting section 30 (2) (d) and by inserting instead the following paragraph :—

(d) be accompanied by—

30 (i) a copy of every notice relating to the application served on an owner or occupier of land pursuant to section 29 (1) before the application was lodged; and

Sec. 30.
(Applica-
tion for coal
lease by
holder of
exploration
permit.)

(ii)

Coal Mining (Amendment).

- 5 (ii) a written statement to the effect
that each such notice was served
on such an owner or occupier and
setting out the name and address
of each such owner or occupier,
or by a copy of every notice relating to
the application published pursuant to
section 29 (2) before the application
was lodged; and
- 10 (ii) by omitting from section 30 (4) the word
“seven” wherever occurring and by inserting
instead the word “twenty-one”;
- 15 (iii) by omitting from section 30 (4) the word
“district” and by inserting instead the word
“locality”;
- (iv) by omitting section 30 (4) (b) and by
inserting instead the following paragraph :—
- 20 (b) containing particulars sufficient to lead
to the ready identification of that area,
consisting of a plan and a description
of that area,
- (v) by omitting section 30 (6) and by inserting
instead the following subsections :—
- 25 (6) A copy of every notice relating to an
application lodged under this section and
served pursuant to section 29 (1) after the
application was lodged shall be lodged with
the Under Secretary within twenty-one days
of the date of the notice, together with a
30 written statement to the effect that each such
notice was served on an owner or occupier of
land pursuant to section 29 (1) and setting
out the name and address of each such
owner or occupier.

(6A)

Coal Mining (Amendment).

5 (6A) A copy of every notice relating to an application lodged under this section and published pursuant to section 29 (2) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of publication of the notice.

- (d) by omitting from section 31 (1) the word "district" and by inserting instead the word "locality"; Sec. 31.
(Minister to publish notice of intention to invite tenders for coal lease, etc.)
- 10 (e) by omitting from section 32 (3) (b) the word "district" and by inserting instead the word "locality"; Sec. 32.
(Minister may invite tenders for coal lease.)
- (f) by omitting from section 33 (2) (c) the word "permit" and by inserting instead the word "lease"; Sec. 33.
(Tender for coal lease.)
- 15 (g) by omitting from section 34 (1) the words "served on any person, invite that person" and by inserting instead the words "invite any person"; Sec. 34.
(Minister may invite persons to apply for coal lease.)
- 20 (h) (i) by omitting from section 36 the words "by instrument in writing served on an applicant or a tenderer for the grant of a concession, require" and by inserting instead the words "cause to be served on an applicant or a tenderer for the grant of a concession an instrument in writing requiring"; Sec. 36.
(Minister may require further information from applicant or tenderer.)

(ii)

Coal Mining (Amendment).

- (ii) by omitting from section 36 (b) the word
"Australia." and by inserting instead the
following words :—
"Australia,
5 and the applicant or the tenderer, as the case
may be, shall comply with the requirement.";
- (i) by omitting from section 41 (1) the words "under section 30 or 35";
Sec. 41.
(Power of Governor in relation to application for coal lease.)
- 10 (j) (i) by omitting from section 42 (1) the words "under section 30 or 35";
Sec. 42.
(Grant of coal lease subject to amendment.)
(ii) by omitting from section 42 (3) (c) the words "relating to expenditure or";
- (k) (i) by inserting in section 44 (2) after the word "Act" the words "or the Mining Act, 1906, and the regulations under that Act";
Sec. 44.
(Exercise of powers under this Act.)
15 (ii) by inserting in section 44 (5) after the word "not" the words "in every respect";
(iii) by inserting in section 44 (5) after the word "regulations" the words "or the regulations
20 under the Mining Act, 1906";
- (l) by inserting after section 50 (6) the following sub-sections :—
Sec. 50.
(Lodging of application for renewal of concession with Under Secretary.)
25 (7) Subject to subsection (8), where the registered holder of a coal lease applies after the commencement of this subsection, or intends so to
apply,

Coal Mining (Amendment).

5 apply, for the renewal of the lease over any private
lands or Crown lands held under a Crown lease for
pastoral purposes or a special lease for pastoral
purposes, he shall, either before, or within twenty-
one days after, lodging the application, serve on
every owner and occupier of private lands and on
every occupier of Crown lands, a notice—

10 (a) stating that an application for the renewal
of a lease has been, or will be, lodged, as
the case may be; and

(b) containing particulars sufficient to lead to
the ready identification of the area of land
to which the application relates, consisting
of a plan and a description of that area.

15 (8) Where the application made, or intended to
be made, for the renewal of a coal lease does not
or will not relate to the surface of any private
lands or to the surface of any Crown lands held
under a Crown lease for pastoral purposes or a
20 special lease for pastoral purposes, the applicant,
or the person intending to apply, may, instead of
serving any notice required by subsection (7) to
be served, cause to be published, either before, or
within twenty-one days after, lodging the application
25 under this section, in a newspaper, or more than
one newspaper, circulating in the locality in which
is situated the area of land over which the renewal
of the lease is, or is to be, sought, a notice—

30 (a) stating that an application for the renewal of
a coal lease has been, or will be, lodged, as
the case may be; and

35 (b) containing particulars sufficient to lead to
the ready identification of that area, con-
sisting of a plan and a description of that
area.

(9)

Coal Mining (Amendment).

5 (9) Where the registered holder of an exploration permit applies after the commencement of this subsection, or intends so to apply, for the renewal of the permit, he shall, either before, or within twenty-one days after, lodging the application, cause to be published in a newspaper, or more than one newspaper, circulating in the locality in which is situated the area of land over which the renewal of the permit is, or is to be, sought, a notice—

- 10 (a) stating that an application for the renewal of an exploration permit has been, or will be, lodged, as the case may be; and
- 15 (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area.

20 (10) An application for the renewal of a concession shall be accompanied by a copy of every notice served or published under subsection (7), (8) or (9) in relation to the application before the application was lodged.

25 (11) A copy of every notice relating to an application for the renewal of a coal lease and served pursuant to subsection (7) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of the notice, together with a written statement to the effect that each such notice was served on an owner or occupier of land pursuant to subsection (7) and

30 setting out the name and address of each such owner or occupier.

(12)

Coal Mining (Amendment).

5 (12) A copy of every notice relating to an application for the renewal of a concession published pursuant to subsection (8) or (9) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of publication of the notice.

(m) by inserting after section 53 (4) the following subsection :—

10 (4A) The period for which a coal lease is renewed shall not on any one occasion exceed twenty-one years.

Sec. 53.
(Powers of Minister or Governor on application for renewal of concession.)

(n) (i) by omitting from section 54 (1) (b) the word "and";

15 (ii) by omitting from section 54 (1) (c) the word "renewed." and by inserting instead the words "renewed; and";

Sec. 54.
(Notice of renewal, etc., to be served on registered holder of concession.)

(iii) by inserting after section 54 (1) (c) the following paragraph :—

20 (d) if the area of land over which the concession is renewed differs from the area that was subject to the concession immediately before the renewal—containing a description of the land over which the concession is renewed.

25 (o) (i) by omitting from section 56 (2) the words

"served on the registered holder of the concession";

Sec. 56.
(Concession to have effect until application for renewal dealt with.)

(ii)

Coal Mining (Amendment).

(ii) by omitting from section 56 (2) the words
“, and the amendment shall have effect from
and including the date on which the instrument
is so served”;

5 (iii) by inserting after section 56 (2) the following
subsection :—

10 (3) Where the Minister amends the con-
ditions of a concession under subsection (2),
he shall cause to be served on the registered
holder of the concession a notice informing
him of the amendment, and the amendment
has effect from and including the date on
which the notice is served.

15 (p) (i) by omitting from section 60 (2) the words Sec. 60.
“served on the registered holder of the (Suspension
concession”; of con-
ditions of
concession.)

(ii) by inserting after section 60 (2) the following
subsection :—

20 (2A) Where the Minister suspends any of
the conditions of a concession under this
section, he shall cause to be served on the
registered holder of the concession a notice
informing him of the suspension.

25 (q) by inserting after section 60 the following Sec. 60A.
section :—

30 60A. (1) The Governor may, during the Amendment
currency of a coal lease containing a condition of coal
relating to labour, amend the lease so as to allow lease in
the registered holder of the lease to comply with a respect of
condition relating to expenditure instead of the certain
condition relating to labour. con-
ditions.

Coal Mining (Amendment).

- 5 (2) The Minister shall cause to be served on the registered holder of a coal lease an instrument in writing setting out any amendment made under subsection (1) to the lease, and the amendment has effect as from the date on which the instrument is served.
- (r) (i) by omitting from section 70 (4) the words "served on the registered holder of a coal lease"; Sec. 70. (Rights of registered holder of coal lease.)
- 10 (ii) by inserting in section 70 (4) (a) after the word "holder" the words "of the coal lease to which the order relates";
- (iii) by inserting in section 70 (4) after the words "the coal lease" the words "to which the order relates";
- 15 (iv) by inserting after section 70 (4) the following subsection :—
- (4A) The Minister shall cause to be served on the registered holder of a coal lease to which an order under subsection (4) relates an instrument in writing setting out the details of the order, and the order has effect as from the date on which the instrument is served.
- 20
- 25 (s) by omitting from section 72 (5) the word "fourteen" and by inserting instead the word "twenty-one"; Sec. 72. (Addition of mineral to lease.)
- (t) (i) by omitting section 75 (4) and by inserting instead the following subsections :— Sec. 75. (Rent.)
- 30 (4) The Governor may, by instrument in writing, increase or decrease, or waive payment of, the rent payable in respect of a coal lease for any period when the lease has effect under section 56 (being a period that is before or after, or partly before and partly after, the date of the instrument).

(4A)

Coal Mining (Amendment).

- 5 (4A) Where the rent payable for a period
in respect of a coal lease is increased or
decreased, or payment thereof is waived, under
subsection (4), the Minister shall cause to be
served on the person who was or is, as the
case may be, the registered holder of the lease
an instrument in writing setting out the details
of the increase, decrease or waiver, and—
- 10 (a) as from the date on which the
instrument is served, the increase,
decrease or waiver has effect in relation
to that period (whether that period is
before or after, or partly before and
partly after, that date);
- 15 (b) where the rent is increased or
decreased—the rent as so increased or
decreased is payable by that person or,
if when the instrument is served the
rent for the period has been paid, the
20 amount of any increase is payable by,
or the amount of any decrease is
payable to, that person; and
- 25 (c) where payment of the rent is waived—
the rent for the period is not payable
by that person and, if when that instru-
ment is served the rent for the period
has been paid, the amount of that rent
so paid is payable to that person.
- 30 (ii) by inserting in section 75 (6) after the word
“increase” the words “or decrease”;
- (iii) by inserting in section 75 (6) after the word
“renewed” the words “or waive payment of
the rent payable during that period”;
- 35 (u) (i) by omitting from section 77 (5) the words Sec. 77.
“served on the registered holder of the lease”; (Rate of
royalty.)

(ii)

Coal Mining (Amendment).

- (ii) by omitting from section 77 (5) the words "that notice is so served" and by inserting instead the words "notice of the rate so fixed is served pursuant to subsection (5A)";
- 5 (iii) by inserting after section 77 (5) the following subsection :—
- (5A) The Minister shall cause to be served on the registered holder of a lease to which an instrument under subsection (5) relates a notice in writing setting out the details of the rate fixed thereby, and the rate so fixed is payable as from the date on which the notice is served.
- 10
- (v) by omitting from section 79 (1) the words " , by Sec. 79. instrument in writing served on that person, require" (Minister may require information to be furnished, etc.) and by inserting instead the words "cause to be served on that person an instrument in writing requiring".
- 15

6. Part V of the Coal Mining Act, 1973, is amended by Further amendment of Act No. 81, 1973.

20 omitting from section 83 (1) the word "within" wherever occurring and by inserting instead the words "before or within".

(Part V.—
Objection to Grant of Con-
cession Over,
or the
Exercise of
Powers
Under an
Authorisa-
tion or an
Explora-
tion Permit
In, Agricul-
tural Land.)
Sec. 83.
(Objection to grant of con-
cession, etc.)

Coal Mining (Amendment).

7. Part VI of the Coal Mining Act, 1973, is amended—

Further amendment of Act No. 81, 1973.
(Part VI.—Objections to Granting Coal Leases, and References of Applications to Government Departments and Other Authorities.)

(a) by omitting from section 86 (2) the words “within thirty days after” and by inserting instead the words “either before, or within thirty days after,”;

Sec. 86.
(Objection to grant of coal lease, etc.)

5 (b) (i) by omitting from section 88 (4) the words “served on the registered holder of the lease”;

Sec. 88.
(Granting of coal lease, etc., if objection made under sec. 87.)

(ii) by inserting after section 88 (4) the following subsection :—

10 (4A) The Minister shall cause to be served on the registered holder of a coal lease amended under subsection (4) a notice in writing setting out the details of the amendment, and the amendment has effect from the date on which the notice is served.

15 (c) (i) by omitting from section 91 (1) the words “by instrument in writing served” and by inserting instead the words “cause an instrument in writing to be served”;

Sec. 91.
(Grant of coal lease applied for over land subject to a scheme.)

20 (ii) by omitting from section 91 (1) (a) the word “require” and by inserting instead the word “requiring”;

(iii)

Coal Mining (Amendment).

- (iii) by omitting from section 91 (1) (b) the word "notify" and by inserting instead the word "notifying";
- 5 (iv) by omitting from section 91 (1) (b) the word "state" and by inserting instead the word "stating";
- (v) by omitting from section 91 the words "by the Minister" wherever occurring;
- 10 (vi) by omitting from section 91 (4) (a) the words "of the Minister".

8. Part VII of the Coal Mining Act, 1973, is amended—

Further amendment of Act No. 81, 1973.
(Part VII.—Protection of the Environment.)

- 15 (a) by inserting in section 93 after the word "sought" the words ", and may cause such studies (including environmental impact studies) to be carried out as he may deem necessary to enable him to decide whether or not to invite tenders or an application or to grant a concession";
- 20 (b) by omitting from section 95 (2) the words "require the person to whom it is proposed to grant the lease to lodge with him, within such time as he may require" and by inserting instead the words "cause to be served on the person to whom it is proposed to grant the lease an instrument in writing requiring that person to lodge with him, within such time as is specified in the instrument";
- 25

(c)

Coal Mining (Amendment).

- (c) (i) by omitting from section 96 (1) the words
 “, by instrument in writing” and by inserting
 instead the words “cause to be”;
 (ii) by omitting from section 96 (1) the word
 “, direct” and by inserting instead the words
 “an instrument in writing directing”.

Sec. 96.
 (Direction to
 comply with
 conditions
 of conces-
 sion for
 protection
 of environ-
 ment.)

9. Part VIII of the Coal Mining Act, 1973, is amended
 by omitting section 98 (1) (a) and by inserting instead the
 following paragraphs :—

Further
 amendment
 of Act No.
 81, 1973.
 (Part VIII.—
 Compensation.)
 Sec. 98.
 (Assessment
 of compen-
 sation.)

- (a) shall be made in the manner prescribed ;
 (a1) shall not be made until after either—
 (i) if there are ten or more persons who appear
 to the warden to be interested in the
 assessment—notice in the approved form is
 published in a newspaper circulating
 generally in the State and in a newspaper,
 or more than one newspaper, circulating in
 the locality in which the land concerned is
 situated ; or
 (ii) in any case—notice in the approved form
 is served on each person who appears to the
 warden to be interested in the assessment.

10. Part IX of the Coal Mining Act, 1973, is amended
 by omitting from section 103 (2) the word “authority” and
 by inserting instead the word “concession”.

Further
 amendment
 of Act No.
 81, 1973.
 (Part IX.—
 Records
 and Regis-
 tration.)
 Sec. 103.
 (Interest in
 concession
 to be
 created by
 instrument
 in writing.)

Coal Mining (Amendment).

11. Part XI of the Coal Mining Act, 1973, is amended—

Further amendment of Act No. 81, 1973. (Part XI.—Miscellaneous.)

- 5 (a) (i) by omitting from section 114 the words “, by instrument in writing, direct the applicant or the registered holder of the concession, as the case may be,” and by inserting instead the words “cause to be served on the applicant or the registered holder of the concession, as the case may be, an instrument in writing directing him”;
- 10 (ii) by inserting in section 114 after the word “concerned” the words “, and the applicant or the registered holder, as the case may be, shall comply with the direction”;
- 15 (b) (i) by omitting from section 115 (2) (b) the words “served on him”;
- (ii) by inserting after section 115 (2) the following subsection :—
- 20 (2A) Where the Minister gives a direction to a person under subsection (2) (b), the Minister shall cause to be served on that person a notice setting out the details of the direction, and the direction has effect from the date on which notice is served.
- 25 (c) by inserting after section 128 (3) the following subsection :—
- (4) Where any amount authorised to be refunded under the regulations is credited to the account referred to in subsection (1), the amount is payable from the account.

Sec. 114. (Minister may direct survey to be carried out.)

Sec. 115. (Removal of mining plant.)

Sec. 128. (Disposal of certain moneys.)

(d)

Coal Mining (Amendment).

- (d) by inserting in section 129 after the word "Crown" the words "and land containing any such seams or containing seams of coal owned by or reserved to the Crown".
- Sec. 129.
(Purchase of coal not owned by or reserved to Crown.)

- 5 **12.** Part XII of the Coal Mining Act, 1973, is amended—
- Further amendment of Act No. 81, 1973.
(Part XII.—Regulations.)

- (a) by omitting section 135 (2) (n) and by inserting instead the following paragraphs :—
- Sec. 135.
(Regulations.)

- (n) authorising the refund of the whole or any part of—

- 10 (i) any fee paid under this Act, other than a fee paid in respect of a tender for the grant of an exploration permit lodged under section 28 or for the grant of a coal lease under section 33;
- 15

- (ii) any moneys referred to in section 128 (1) (b); or

- (iii) any fee, deposit or rent paid under the Mining Act, 1906, other than a fee, deposit or rent paid in connection with an application deemed by the Mining Act, 1973, to be an application for an authority;
- 20

- (n1) determining the person to whom a refund referred to in paragraph (n) is payable, and, in particular, providing that such a refund of any fee, moneys, deposit or rent referred to in paragraph (n) (i), (ii) or
- 25

(iii)

Coal Mining (Amendment).

(iii) and paid in connection with an application for the grant of a concession is payable to the applicant for the concession;

5 (b) by inserting after section 136 (2) the following subsection :—
 Sec. 136.
 (Exercise of power under sec. 135.)

(3) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by any person or body specified therein.

10 **13.** The Second Schedule to the Coal Mining Act, 1973, is amended—
 Further amendment of Act No. 81, 1973. (Second Schedule.)

(a) by omitting from paragraph 8 (5) the word “duly” wherever occurring;
 Para. 8.
 (Authority to prospect and prospecting license under 1906 Act.)

15 (b) (i) by omitting from paragraph 9 the word “duly” wherever occurring;
 Para. 9.
 (Coal and shale leases, etc., under the 1906 Act.)
 (ii) by inserting after paragraph 9 (11) the following subparagraphs :—

20 (11A) The provisions of section 43 (1) and section 62 (8) do not apply to an application deemed under subparagraph (7) to be an application for a coal lease.

(11B)

Coal Mining (Amendment).

(11B) For the purposes of section 62, the prescribed date is, in the case of an application deemed under subparagraph (7) to be an application for a coal lease that was—

- 5 (a) made by a person when he was the holder of an authority to enter or an authority to prospect granted under the 1906 Act in respect of the land the subject of the application—the
- 10 date when the application for the authority was made; or
- (b) made by any other person—the date when the marking out of the land the subject of the application for the lease
- 15 was carried out.

(iii) by inserting after paragraph 9 (12) the following subparagraph :—

20 (13) The Minister may modify an application deemed under subparagraph (7) to be an application for a coal lease so as to include within the land applied for any land—

- (a) that adjoins, or is within the boundaries of, the land applied for; and
- 25 (b) that, in the opinion of the Minister, is of so limited an area as may only be practicably worked for the winning of coal by the applicant for the lease,

30 but the application shall not be so modified so as to include that land without the consent of every owner of that land (to the extent to

which

Coal Mining (Amendment).

which it is comprised of private lands) and of every occupier (to the extent to which it is comprised of Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes).

5

14. The Coal Mines Regulation Act, 1912, is amended—

Amendment
of Act No.
37, 1912.
Sec. 35A.
(Plans to be
furnished.)

10

(a) by omitting from section 35A (3) (c) the words "Mining Act, 1906, as amended by subsequent Acts" and by inserting instead the words "Coal Mining Act, 1973";

(b) by omitting section 35A (3) (d) and by inserting instead the following paragraph:—

(d) upon any order under section 67 (4) of the Coal Mining Act, 1973, taking effect; or.

15 15. (1) An amendment made by section 5 (section 5 (k) excepted) does not affect, or apply to or in respect of, an application lodged or made under the Coal Mining Act, 1973, before the commencement of that amendment.

Savings and
transitional
provisions.

20 (2) Nothing in section 5 (k) applies to an application that was made under the Mining Act, 1906, and was refused after the commencement of the Coal Mining Act, 1973 (section 139 (1) excepted), but before the date of assent to this Act.

25 (3) An amendment made by this Act does not affect, or apply to or in respect of, a direction, order, requirement, notice or instrument given, made, served, published or lodged before the commencement of that amendment.

(4)

Coal Mining (Amendment).

(4) Nothing in section 13 applies to an application that was made under the Mining Act, 1906, and was refused after the commencement of the Coal Mining Act, 1973 (section 139 (1) excepted), but before the date of assent to
5 this Act.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1975
[24c]

Coal Mining (Amendment)

Nothing in section 13 applies to an application that was made under the Mining Act 1906 and was refused after the commencement of the Coal Mining Act 1973 section 139 (1) excepted, but before the date of assent to this Act.

COAL MINING (AMENDMENT) BILL, 1975

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to extend to twenty-one days the time within which certain notices are to be given under the Coal Mining Act, 1973 (herein referred to as “the Principal Act”);
- (b) to widen the circumstances in which notice of an application for a coal lease under section 30 of the Principal Act may be given in a newspaper (instead of by service);
- (c) to enable an application made under the Mining Act, 1906, and deemed to be an application under the Principal Act for an exploration permit or a coal lease, to be granted notwithstanding that the applicant has not in every respect complied with the requirements of the regulations under the Mining Act, 1906;
- (d) to require notice of an application for the renewal of a coal lease to be given either by service or, if the surface of land is not involved, in a newspaper;
- (e) to require notice of an application for the renewal of an exploration permit to be given in a newspaper;
- (f) to limit to twenty-one years the period for which a coal lease may be renewed on any one occasion;
- (g) to enable a coal lease to be amended during its currency so as to allow the holder to comply with an expenditure condition instead of a labour condition;
- (h) to enable payment of rent under a coal lease to be waived upon its renewal or for any period during which it is in force pending renewal;
- (i) to specify that the Governor may require environmental impact and other studies to be carried out before making certain decisions;
- (j) to enable a notice required to be given before compensation is assessed to be given in a newspaper (instead of by service), if ten or more persons are involved;
- (k) to empower the Minister to purchase, on behalf of Her Majesty, land containing seams of coal, whether or not the coal is owned by or reserved to the Crown;
- (l) to enable regulations to be made authorising the refund, wholly or in part, of fees and other money paid under the Principal Act or the Mining Act, 1906;
- (m) to provide that the provisions of section 43 (1) of the Principal Act (which relate to the size and shape of the land over which a coal lease may be granted) do not apply to an application made under the Mining Act, 1906, and deemed to be an application for a coal lease;

- (n) to provide that, where an application made under the Mining Act, 1906, and deemed to be an application for a coal lease was made in respect of land used as a garden, orchard, dwelling-house or improvement, the application is not to be granted over the surface of the land unless the garden, orchard, dwelling-house or improvement was not in existence—
 - (i) where the application was made by the holder of an authority to enter or an authority to prospect—when the application for the authority was made; or
 - (ii) where the application was made by any other person—when the marking out of the land was carried out;
 - (o) to empower the Minister to modify an application made under the Mining Act, 1906, and deemed to be an application for a coal lease, so as to include adjoining land, but only if the land is of so limited an area that it is not otherwise practicable to mine the land for coal and if every owner or occupier of the land consents;
 - (p) to clarify certain provisions of the Principal Act relating to the service of notices and other instruments;
 - (q) to make amendments of a statute law revision nature;
 - (r) to amend the Coal Mines Regulation Act, 1912, to bring references to the Mining Act, 1906, up to date; and
 - (s) to make other provisions of a minor, consequential or ancillary nature.
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PROOF

No. , 1975.

A BILL

Relating to the making of applications under the Coal Mining Act, 1973, and the payment of rent under coal leases; to make further provision with respect to applications for certain leases made under the Mining Act, 1906; for these and other purposes to amend the Coal Mining Act, 1973; to amend the Coal Mines Regulation Act, 1912, in certain respects; to validate certain matters; and for purposes connected therewith.

[MR FREUDENSTEIN—5 March, 1975.]

BE

Coal Mining (Amendment).

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. This Act may be cited as the "Coal Mining Short title.
(Amendment) Act, 1975".

2. (1) Except as provided in subsections (2) and (3), Commence-
this Act shall commence on the date of assent to this Act. ment.

10 (2) Sections 5 (b), 5 (c) (i), (ii), (iv) and (v),
5 (l), 5 (s), 11 (c) and 12 (a) shall commence on such day
or days as may be appointed by the Governor in respect
thereof and as may be notified by proclamation published in
the Gazette.

15 (3) Sections 5 (k), 5 (t) and 13 shall be deemed to
have commenced on 29th March, 1974.

3. Part I of the Coal Mining Act, 1973, is amended—

Amendment
of Act No.
81, 1973.
(Part I.—
Preliminary
and Interpre-
tation.)

- 20 (a) by omitting from the matter relating to Division 3 Sec. 2.
of Part IV in section 2 the matter "60" and by (Division
inserting instead the matter "60A"; of Act.)
- (b) by omitting from section 9 the word "required" Sec. 9.
wherever occurring and by inserting instead the (Service of
words "authorised or required". documents.)

4.

Coal Mining (Amendment).

4. Part III of the Coal Mining Act, 1973, is amended— Further amendment of Act No. 81, 1973. (Part III.— Authorisations.)

(a) (i) by omitting from section 21 (4) the words Sec. 21. “, by instrument in writing” and by inserting (Grant of authorisation to owner of coal, etc.) instead the words “cause to be”;

5 (ii) by omitting from section 21 (4) the word “, require” and by inserting instead the words “an instrument in writing requiring”;

10 (b) by omitting from section 23 (4) the word Sec. 23. “authority” where secondly occurring and by (Restriction on grant of authorisation.) inserting instead the word “authorisation”.

5. Part IV of the Coal Mining Act, 1973, is amended— Further amendment of Act No. 81, 1973. (Part IV.— Concessions.)

(a) by omitting from section 27 (2) (b) the word Sec. 27. “district” and by inserting instead the word (Minister may invite tenders for exploration permit.) “locality”;

15 (b) (i) by omitting from section 29 (1) the word Sec. 29. “seven” and by inserting instead the word (Intending for coal applicant lease over private lands, etc., to give notice to owner, etc.) “twenty-one”;

(ii) by omitting section 29 (1) (b) and by inserting instead the following paragraph :—
20 (b) containing particulars sufficient to lead to the ready identification of the area of land over which the lease is, or is to be, sought, consisting of a plan and a description of that area.

(iii)

Coal Mining (Amendment).

(iii) by omitting section 29 (2) and by inserting instead the following subsection :—

5 (2) Where the application made, or intended to be made, for a coal lease under section 30 does not or will not relate to the surface of any private lands or to the surface of any Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, the applicant, or the person
10 intending to apply, may, instead of serving any notice required by subsection (1) to be served, cause to be published, either before, or within twenty-one days after, lodging the application under section 30, in a newspaper circulating generally in the State and in a
15 newspaper, or more than one newspaper, circulating in the locality in which is situated the area of land over which the lease is, or is to be, sought, a notice—

20 (a) stating that an application for the grant of a lease has been, or will be, lodged, as the case may be; and

25 (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area.

(c) (i) by omitting section 30 (2) (d) and by inserting instead the following paragraph :—

(d) be accompanied by—

30 (i) a copy of every notice relating to the application served on an owner or occupier of land pursuant to section 29 (1) before the application was lodged; and

Sec. 30.
(Applica-
tion for coal
lease by
holder of
exploration
permit.)

(ii)

Coal Mining (Amendment).

- 5 (ii) a written statement to the effect that each such notice was served on such an owner or occupier and setting out the name and address of each such owner or occupier,
- or by a copy of every notice relating to the application published pursuant to section 29 (2) before the application was lodged; and
- 10 (ii) by omitting from section 30 (4) the word "seven" wherever occurring and by inserting instead the word "twenty-one";
- (iii) by omitting from section 30 (4) the word "district" and by inserting instead the word
- 15 "locality";
- (iv) by omitting section 30 (4) (b) and by inserting instead the following paragraph :—
- (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area,
- 20 (v) by omitting section 30 (6) and by inserting instead the following subsections :—
- (6) A copy of every notice relating to an application lodged under this section and served pursuant to section 29 (1) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of the notice, together with a
- 25 written statement to the effect that each such notice was served on an owner or occupier of land pursuant to section 29 (1) and setting out the name and address of each such owner or occupier.
- 30

(ii)

(6A)

Coal Mining (Amendment).

5 (6A) A copy of every notice relating to an application lodged under this section and published pursuant to section 29 (2) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of publication of the notice.

- (d) by omitting from section 31 (1) the word "district" and by inserting instead the word "locality"; Sec. 31.
(Minister to publish notice of intention to invite tenders for coal lease, etc.)
- 10 (e) by omitting from section 32 (3) (b) the word "district" and by inserting instead the word "locality"; Sec. 32.
(Minister may invite tenders for coal lease.)
- (f) by omitting from section 33 (2) (c) the word "permit" and by inserting instead the word "lease"; Sec. 33.
(Tender for coal lease.)
- 15 (g) by omitting from section 34 (1) the words "served on any person, invite that person" and by inserting instead the words "invite any person"; Sec. 34.
(Minister may invite persons to apply for coal lease.)
- 20 (h) (i) by omitting from section 36 the words "by instrument in writing served on an applicant or a tenderer for the grant of a concession, require" and by inserting instead the words "cause to be served on an applicant or a tenderer for the grant of a concession an instrument in writing requiring"; Sec. 36.
(Minister may require further information from applicant or tenderer.)

(ii)

Coal Mining (Amendment).

- (ii) by omitting from section 36 (b) the word "Australia." and by inserting instead the following words :—

"Australia,

5

and the applicant or the tenderer, as the case may be, shall comply with the requirement.";

- (i) by omitting from section 41 (1) the words "under section 30 or 35";

Sec. 41.
(Power of Governor in relation to application for coal lease.)

10

- (j) (i) by omitting from section 42 (1) the words "under section 30 or 35";

Sec. 42.
(Grant of coal lease subject to amendment.)

- (ii) by omitting from section 42 (3) (c) the words "relating to expenditure or";

15

- (k) (i) by inserting in section 44 (2) after the word "Act" the words "or the Mining Act, 1906, and the regulations under that Act";

Sec. 44.
(Exercise of powers under this Act.)

- (ii) by inserting in section 44 (5) after the word "not" the words "in every respect";

20

- (iii) by inserting in section 44 (5) after the word "regulations" the words "or the regulations under the Mining Act, 1906";

- (l) by inserting after section 50 (6) the following sub-sections :—

Sec. 50.
(Lodging of application for renewal of concession with Under Secretary.)

25

- (7) Subject to subsection (8), where the registered holder of a coal lease applies after the commencement of this subsection, or intends so to

apply,

Coal Mining (Amendment).

5 apply, for the renewal of the lease over any private lands or Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, he shall, either before, or within twenty-one days after, lodging the application, serve on every owner and occupier of private lands and on every occupier of Crown lands, a notice—

10 (a) stating that an application for the renewal of a lease has been, or will be, lodged, as the case may be; and

(b) containing particulars sufficient to lead to the ready identification of the area of land to which the application relates, consisting of a plan and a description of that area.

15 (8) Where the application made, or intended to be made, for the renewal of a coal lease does not or will not relate to the surface of any private lands or to the surface of any Crown lands held under a Crown lease for pastoral purposes or a
20 special lease for pastoral purposes, the applicant, or the person intending to apply, may, instead of serving any notice required by subsection (7) to be served, cause to be published, either before, or within twenty-one days after, lodging the application
25 under this section, in a newspaper, or more than one newspaper, circulating in the locality in which is situated the area of land over which the renewal of the lease is, or is to be, sought, a notice—

30 (a) stating that an application for the renewal of a coal lease has been, or will be, lodged, as the case may be; and

35 (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area.

(9)

Coal Mining (Amendment).

5 (9) Where the registered holder of an exploration permit applies after the commencement of this subsection, or intends so to apply, for the renewal of the permit, he shall, either before, or within twenty-one days after, lodging the application, cause to be published in a newspaper, or more than one newspaper, circulating in the locality in which is situated the area of land over which the renewal of the permit is, or is to be, sought a notice—

10 (a) stating that an application for the renewal of an exploration permit has been, or will be, lodged, as the case may be; and

15 (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area.

20 (10) An application for the renewal of a concession shall be accompanied by a copy of every notice served or published under subsection (7), (8) or (9) in relation to the application before the application was lodged.

25 (11) A copy of every notice relating to an application for the renewal of a coal lease and served pursuant to subsection (7) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of the notice, together with a written statement to the effect that each such notice was served on an owner or occupier of land pursuant to subsection (7) and
30 setting out the name and address of each such owner or occupier.

Coal Mining (Amendment).

5 (12) A copy of every notice relating to an application for the renewal of a concession published pursuant to subsection (8) or (9) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of publication of the notice.

(m) by inserting after section 53 (4) the following subsection :—

10 (4A) The period for which a coal lease is renewed shall not on any one occasion exceed twenty-one years.

Sec. 53.
(Powers of Minister or Governor on application for renewal of concession.)

(n) (i) by omitting from section 54 (1) (b) the word "and";

15 (ii) by omitting from section 54 (1) (c) the word "renewed." and by inserting instead the words "renewed; and";

Sec. 54.
(Notice of renewal, etc., to be served on registered holder of concession.)

(iii) by inserting after section 54 (1) (c) the following paragraph :—

20 (d) if the area of land over which the concession is renewed differs from the area that was subject to the concession immediately before the renewal—containing a description of the land over which the concession is renewed.

25 (o) (i) by omitting from section 56 (2) the words "served on the registered holder of the concession";

Sec. 56.
(Concession to have effect until application for renewal dealt with.)

(ii)

Coal Mining (Amendment).

(ii) by omitting from section 56 (2) the words
“, and the amendment shall have effect from
and including the date on which the instrument
is so served”;

5 (iii) by inserting after section 56 (2) the following
subsection :—

10 (3) Where the Minister amends the con-
ditions of a concession under subsection (2),
he shall cause to be served on the registered
holder of the concession a notice informing
him of the amendment, and the amendment
has effect from and including the date on
which the notice is served.

15 (p) (i) by omitting from section 60 (2) the words Sec. 60.
“served on the registered holder of the (Suspension
concession”; of con-
conditions of
concession.)

(ii) by inserting after section 60 (2) the following
subsection :—

20 (2A) Where the Minister suspends any of
the conditions of a concession under this
section, he shall cause to be served on the
registered holder of the concession a notice
informing him of the suspension.

25 (q) by inserting after section 60 the following Sec. 60A.
section :—

30 60A. (1) The Governor may, during the Amendment
currency of a coal lease containing a condition of coal
relating to labour, amend the lease so as to allow lease in
the registered holder of the lease to comply with a respect of
condition relating to expenditure instead of the certain
condition relating to labour. con-
ditions.

Coal Mining (Amendment).

- (2) The Minister shall cause to be served on the registered holder of a coal lease an instrument in writing setting out any amendment made under subsection (1) to the lease, and the amendment has effect as from the date on which the instrument is served.
- (r) (i) by omitting from section 70 (4) the words "served on the registered holder of a coal lease"; Sec. 70. (Rights of registered holder of coal lease.)
- (ii) by inserting in section 70 (4) (a) after the word "holder" the words "of the coal lease to which the order relates";
- (iii) by inserting in section 70 (4) after the words "the coal lease" the words "to which the order relates";
- (iv) by inserting after section 70 (4) the following subsection :—
- (4A) The Minister shall cause to be served on the registered holder of a coal lease to which an order under subsection (4) relates an instrument in writing setting out the details of the order, and the order has effect as from the date on which the instrument is served.
- (s) by omitting from section 72 (5) the word "fourteen" and by inserting instead the word "twenty-one"; Sec. 72. (Addition of mineral to lease.)
- (t) (i) by omitting section 75 (4) and by inserting instead the following subsections :— Sec. 75. (Rent.)
- (4) The Governor may, by instrument in writing, increase or decrease, or waive payment of, the rent payable in respect of a coal lease for any period when the lease has effect under section 56 (being a period that is before or after, or partly before and partly after, the date of the instrument).

(4A)

Coal Mining (Amendment).

- 5 (4A) Where the rent payable for a period in respect of a coal lease is increased or decreased, or payment thereof is waived, under subsection (4), the Minister shall cause to be served on the person who was or is, as the case may be, the registered holder of the lease an instrument in writing setting out the details of the increase, decrease or waiver, and—
- 10 (a) as from the date on which the instrument is served, the increase, decrease or waiver has effect in relation to that period (whether that period is before or after, or partly before and partly after, that date);
- 15 (b) where the rent is increased or decreased—the rent as so increased or decreased is payable by that person or, if when the instrument is served the rent for the period has been paid, the amount of any increase is payable by,
- 20 or the amount of any decrease is payable to, that person; and
- 25 (c) where payment of the rent is waived—the rent for the period is not payable by that person and, if when that instrument is served the rent for the period has been paid, the amount of that rent so paid is payable to that person.
- 30 (ii) by inserting in section 75 (6) after the word “increase” the words “or decrease”;
- (iii) by inserting in section 75 (6) after the word “renewed” the words “or waive payment of the rent payable during that period”;
- 35 (u) (i) by omitting from section 77 (5) the words *Sec. 77.* “served on the registered holder of the lease”; (*Rate of royalty.*)

(ii)

Coal Mining (Amendment).

- (ii) by omitting from section 77 (5) the words "that notice is so served" and by inserting instead the words "notice of the rate so fixed is served pursuant to subsection (5A)";
- 5 (iii) by inserting after section 77 (5) the following subsection :—
- 10 (5A) The Minister shall cause to be served on the registered holder of a lease to which an instrument under subsection (5) relates a notice in writing setting out the details of the rate fixed thereby, and the rate so fixed is payable as from the date on which the notice is served.
- 15 (v) by omitting from section 79 (1) the words " , by Sec. 79. instrument in writing served on that person, require" (Minister may require information to be furnished, etc.) and by inserting instead the words "cause to be served on that person an instrument in writing requiring".
- 20 6. Part V of the Coal Mining Act, 1973, is amended by Further amendment of Act No. 81, 1973. omitting from section 83 (1) the word "within" wherever occurring and by inserting instead the words "before or within". (Part V.— Objection to Grant of Con- cession Over, or the Exercise of Powers Under an Authorisa- tion or an Explora- tion Permit In, Agricul- tural Land.) Sec. 83. (Objection to grant of con- cession, etc.)

Coal Mining (Amendment).

7. Part VI of the Coal Mining Act, 1973, is amended—

Further amendment of Act No. 81, 1973. (Part VI.—Objections to Granting Coal Leases, and References of Applications to Government Departments and Other Authorities.)

(a) by omitting from section 86 (2) the words “within thirty days after” and by inserting instead the words “either before, or within thirty days after,”;

Sec. 86. (Objection to grant of coal lease, etc.)

5 (b) (i) by omitting from section 88 (4) the words “served on the registered holder of the lease”;

Sec. 88. (Granting of coal lease, etc., if objection made under sec. 87.)

(ii) by inserting after section 88 (4) the following subsection :—

10 (4A) The Minister shall cause to be served on the registered holder of a coal lease amended under subsection (4) a notice in writing setting out the details of the amendment, and the amendment has effect from the date on which the notice is served.

15 (c) (i) by omitting from section 91 (1) the words “by instrument in writing served” and by inserting instead the words “cause an instrument in writing to be served”;

Sec. 91. (Grant of coal lease applied for over land subject to a scheme.)

20 (ii) by omitting from section 91 (1) (a) the word “require” and by inserting instead the word “requiring”;

(iii)

Coal Mining (Amendment).

- (iii) by omitting from section 91 (1) (b) the word “notify” and by inserting instead the word “notifying”;
- 5 (iv) by omitting from section 91 (1) (b) the word “state” and by inserting instead the word “stating”;
- (v) by omitting from section 91 the words “by the Minister” wherever occurring;
- 10 (vi) by omitting from section 91 (4) (a) the words “of the Minister”.

8. Part VII of the Coal Mining Act, 1973, is amended—

Further amendment of Act No. 81, 1973.
(Part VII.—Protection of the Environment.)

- 15 (a) by inserting in section 93 after the word “sought” the words “, and may cause such studies (including environmental impact studies) to be carried out as he may deem necessary to enable him to decide whether or not to invite tenders or an application or to grant a concession”;
- 20 (b) by omitting from section 95 (2) the words “require the person to whom it is proposed to grant the lease to lodge with him, within such time as he may require” and by inserting instead the words “cause to be served on the person to whom it is proposed to grant the lease an instrument in writing requiring that person to lodge with him, within such time as is specified in the instrument”;
- 25

Sec. 93.
(Need to protect natural resources, etc., to be taken into account.)

Sec. 95.
(Rehabilitation, etc., of area damaged by mining.)

(c)

Coal Mining (Amendment).

- (c) (i) by omitting from section 96 (1) the words
 “, by instrument in writing” and by inserting
 instead the words “cause to be”; Sec. 96.
(Direction to
comply with
conditions
of conces-
sion for
protection
of environ-
ment.)
- 5 (ii) by omitting from section 96 (1) the word
 “, direct” and by inserting instead the words
 “an instrument in writing directing”. of environ-
ment.)
9. Part VIII of the Coal Mining Act, 1973, is amended
 by omitting section 98 (1) (a) and by inserting instead the
 following paragraphs :— Further
amendment
of Act No.
81, 1973.
(Part VIII.—
Compensa-
tion.)
- 10 (a) shall be made in the manner prescribed ;
- (a1) shall not be made until after either— Sec. 98.
(Assessment
of compen-
sation.)
- 15 (i) if there are ten or more persons who appear
 to the warden to be interested in the
 assessment—notice in the approved form is
 published in a newspaper circulating
 generally in the State and in a newspaper,
 or more than one newspaper, circulating in
 the locality in which the land concerned is
 situated ; or
- 20 (ii) in any case—notice in the approved form
 is served on each person who appears to the
 warden to be interested in the assessment.

10. Part IX of the Coal Mining Act, 1973, is amended
 by omitting from section 103 (2) the word “authority” and
 25 by inserting instead the word “concession”. Further
amendment
of Act No.
81, 1973.
(Part IX.—
Records
and Regis-
tration.)

Sec. 103.
(Interest in
concession
to be
created by
instrument
in writing.)

Coal Mining (Amendment).

11. Part XI of the Coal Mining Act, 1973, is amended— Further amendment of Act No. 81, 1973. (Part XI.—Miscellaneous.)

5 (a) (i) by omitting from section 114 the words “, by instrument in writing, direct the applicant or the registered holder of the concession, as the case may be,” and by inserting instead the words “cause to be served on the applicant or the registered holder of the concession, as the case may be, an instrument in writing directing him”;

10 (ii) by inserting in section 114 after the word “concerned” the words “, and the applicant or the registered holder, as the case may be, shall comply with the direction”;

15 (b) (i) by omitting from section 115 (2) (b) the words “served on him”; (ii) by inserting after section 115 (2) the following subsection :—

20 (2A) Where the Minister gives a direction to a person under subsection (2) (b), the Minister shall cause to be served on that person a notice setting out the details of the direction, and the direction has effect from the date on which notice is served.

25 (c) by inserting after section 128 (3) the following subsection :—

(4) Where any amount authorised to be refunded under the regulations is credited to the account referred to in subsection (1), the amount is payable from the account.

(d)

Coal Mining (Amendment).

- (d) by inserting in section 129 after the word "Crown" the words "and land containing any such seams or containing seams of coal owned by or reserved to the Crown".
- Sec. 129.
(Purchase of coal not owned by or reserved to Crown.)

- 5 12. Part XII of the Coal Mining Act, 1973, is amended—
- Further amendment of Act No. 81, 1973. (Part XII.—Regulations.)

- (a) by omitting section 135 (2) (n) and by inserting instead the following paragraphs :—
- Sec. 135. (Regulations.)

- (n) authorising the refund of the whole or any part of—

- 10 (i) any fee paid under this Act, other than a fee paid in respect of a tender for the grant of an exploration permit lodged under section 28 or for the grant of a coal lease under section 33;

- 15 (ii) any moneys referred to in section 128 (1) (b); or

- 20 (iii) any fee, deposit or rent paid under the Mining Act, 1906, other than a fee, deposit or rent paid in connection with an application deemed by the Mining Act, 1973, to be an application for an authority;

- 25 (n1) determining the person to whom a refund referred to in paragraph (n) is payable, and, in particular, providing that such a refund of any fee, moneys, deposit or rent referred to in paragraph (n) (i), (ii) or

(iii)

Coal Mining (Amendment).

(iii) and paid in connection with an application for the grant of a concession is payable to the applicant for the concession ;

- 5 (b) by inserting after section 136 (2) the following subsection :—
- Sec. 136.
(Exercise of power under sec. 135.)

(3) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by any person or body specified therein.

- 10 **13.** The Second Schedule to the Coal Mining Act, 1973, is amended—
- Further amendment of Act No. 81, 1973.
(Second Schedule.)

- (a) by omitting from paragraph 8 (5) the word “duly” wherever occurring;
- Para. 8.
(Authority to prospect and prospecting license under 1906 Act.)

- 15 (b) (i) by omitting from paragraph 9 the word “duly” wherever occurring;
- Para. 9.
(Coal and shale leases, etc., under the 1906 Act.)
- (ii) by inserting after paragraph 9 (11) the following subparagraphs :—

20 (11A) The provisions of section 43 (1) and section 62 (8) do not apply to an application deemed under subparagraph (7) to be an application for a coal lease.

(11B)

Coal Mining (Amendment).

(11B) For the purposes of section 62, the prescribed date is, in the case of an application deemed under subparagraph (7) to be an application for a coal lease that was—

- 5 (a) made by a person when he was the holder of an authority to enter or an authority to prospect granted under the 1906 Act in respect of the land the subject of the application—the date when the application for the authority was made; or
- 10 (b) made by any other person—the date when the marking out of the land the subject of the application for the lease was carried out.
- 15

(iii) by inserting after paragraph 9 (12) the following subparagraph :—

20 (13) The Minister may modify an application deemed under subparagraph (7) to be an application for a coal lease so as to include within the land applied for any land—

- (a) that adjoins, or is within the boundaries of, the land applied for; and
- 25 (b) that, in the opinion of the Minister, is of so limited an area as may only be practicably worked for the winning of coal by the applicant for the lease,

30 but the application shall not be so modified so as to include that land without the consent of every owner of that land (to the extent to

which

Coal Mining (Amendment).

which it is comprised of private lands) and of every occupier (to the extent to which it is comprised of Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes).

14. The Coal Mines Regulation Act, 1912, is amended— Amendment of Act No. 37, 1912.

(a) by omitting from section 35A (3) (c) the words Sec. 35A. "Mining Act, 1906, as amended by subsequent Acts" and by inserting instead the words "Coal Mining Act, 1973"; (Plans to be furnished.)

(b) by omitting section 35A (3) (d) and by inserting instead the following paragraph:—

(d) upon any order under section 67 (4) of the Coal Mining Act, 1973, taking effect; or.

15 15. (1) An amendment made by section 5 (section 5 Savings and transitional provisions. (k) excepted) does not affect, or apply to or in respect of, an application lodged or made under the Coal Mining Act, 1973, before the commencement of that amendment.

20 (2) Nothing in section 5 (k) applies to an application that was made under the Mining Act, 1906, and was refused after the commencement of the Coal Mining Act, 1973 (section 139 (1) excepted), but before the date of assent to this Act.

25 (3) An amendment made by this Act does not affect, or apply to or in respect of, a direction, order, requirement, notice or instrument given, made, served, published or lodged before the commencement of that amendment.

(4)

Coal Mining (Amendment).

(4) Nothing in section 13 applies to an application that was made under the Mining Act, 1906, and was refused after the commencement of the Coal Mining Act, 1973 (section 139 (1) excepted), but before the date of assent to
5 this Act.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1975

(Section 10 of the Act)

(4) Nothing in section 11 applies to an application that was made under the Mining Act 1966 and was refused after the commencement of the Coal Mining Act 1973 (section 10 of the Act) except that the date of refusal is this Act.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Parliament of the State of New South Wales at Sydney this 10th day of May 1974.

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.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 13 March, 1975.*

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 19, 1975.

An Act relating to the making of applications under the Coal Mining Act, 1973, and the payment of rent under coal leases; to make further provision with respect to applications for certain leases made under the Mining Act, 1906; for these and other purposes to amend the Coal Mining Act, 1973; to amend the Coal Mines Regulation Act, 1912, in certain respects; to validate certain matters; and for purposes connected therewith. [Assented to, 14th April, 1975.]

BE

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

H. G. COATES,
Acting Chairman of Committees of the Legislative Assembly.

Coal Mining (Amendment).

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:—

Short title. **1.** This Act may be cited as the "Coal Mining (Amendment) Act, 1975".

Commence- **2.** (1) Except as provided in subsections (2) and (3),
ment. this Act shall commence on the date of assent to this Act.

(2) Sections 5 (b), 5 (c) (i), (ii), (iv) and (v), 5 (1), 5 (s), 11 (c) and 12 (a) shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Sections 5 (k), 5 (t) and 13 shall be deemed to have commenced on 29th March, 1974.

Amendment
of Act No.
81, 1973.
(Part I.—
Preliminary
and Interpre-
tation.)

3. Part I of the Coal Mining Act, 1973, is amended—

Sec. 2.
(Division
of Act.)

(a) by omitting from the matter relating to Division 3 of Part IV in section 2 the matter "60" and by inserting instead the matter "60A";

Sec. 9.
(Service of
documents.)

(b) by omitting from section 9 the word "required" wherever occurring and by inserting instead the words "authorised or required".

Coal Mining (Amendment).

4. Part III of the Coal Mining Act, 1973, is amended— Further amendment of Act No. 81, 1973. (Part III.— Authorisations.)

- (a) (i) by omitting from section 21 (4) the words “, by instrument in writing” and by inserting instead the words “cause to be”; Sec. 21. (Grant of authorisation to owner of coal, etc.)
- (ii) by omitting from section 21 (4) the word “, require” and by inserting instead the words “an instrument in writing requiring”;
- (b) by omitting from section 23 (4) the word “authority” where secondly occurring and by inserting instead the word “authorisation”. Sec. 23. (Restriction on grant of authorisation.)

5. Part IV of the Coal Mining Act, 1973, is amended— Further amendment of Act No. 81, 1973. (Part IV.— Concessions.)

- (a) by omitting from section 27 (2) (b) the word “district” and by inserting instead the word “locality”; Sec. 27. (Minister may invite tenders for exploration permit.)
- (b) (i) by omitting from section 29 (1) the word “seven” and by inserting instead the word “twenty-one”; Sec. 29. (Intending for coal applicant lease over private lands, etc., to give notice to owner, etc.)
- (ii) by omitting section 29 (1) (b) and by inserting instead the following paragraph :—
 - (b) containing particulars sufficient to lead to the ready identification of the area of land over which the lease is, or is to be, sought, consisting of a plan and a description of that area.

(iii)

Coal Mining (Amendment).

- (iii) by omitting section 29 (2) and by inserting instead the following subsection :—

(2) Where the application made, or intended to be made, for a coal lease under section 30 does not or will not relate to the surface of any private lands or to the surface of any Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, the applicant, or the person intending to apply, may, instead of serving any notice required by subsection (1) to be served, cause to be published, either before, or within twenty-one days after, lodging the application under section 30, in a newspaper circulating generally in the State and in a newspaper, or more than one newspaper, circulating in the locality in which is situated the area of land over which the lease is, or is to be, sought, a notice—

- (a) stating that an application for the grant of a lease has been, or will be, lodged, as the case may be; and
- (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area.

Sec. 30.
(Applica-
tion for coal
lease by
holder of
exploration
permit.)

- (c) (i) by omitting section 30 (2) (d) and by inserting instead the following paragraph :—

(d) be accompanied by—

- (i) a copy of every notice relating to the application served on an owner or occupier of land pursuant to section 29 (1) before the application was lodged; and

(ii)

Coal Mining (Amendment).

- (ii) a written statement to the effect that each such notice was served on such an owner or occupier and setting out the name and address of each such owner or occupier,
or by a copy of every notice relating to the application published pursuant to section 29 (2) before the application was lodged; and
- (ii) by omitting from section 30 (4) the word "seven" wherever occurring and by inserting instead the word "twenty-one";
- (iii) by omitting from section 30 (4) the word "district" and by inserting instead the word "locality";
- (iv) by omitting section 30 (4) (b) and by inserting instead the following paragraph :—
 - (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area,
- (v) by omitting section 30 (6) and by inserting instead the following subsections :—

(6) A copy of every notice relating to an application lodged under this section and served pursuant to section 29 (1) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of the notice, together with a written statement to the effect that each such notice was served on an owner or occupier of land pursuant to section 29 (1) and setting out the name and address of each such owner or occupier.

Coal Mining (Amendment).

(6A) A copy of every notice relating to an application lodged under this section and published pursuant to section 29 (2) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of publication of the notice.

Sec. 31.
(Minister
to publish
notice of
intention
to invite
tenders for
coal lease,
etc.)

- (d) by omitting from section 31 (1) the word "district" and by inserting instead the word "locality";

Sec. 32.
(Minister
may invite
tenders for
coal lease.)

- (e) by omitting from section 32 (3) (b) the word "district" and by inserting instead the word "locality";

Sec. 33.
(Tender for
coal
lease.)

- (f) by omitting from section 33 (2) (c) the word "permit" and by inserting instead the word "lease";

Sec. 34.
(Minister
may
invite
persons
to apply
for coal
lease.)

- (g) by omitting from section 34 (1) the words "served on any person, invite that person" and by inserting instead the words "invite any person";

Sec. 36.
(Minister
may
require
further
informa-
tion from
applicant
or
tenderer.)

- (h) (i) by omitting from section 36 the words " , by instrument in writing served on an applicant or a tenderer for the grant of a concession, require" and by inserting instead the words "cause to be served on an applicant or a tenderer for the grant of a concession an instrument in writing requiring";

(ii)

Coal Mining (Amendment).

(ii) by omitting from section 36 (b) the word "Australia." and by inserting instead the following words :—

"Australia,

and the applicant or the tenderer, as the case may be, shall comply with the requirement.";

(i) by omitting from section 41 (1) the words "under section 30 or 35";

Sec. 41.
(Power of Governor in relation to application for coal lease.)

(j) (i) by omitting from section 42 (1) the words "under section 30 or 35";

Sec. 42.
(Grant of coal lease subject to amendment.)

(ii) by omitting from section 42 (3) (c) the words "relating to expenditure or";

(k) (i) by inserting in section 44 (2) after the word "Act" the words "or the Mining Act, 1906, and the regulations under that Act";

Sec. 44.
(Exercise of powers under this Act.)

(ii) by inserting in section 44 (5) after the word "not" the words "in every respect";

(iii) by inserting in section 44 (5) after the word "regulations" the words "or the regulations under the Mining Act, 1906";

(l) by inserting after section 50 (6) the following sub-sections :—

Sec. 50.
(Lodging of application for renewal of concession with Under Secretary.)

(7) Subject to subsection (8), where the registered holder of a coal lease applies after the commencement of this subsection, or intends so to

apply

Coal Mining (Amendment).

apply, for the renewal of the lease over any private lands or Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, he shall, either before, or within twenty-one days after, lodging the application, serve on every owner and occupier of private lands and on every occupier of Crown lands, a notice—

- (a) stating that an application for the renewal of a lease has been, or will be, lodged, as the case may be; and
- (b) containing particulars sufficient to lead to the ready identification of the area of land to which the application relates, consisting of a plan and a description of that area.

(8) Where the application made, or intended to be made, for the renewal of a coal lease does not or will not relate to the surface of any private lands or to the surface of any Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, the applicant, or the person intending to apply, may, instead of serving any notice required by subsection (7) to be served, cause to be published, either before, or within twenty-one days after, lodging the application under this section, in a newspaper, or more than one newspaper, circulating in the locality in which is situated the area of land over which the renewal of the lease is, or is to be, sought, a notice—

- (a) stating that an application for the renewal of a coal lease has been, or will be, lodged, as the case may be; and
- (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area.

(9)

Coal Mining (Amendment).

(9) Where the registered holder of an exploration permit applies after the commencement of this subsection, or intends so to apply, for the renewal of the permit, he shall, either before, or within twenty-one days after, lodging the application, cause to be published in a newspaper, or more than one newspaper, circulating in the locality in which is situated the area of land over which the renewal of the permit is, or is to be, sought, a notice—

- (a) stating that an application for the renewal of an exploration permit has been, or will be, lodged, as the case may be; and
- (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area.

(10) An application for the renewal of a concession shall be accompanied by a copy of every notice served or published under subsection (7), (8) or (9) in relation to the application before the application was lodged.

(11) A copy of every notice relating to an application for the renewal of a coal lease and served pursuant to subsection (7) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of the notice, together with a written statement to the effect that each such notice was served on an owner or occupier of land pursuant to subsection (7) and setting out the name and address of each such owner or occupier.

(12)

Coal Mining (Amendment).

(12) A copy of every notice relating to an application for the renewal of a concession published pursuant to subsection (8) or (9) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of publication of the notice.

Sec. 53.
(Powers of
Minister or
Governor on
application
for renewal
of conces-
sion.)

(m) by inserting after section 53 (4) the following subsection :—

(4A) The period for which a coal lease is renewed shall not on any one occasion exceed twenty-one years.

Sec. 54.
(Notice of
renewal, etc.,
to be served
on registered
holder of
concession.)

(n) (i) by omitting from section 54 (1) (b) the word “and”;

(ii) by omitting from section 54 (1) (c) the word “renewed.” and by inserting instead the words “renewed; and”;

(iii) by inserting after section 54 (1) (c) the following paragraph :—

(d) if the area of land over which the concession is renewed differs from the area that was subject to the concession immediately before the renewal—
containing a description of the land over which the concession is renewed.

Sec. 56.
(Concession
to have
effect until
application
for renewal
dealt with.)

(o) (i) by omitting from section 56 (2) the words “served on the registered holder of the concession”;

(ii)

Coal Mining (Amendment).

(ii) by omitting from section 56 (2) the words
“, and the amendment shall have effect from
and including the date on which the instrument
is so served”;

(iii) by inserting after section 56 (2) the following
subsection :—

(3) Where the Minister amends the con-
ditions of a concession under subsection (2),
he shall cause to be served on the registered
holder of the concession a notice informing
him of the amendment, and the amendment
has effect from and including the date on
which the notice is served.

(p) (i) by omitting from section 60 (2) the words Sec. 60.
“served on the registered holder of the (Suspension
concession”; of con-
conditions of
concession.)

(ii) by inserting after section 60 (2) the following
subsection :—

(2A) Where the Minister suspends any of
the conditions of a concession under this
section, he shall cause to be served on the
registered holder of the concession a notice
informing him of the suspension.

(q) by inserting after section 60 the following Sec. 60A.
section :—

60A. (1) The Governor may, during the Amendment
currency of a coal lease containing a condition of coal
relating to labour, amend the lease so as to allow lease in
the registered holder of the lease to comply with a respect of
condition relating to expenditure instead of the certain
condition relating to labour. con-
ditions.

Coal Mining (Amendment).

(2) The Minister shall cause to be served on the registered holder of a coal lease an instrument in writing setting out any amendment made under subsection (1) to the lease, and the amendment has effect as from the date on which the instrument is served.

Sec. 70.
(Rights of
registered
holder of
coal lease.)

- (r) (i) by omitting from section 70 (4) the words "served on the registered holder of a coal lease";
- (ii) by inserting in section 70 (4) (a) after the word "holder" the words "of the coal lease to which the order relates";
- (iii) by inserting in section 70 (4) after the words "the coal lease" the words "to which the order relates";
- (iv) by inserting after section 70 (4) the following subsection :—

(4A) The Minister shall cause to be served on the registered holder of a coal lease to which an order under subsection (4) relates an instrument in writing setting out the details of the order, and the order has effect as from the date on which the instrument is served.

Sec. 72.
(Addition
of mineral
to lease.)

- (s) by omitting from section 72 (5) the word "fourteen" and by inserting instead the word "twenty-one";

Sec. 75.
(Rent.)

- (t) (i) by omitting section 75 (4) and by inserting instead the following subsections :—

(4) The Governor may, by instrument in writing, increase or decrease, or waive payment of, the rent payable in respect of a coal lease for any period when the lease has effect under section 56 (being a period that is before or after, or partly before and partly after, the date of the instrument).

(4A)

Coal Mining (Amendment).

(4A) Where the rent payable for a period in respect of a coal lease is increased or decreased, or payment thereof is waived, under subsection (4), the Minister shall cause to be served on the person who was or is, as the case may be, the registered holder of the lease an instrument in writing setting out the details of the increase, decrease or waiver, and—

(a) as from the date on which the instrument is served, the increase, decrease or waiver has effect in relation to that period (whether that period is before or after, or partly before and partly after, that date);

(b) where the rent is increased or decreased—the rent as so increased or decreased is payable by that person or, if when the instrument is served the rent for the period has been paid, the amount of any increase is payable by, or the amount of any decrease is payable to, that person; and

(c) where payment of the rent is waived—the rent for the period is not payable by that person and, if when that instrument is served the rent for the period has been paid, the amount of that rent so paid is payable to that person.

(ii) by inserting in section 75 (6) after the word “increase” the words “or decrease”;

(iii) by inserting in section 75 (6) after the word “renewed” the words “or waive payment of the rent payable during that period”;

(u) (i) by omitting from section 77 (5) the words Sec. 77.
“served on the registered holder of the lease”; (Rate of royalty.)

(ii)

Coal Mining (Amendment).

(ii) by omitting from section 77 (5) the words "that notice is so served" and by inserting instead the words "notice of the rate so fixed is served pursuant to subsection (5A)";

(iii) by inserting after section 77 (5) the following subsection :—

(5A) The Minister shall cause to be served on the registered holder of a lease to which an instrument under subsection (5) relates a notice in writing setting out the details of the rate fixed thereby, and the rate so fixed is payable as from the date on which the notice is served.

Sec. 79.
(Minister
may
require
informa-
tion to be
furnished,
etc.)

(v) by omitting from section 79 (1) the words "by instrument in writing served on that person, require" and by inserting instead the words "cause to be served on that person an instrument in writing requiring".

Further
amendment
of Act
No. 81,
1973.
(Part V.—
Objection
to Grant
of Con-
cession Over,
or the
Exercise of
Powers
Under an
Authorisa-
tion or an
Explora-
tion Permit
In, Agricul-
tural Land.)
Sec. 83.
(Objection
to grant
of con-
cession, etc.)

6. Part V of the Coal Mining Act, 1973, is amended by omitting from section 83 (1) the word "within" wherever occurring and by inserting instead the words "before or within".

Coal Mining (Amendment).

7. Part VI of the Coal Mining Act, 1973, is amended— Further amendment of Act No. 81, 1973.

(Part VI.— Objections to Granting Coal Leases, and References of Applications to Government Departments and Other Authorities.)

(a) by omitting from section 86 (2) the words “within thirty days after” and by inserting instead the words “either before, or within thirty days after,”; Sec. 86. (Objection to grant of coal lease, etc.)

(b) (i) by omitting from section 88 (4) the words “served on the registered holder of the lease”; Sec. 88. (Granting of coal lease, etc., if objection made under sec. 87.)
(ii) by inserting after section 88 (4) the following subsection :—

(4A) The Minister shall cause to be served on the registered holder of a coal lease amended under subsection (4) a notice in writing setting out the details of the amendment, and the amendment has effect from the date on which the notice is served.

(c) (i) by omitting from section 91 (1) the words “by instrument in writing served” and by inserting instead the words “cause an instrument in writing to be served”; Sec. 91. (Grant of coal lease applied for over land subject to a scheme.)
(ii) by omitting from section 91 (1) (a) the word “require” and by inserting instead the word “requiring”;

(iii)

Coal Mining (Amendment).

- (iii) by omitting from section 91 (1) (b) the word "notify" and by inserting instead the word "notifying";
- (iv) by omitting from section 91 (1) (b) the word "state" and by inserting instead the word "stating";
- (v) by omitting from section 91 the words "by the Minister" wherever occurring;
- (vi) by omitting from section 91 (4) (a) the words "of the Minister".

Further
amendment
of Act
No. 81,
1973.

(Part VII.—
Protection
of the
Environ-
ment.)

Sec. 93.
(Need to
protect
natural
resources,
etc., to be
taken into
account.)

8. Part VII of the Coal Mining Act, 1973, is amended—

- (a) by inserting in section 93 after the word "sought" the words ", and may cause such studies (including environmental impact studies) to be carried out as he may deem necessary to enable him to decide whether or not to invite tenders or an application or to grant a concession";

Sec. 95.
(Rehabili-
tation, etc.,
of area
damaged
by mining.)

- (b) by omitting from section 95 (2) the words "require the person to whom it is proposed to grant the lease to lodge with him, within such time as he may require" and by inserting instead the words "cause to be served on the person to whom it is proposed to grant the lease an instrument in writing requiring that person to lodge with him, within such time as is specified in the instrument";

(c)

Coal Mining (Amendment).

- (c) (i) by omitting from section 96 (1) the words “, by instrument in writing” and by inserting instead the words “cause to be”; Sec. 96.
(Direction to comply with conditions of concession for protection of environment.)
- (ii) by omitting from section 96 (1) the word “, direct” and by inserting instead the words “an instrument in writing directing”.

9. Part VIII of the Coal Mining Act, 1973, is amended by omitting section 98 (1) (a) and by inserting instead the following paragraphs :— Further amendment of Act No. 81, 1973.
(Part VIII.—Compensation.)

(a) shall be made in the manner prescribed;

(a1) shall not be made until after either— Sec. 98.
(Assessment of compensation.)

- (i) if there are ten or more persons who appear to the warden to be interested in the assessment—notice in the approved form is published in a newspaper circulating generally in the State and in a newspaper, or more than one newspaper, circulating in the locality in which the land concerned is situated; or
- (ii) in any case—notice in the approved form is served on each person who appears to the warden to be interested in the assessment.

10. Part IX of the Coal Mining Act, 1973, is amended by omitting from section 103 (2) the word “authority” and by inserting instead the word “concession”. Further amendment of Act No. 81, 1973.
(Part IX.—Records and Registration.)

Sec. 103.
(Interest in concession to be created by instrument in writing.)

Coal Mining (Amendment).

Further
amendment
of Act No.
81, 1973.
(Part XI.—
Miscellane-
ous.)

Sec. 114.
(Minister
may direct
survey to be
carried out.)

11. Part XI of the Coal Mining Act, 1973, is amended—

- (a) (i) by omitting from section 114 the words “, by instrument in writing, direct the applicant or the registered holder of the concession, as the case may be,” and by inserting instead the words “cause to be served on the applicant or the registered holder of the concession, as the case may be, an instrument in writing directing him”;
- (ii) by inserting in section 114 after the word “concerned” the words “, and the applicant or the registered holder, as the case may be, shall comply with the direction”;

Sec. 115.
(Removal
of mining
plant.)

- (b) (i) by omitting from section 115 (2) (b) the words “served on him”;
- (ii) by inserting after section 115 (2) the following subsection :—

(2A) Where the Minister gives a direction to a person under subsection (2) (b), the Minister shall cause to be served on that person a notice setting out the details of the direction, and the direction has effect from the date on which notice is served.

Sec. 128.
(Disposal
of certain
moneys.)

- (c) by inserting after section 128 (3) the following subsection :—

(4) Where any amount authorised to be refunded under the regulations is credited to the account referred to in subsection (1), the amount is payable from the account.

(d)

Coal Mining (Amendment).

- (d) by inserting in section 129 after the word "Crown" the words "and land containing any such seams or containing seams of coal owned by or reserved to the Crown".
- Sec. 129.
(Purchase of coal not owned by or reserved to Crown.)

12. Part XII of the Coal Mining Act, 1973, is amended—

Further amendment of Act No. 81, 1973. (Part XII.—Regulations.)

- (a) by omitting section 135 (2) (n) and by inserting instead the following paragraphs :—
- Sec. 135.
(Regulations.)

(n) authorising the refund of the whole or any part of—

(i) any fee paid under this Act, other than a fee paid in respect of a tender for the grant of an exploration permit lodged under section 28 or for the grant of a coal lease under section 33;

(ii) any moneys referred to in section 128 (1) (b); or

(iii) any fee, deposit or rent paid under the Mining Act, 1906, other than a fee, deposit or rent paid in connection with an application deemed by the Mining Act, 1973, to be an application for an authority;

(n1) determining the person to whom a refund referred to in paragraph (n) is payable, and, in particular, providing that such a refund of any fee, moneys, deposit or rent referred to in paragraph (n) (i), (ii) or

(iii)

Coal Mining (Amendment).

(iii) and paid in connection with an application for the grant of a concession is payable to the applicant for the concession;

Sec. 136.
(Exercise
of power
under sec.
135.)

(b) by inserting after section 136 (2) the following subsection :—

(3) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by any person or body specified therein.

Further
amendment
of Act No.
81, 1973.
(Second
Schedule.)

13. The Second Schedule to the Coal Mining Act, 1973, is amended—

Para. 8.
(Authority
to prospect
and pros-
pecting
license
under 1906
Act.)

(a) by omitting from paragraph 8 (5) the word “duly” wherever occurring;

Para. 9.
(Coal
and shale
leases,
etc.,
under the
1906 Act.)

(b) (i) by omitting from paragraph 9 the word “duly” wherever occurring;

(ii) by inserting after paragraph 9 (11) the following subparagraphs :—

(11A) The provisions of section 43 (1) and section 62 (8) do not apply to an application deemed under subparagraph (7) to be an application for a coal lease.

(11B)

Coal Mining (Amendment).

(11B) For the purposes of section 62, the prescribed date is, in the case of an application deemed under subparagraph (7) to be an application for a coal lease that was—

- (a) made by a person when he was the holder of an authority to enter or an authority to prospect granted under the 1906 Act in respect of the land the subject of the application—the date when the application for the authority was made; or
- (b) made by any other person—the date when the marking out of the land the subject of the application for the lease was carried out.

(iii) by inserting after paragraph 9 (12) the following subparagraph :—

(13) The Minister may modify an application deemed under subparagraph (7) to be an application for a coal lease so as to include within the land applied for any land—

- (a) that adjoins, or is within the boundaries of, the land applied for; and
- (b) that, in the opinion of the Minister, is of so limited an area as may only be practicably worked for the winning of coal by the applicant for the lease,

but the application shall not be so modified so as to include that land without the consent of every owner of that land (to the extent to

which

Coal Mining (Amendment).

which it is comprised of private lands) and of every occupier (to the extent to which it is comprised of Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes).

Amendment
of Act No.
37, 1912.
Sec. 35A.
(Plans to be
furnished.)

14. The Coal Mines Regulation Act, 1912, is amended—

(a) by omitting from section 35A (3) (c) the words “Mining Act, 1906, as amended by subsequent Acts” and by inserting instead the words “Coal Mining Act, 1973”;

(b) by omitting section 35A (3) (d) and by inserting instead the following paragraph:—

(d) upon any order under section 67 (4) of the Coal Mining Act, 1973, taking effect; or.

Savings and
transitional
provisions.

15. (1) An amendment made by section 5 (section 5 (k) excepted) does not affect, or apply to or in respect of, an application lodged or made under the Coal Mining Act, 1973, before the commencement of that amendment.

(2) Nothing in section 5 (k) applies to an application that was made under the Mining Act, 1906, and was refused after the commencement of the Coal Mining Act, 1973 (section 139 (1) excepted), but before the date of assent to this Act.

(3) An amendment made by this Act does not affect, or apply to or in respect of, a direction, order, requirement, notice or instrument given, made, served, published or lodged before the commencement of that amendment.

(4)

Coal Mining (Amendment).

(4) Nothing in section 13 applies to an application that was made under the Mining Act, 1906, and was refused after the commencement of the Coal Mining Act, 1973 (section 139 (1) excepted), but before the date of assent to this Act.

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

L. W. STREET,
Lieutenant-Governor.

*Government House,
Sydney, 14th April, 1975.*

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.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 13 March, 1975.*

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 19, 1975.

An Act relating to the making of applications under the Coal Mining Act, 1973, and the payment of rent under coal leases; to make further provision with respect to applications for certain leases made under the Mining Act, 1906; for these and other purposes to amend the Coal Mining Act, 1973; to amend the Coal Mines Regulation Act, 1912, in certain respects; to validate certain matters; and for purposes connected therewith. [Assented to, 14th April, 1975.]

BE

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

H. G. COATES,
Acting Chairman of Committees of the Legislative Assembly.

Coal Mining (Amendment).

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:—

Short title. **1.** This Act may be cited as the "Coal Mining (Amendment) Act, 1975".

Commence- **2.** (1) Except as provided in subsections (2) and (3),
ment. this Act shall commence on the date of assent to this Act.

(2) Sections 5 (b), 5 (c) (i), (ii), (iv) and (v), 5 (1), 5 (s), 11 (c) and 12 (a) shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Sections 5 (k), 5 (t) and 13 shall be deemed to have commenced on 29th March, 1974.

Amendment
of Act No.
81, 1973.
(Part I.—
Preliminary
and Interpre-
tation.)

3. Part I of the Coal Mining Act, 1973, is amended—

Sec. 2.
(Division
of Act.)

(a) by omitting from the matter relating to Division 3 of Part IV in section 2 the matter "60" and by inserting instead the matter "60A";

Sec. 9.
(Service of
documents.)

(b) by omitting from section 9 the word "required" wherever occurring and by inserting instead the words "authorised or required".

Coal Mining (Amendment).

4. Part III of the Coal Mining Act, 1973, is amended— Further amendment of Act No. 81, 1973. (Part III.— Authorisations.)

- (a) (i) by omitting from section 21 (4) the words “, by instrument in writing” and by inserting instead the words “cause to be”; Sec. 21. (Grant of authorisation to owner of coal, etc.)
- (ii) by omitting from section 21 (4) the word “, require” and by inserting instead the words “an instrument in writing requiring”;

(b) by omitting from section 23 (4) the word “authority” where secondly occurring and by inserting instead the word “authorisation”. Sec. 23. (Restriction on grant of authorisation.)

5. Part IV of the Coal Mining Act, 1973, is amended— Further amendment of Act No. 81, 1973. (Part IV.— Concessions.)

(a) by omitting from section 27 (2) (b) the word “district” and by inserting instead the word “locality”; Sec. 27. (Minister may invite tenders for exploration permit.)

(b) (i) by omitting from section 29 (1) the word “seven” and by inserting instead the word “twenty-one”; Sec. 29. (Intending for coal applicant lease over private lands, etc., to give notice to owner, etc.)

(ii) by omitting section 29 (1) (b) and by inserting instead the following paragraph :—

(b) containing particulars sufficient to lead to the ready identification of the area of land over which the lease is, or is to be, sought, consisting of a plan and a description of that area.

(iii)

Coal Mining (Amendment).

- (iii) by omitting section 29 (2) and by inserting instead the following subsection :—

(2) Where the application made, or intended to be made, for a coal lease under section 30 does not or will not relate to the surface of any private lands or to the surface of any Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, the applicant, or the person intending to apply, may, instead of serving any notice required by subsection (1) to be served, cause to be published, either before, or within twenty-one days after, lodging the application under section 30, in a newspaper circulating generally in the State and in a newspaper, or more than one newspaper, circulating in the locality in which is situated the area of land over which the lease is, or is to be, sought, a notice—

- (a) stating that an application for the grant of a lease has been, or will be, lodged, as the case may be; and
- (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area.

Sec. 30.
(Applica-
tion for coal
lease by
holder of
exploration
permit.)

- (c) (i) by omitting section 30 (2) (d) and by inserting instead the following paragraph :—

(d) be accompanied by—

- (i) a copy of every notice relating to the application served on an owner or occupier of land pursuant to section 29 (1) before the application was lodged; and

(ii)

Coal Mining (Amendment).

- (ii) a written statement to the effect that each such notice was served on such an owner or occupier and setting out the name and address of each such owner or occupier,
or by a copy of every notice relating to the application published pursuant to section 29 (2) before the application was lodged; and
- (ii) by omitting from section 30 (4) the word "seven" wherever occurring and by inserting instead the word "twenty-one";
- (iii) by omitting from section 30 (4) the word "district" and by inserting instead the word "locality";
- (iv) by omitting section 30 (4) (b) and by inserting instead the following paragraph :—
 - (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area,
- (v) by omitting section 30 (6) and by inserting instead the following subsections :—

(6) A copy of every notice relating to an application lodged under this section and served pursuant to section 29 (1) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of the notice, together with a written statement to the effect that each such notice was served on an owner or occupier of land pursuant to section 29 (1) and setting out the name and address of each such owner or occupier.

Coal Mining (Amendment).

(6A) A copy of every notice relating to an application lodged under this section and published pursuant to section 29 (2) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of publication of the notice.

Sec. 31.
(Minister
to publish
notice of
intention
to invite
tenders for
coal lease,
etc.)

- (d) by omitting from section 31 (1) the word "district" and by inserting instead the word "locality";

Sec. 32.
(Minister
may invite
tenders for
coal lease.)

- (e) by omitting from section 32 (3) (b) the word "district" and by inserting instead the word "locality";

Sec. 33.
(Tender for
coal
lease.)

- (f) by omitting from section 33 (2) (c) the word "permit" and by inserting instead the word "lease";

Sec. 34.
(Minister
may
invite
persons
to apply
for coal
lease.)

- (g) by omitting from section 34 (1) the words "served on any person, invite that person" and by inserting instead the words "invite any person";

Sec. 36.
(Minister
may
require
further
informa-
tion from
applicant
or
tenderer.)

- (h) (i) by omitting from section 36 the words " , by instrument in writing served on an applicant or a tenderer for the grant of a concession, require" and by inserting instead the words "cause to be served on an applicant or a tenderer for the grant of a concession an instrument in writing requiring";

(ii)

Coal Mining (Amendment).

(ii) by omitting from section 36 (b) the word "Australia." and by inserting instead the following words :—

"Australia,

and the applicant or the tenderer, as the case may be, shall comply with the requirement.";

(i) by omitting from section 41 (1) the words "under section 30 or 35";

Sec. 41.
(Power of Governor in relation to application for coal lease.)

(j) (i) by omitting from section 42 (1) the words "under section 30 or 35";

Sec. 42.
(Grant of coal lease subject to amendment.)

(ii) by omitting from section 42 (3) (c) the words "relating to expenditure or";

(k) (i) by inserting in section 44 (2) after the word "Act" the words "or the Mining Act, 1906, and the regulations under that Act";

Sec. 44.
(Exercise of powers under this Act.)

(ii) by inserting in section 44 (5) after the word "not" the words "in every respect";

(iii) by inserting in section 44 (5) after the word "regulations" the words "or the regulations under the Mining Act, 1906";

(l) by inserting after section 50 (6) the following sub-sections :—

Sec. 50.
(Lodging of application for renewal of concession with Under Secretary.)

(7) Subject to subsection (8), where the registered holder of a coal lease applies after the commencement of this subsection, or intends so to

apply

Coal Mining (Amendment).

apply, for the renewal of the lease over any private lands or Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, he shall, either before, or within twenty-one days after, lodging the application, serve on every owner and occupier of private lands and on every occupier of Crown lands, a notice—

- (a) stating that an application for the renewal of a lease has been, or will be, lodged, as the case may be; and
- (b) containing particulars sufficient to lead to the ready identification of the area of land to which the application relates, consisting of a plan and a description of that area.

(8) Where the application made, or intended to be made, for the renewal of a coal lease does not or will not relate to the surface of any private lands or to the surface of any Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, the applicant, or the person intending to apply, may, instead of serving any notice required by subsection (7) to be served, cause to be published, either before, or within twenty-one days after, lodging the application under this section, in a newspaper, or more than one newspaper, circulating in the locality in which is situated the area of land over which the renewal of the lease is, or is to be, sought, a notice—

- (a) stating that an application for the renewal of a coal lease has been, or will be, lodged, as the case may be; and
- (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area.

(9)

Coal Mining (Amendment).

(9) Where the registered holder of an exploration permit applies after the commencement of this subsection, or intends so to apply, for the renewal of the permit, he shall, either before, or within twenty-one days after, lodging the application, cause to be published in a newspaper, or more than one newspaper, circulating in the locality in which is situated the area of land over which the renewal of the permit is, or is to be, sought, a notice—

- (a) stating that an application for the renewal of an exploration permit has been, or will be, lodged, as the case may be; and
- (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area.

(10) An application for the renewal of a concession shall be accompanied by a copy of every notice served or published under subsection (7), (8) or (9) in relation to the application before the application was lodged.

(11) A copy of every notice relating to an application for the renewal of a coal lease and served pursuant to subsection (7) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of the notice, together with a written statement to the effect that each such notice was served on an owner or occupier of land pursuant to subsection (7) and setting out the name and address of each such owner or occupier.

(12)

Coal Mining (Amendment).

(12) A copy of every notice relating to an application for the renewal of a concession published pursuant to subsection (8) or (9) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of publication of the notice.

Sec. 53.
(Powers of
Minister or
Governor on
application
for renewal
of conces-
sion.)

(m) by inserting after section 53 (4) the following subsection :—

(4A) The period for which a coal lease is renewed shall not on any one occasion exceed twenty-one years.

Sec. 54.
(Notice of
renewal, etc.,
to be served
on registered
holder of
concession.)

(n) (i) by omitting from section 54 (1) (b) the word “and”;

(ii) by omitting from section 54 (1) (c) the word “renewed.” and by inserting instead the words “renewed; and”;

(iii) by inserting after section 54 (1) (c) the following paragraph :—

(d) if the area of land over which the concession is renewed differs from the area that was subject to the concession immediately before the renewal—
containing a description of the land over which the concession is renewed.

Sec. 56.
(Concession
to have
effect until
application
for renewal
dealt with.)

(o) (i) by omitting from section 56 (2) the words “served on the registered holder of the concession”;

(ii)

Coal Mining (Amendment).

(ii) by omitting from section 56 (2) the words
“, and the amendment shall have effect from
and including the date on which the instrument
is so served”;

(iii) by inserting after section 56 (2) the following
subsection :—

(3) Where the Minister amends the con-
ditions of a concession under subsection (2),
he shall cause to be served on the registered
holder of the concession a notice informing
him of the amendment, and the amendment
has effect from and including the date on
which the notice is served.

(p) (i) by omitting from section 60 (2) the words Sec. 60.
“served on the registered holder of the (Suspension
concession”; of con-
cession.)

(ii) by inserting after section 60 (2) the following
subsection :—

(2A) Where the Minister suspends any of
the conditions of a concession under this
section, he shall cause to be served on the
registered holder of the concession a notice
informing him of the suspension.

(q) by inserting after section 60 the following Sec. 60A.
section :—

60A. (1) The Governor may, during the Amendment
currency of a coal lease containing a condition of coal
relating to labour, amend the lease so as to allow lease in
the registered holder of the lease to comply with a respect of
condition relating to expenditure instead of the certain
condition relating to labour. con-
ditions.

Coal Mining (Amendment).

(2) The Minister shall cause to be served on the registered holder of a coal lease an instrument in writing setting out any amendment made under subsection (1) to the lease, and the amendment has effect as from the date on which the instrument is served.

Sec. 70.
(Rights of
registered
holder of
coal lease.)

- (r) (i) by omitting from section 70 (4) the words "served on the registered holder of a coal lease";
- (ii) by inserting in section 70 (4) (a) after the word "holder" the words "of the coal lease to which the order relates";
- (iii) by inserting in section 70 (4) after the words "the coal lease" the words "to which the order relates";
- (iv) by inserting after section 70 (4) the following subsection :—

(4A) The Minister shall cause to be served on the registered holder of a coal lease to which an order under subsection (4) relates an instrument in writing setting out the details of the order, and the order has effect as from the date on which the instrument is served.

Sec. 72.
(Addition
of mineral
to lease.)

- (s) by omitting from section 72 (5) the word "fourteen" and by inserting instead the word "twenty-one";

Sec. 75.
(Rent.)

- (t) (i) by omitting section 75 (4) and by inserting instead the following subsections :—

(4) The Governor may, by instrument in writing, increase or decrease, or waive payment of, the rent payable in respect of a coal lease for any period when the lease has effect under section 56 (being a period that is before or after, or partly before and partly after, the date of the instrument).

(4A)

Coal Mining (Amendment).

(4A) Where the rent payable for a period in respect of a coal lease is increased or decreased, or payment thereof is waived, under subsection (4), the Minister shall cause to be served on the person who was or is, as the case may be, the registered holder of the lease an instrument in writing setting out the details of the increase, decrease or waiver, and—

(a) as from the date on which the instrument is served, the increase, decrease or waiver has effect in relation to that period (whether that period is before or after, or partly before and partly after, that date);

(b) where the rent is increased or decreased—the rent as so increased or decreased is payable by that person or, if when the instrument is served the rent for the period has been paid, the amount of any increase is payable by, or the amount of any decrease is payable to, that person; and

(c) where payment of the rent is waived—the rent for the period is not payable by that person and, if when that instrument is served the rent for the period has been paid, the amount of that rent so paid is payable to that person.

(ii) by inserting in section 75 (6) after the word “increase” the words “or decrease”;

(iii) by inserting in section 75 (6) after the word “renewed” the words “or waive payment of the rent payable during that period”;

(u) (i) by omitting from section 77 (5) the words Sec. 77.
“served on the registered holder of the lease”; (Rate of royalty.)

(ii)

Coal Mining (Amendment).

(ii) by omitting from section 77 (5) the words "that notice is so served" and by inserting instead the words "notice of the rate so fixed is served pursuant to subsection (5A)";

(iii) by inserting after section 77 (5) the following subsection :—

(5A) The Minister shall cause to be served on the registered holder of a lease to which an instrument under subsection (5) relates a notice in writing setting out the details of the rate fixed thereby, and the rate so fixed is payable as from the date on which the notice is served.

Sec. 79.
(Minister
may
require
informa-
tion to be
furnished,
etc.)

(v) by omitting from section 79 (1) the words "by instrument in writing served on that person, require" and by inserting instead the words "cause to be served on that person an instrument in writing requiring".

Further
amendment
of Act
No. 81,
1973.
(Part V.—
Objection
to Grant
of Con-
cession Over,
or the
Exercise of
Powers
Under an
Authorisa-
tion or an
Explora-
tion Permit
In, Agricul-
tural Land.)
Sec. 83.
(Objection
to grant
of con-
cession, etc.)

6. Part V of the Coal Mining Act, 1973, is amended by omitting from section 83 (1) the word "within" wherever occurring and by inserting instead the words "before or within".

Coal Mining (Amendment).

7. Part VI of the Coal Mining Act, 1973, is amended— Further amendment of Act No. 81, 1973.

(Part VI.— Objections to Granting Coal Leases, and References of Applications to Government Departments and Other Authorities.)

(a) by omitting from section 86 (2) the words “within thirty days after” and by inserting instead the words “either before, or within thirty days after,”; Sec. 86. (Objection to grant of coal lease, etc.)

(b) (i) by omitting from section 88 (4) the words “served on the registered holder of the lease”; Sec. 88. (Granting of coal lease, etc., if objection made under sec. 87.)
(ii) by inserting after section 88 (4) the following subsection :—

(4A) The Minister shall cause to be served on the registered holder of a coal lease amended under subsection (4) a notice in writing setting out the details of the amendment, and the amendment has effect from the date on which the notice is served.

(c) (i) by omitting from section 91 (1) the words “by instrument in writing served” and by inserting instead the words “cause an instrument in writing to be served”; Sec. 91. (Grant of coal lease applied for over land subject to a scheme.)

(ii) by omitting from section 91 (1) (a) the word “require” and by inserting instead the word “requiring”;

(iii)

Coal Mining (Amendment).

- (iii) by omitting from section 91 (1) (b) the word "notify" and by inserting instead the word "notifying";
- (iv) by omitting from section 91 (1) (b) the word "state" and by inserting instead the word "stating";
- (v) by omitting from section 91 the words "by the Minister" wherever occurring;
- (vi) by omitting from section 91 (4) (a) the words "of the Minister".

Further
amendment
of Act
No. 81,
1973.

(Part VII.—
Protection
of the
Environ-
ment.)

Sec. 93.
(Need to
protect
natural
resources,
etc., to be
taken into
account.)

8. Part VII of the Coal Mining Act, 1973, is amended—

- (a) by inserting in section 93 after the word "sought" the words ", and may cause such studies (including environmental impact studies) to be carried out as he may deem necessary to enable him to decide whether or not to invite tenders or an application or to grant a concession";

Sec. 95.
(Rehabili-
tation, etc.,
of area
damaged
by mining.)

- (b) by omitting from section 95 (2) the words "require the person to whom it is proposed to grant the lease to lodge with him, within such time as he may require" and by inserting instead the words "cause to be served on the person to whom it is proposed to grant the lease an instrument in writing requiring that person to lodge with him, within such time as is specified in the instrument";

(c)

Coal Mining (Amendment).

- (c) (i) by omitting from section 96 (1) the words “, by instrument in writing” and by inserting instead the words “cause to be”; Sec. 96.
(Direction to comply with conditions of concession for protection of environment.)
- (ii) by omitting from section 96 (1) the word “, direct” and by inserting instead the words “an instrument in writing directing”.

9. Part VIII of the Coal Mining Act, 1973, is amended by omitting section 98 (1) (a) and by inserting instead the following paragraphs :— Further amendment of Act No. 81, 1973.
(Part VIII.—Compensation.)

(a) shall be made in the manner prescribed;

(a1) shall not be made until after either— Sec. 98.
(Assessment of compensation.)

- (i) if there are ten or more persons who appear to the warden to be interested in the assessment—notice in the approved form is published in a newspaper circulating generally in the State and in a newspaper, or more than one newspaper, circulating in the locality in which the land concerned is situated; or
- (ii) in any case—notice in the approved form is served on each person who appears to the warden to be interested in the assessment.

10. Part IX of the Coal Mining Act, 1973, is amended by omitting from section 103 (2) the word “authority” and by inserting instead the word “concession”. Further amendment of Act No. 81, 1973.
(Part IX.—Records and Registration.)

Sec. 103.
(Interest in concession to be created by instrument in writing.)

Coal Mining (Amendment).

Further
amendment
of Act No.
81, 1973.
(Part XI.—
Miscellane-
ous.)

Sec. 114.
(Minister
may direct
survey to be
carried out.)

11. Part XI of the Coal Mining Act, 1973, is amended—

- (a) (i) by omitting from section 114 the words “, by instrument in writing, direct the applicant or the registered holder of the concession, as the case may be,” and by inserting instead the words “cause to be served on the applicant or the registered holder of the concession, as the case may be, an instrument in writing directing him”;
- (ii) by inserting in section 114 after the word “concerned” the words “, and the applicant or the registered holder, as the case may be, shall comply with the direction”;

Sec. 115.
(Removal
of mining
plant.)

- (b) (i) by omitting from section 115 (2) (b) the words “served on him”;
- (ii) by inserting after section 115 (2) the following subsection :—

(2A) Where the Minister gives a direction to a person under subsection (2) (b), the Minister shall cause to be served on that person a notice setting out the details of the direction, and the direction has effect from the date on which notice is served.

Sec. 128.
(Disposal
of certain
moneys.)

- (c) by inserting after section 128 (3) the following subsection :—

(4) Where any amount authorised to be refunded under the regulations is credited to the account referred to in subsection (1), the amount is payable from the account.

(d)

Coal Mining (Amendment).

- (d) by inserting in section 129 after the word "Crown" the words "and land containing any such seams or containing seams of coal owned by or reserved to the Crown".
- Sec. 129.
(Purchase of coal not owned by or reserved to Crown.)

12. Part XII of the Coal Mining Act, 1973, is amended—

Further amendment of Act No. 81, 1973. (Part XII.—Regulations.)

- (a) by omitting section 135 (2) (n) and by inserting instead the following paragraphs :—
- Sec. 135.
(Regulations.)

(n) authorising the refund of the whole or any part of—

(i) any fee paid under this Act, other than a fee paid in respect of a tender for the grant of an exploration permit lodged under section 28 or for the grant of a coal lease under section 33;

(ii) any moneys referred to in section 128 (1) (b); or

(iii) any fee, deposit or rent paid under the Mining Act, 1906, other than a fee, deposit or rent paid in connection with an application deemed by the Mining Act, 1973, to be an application for an authority;

(n1) determining the person to whom a refund referred to in paragraph (n) is payable, and, in particular, providing that such a refund of any fee, moneys, deposit or rent referred to in paragraph (n) (i), (ii) or

(iii)

Coal Mining (Amendment).

(iii) and paid in connection with an application for the grant of a concession is payable to the applicant for the concession;

Sec. 136.
(Exercise
of power
under sec.
135.)

(b) by inserting after section 136 (2) the following subsection :—

(3) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by any person or body specified therein.

Further
amendment
of Act No.
81, 1973.
(Second
Schedule.)

13. The Second Schedule to the Coal Mining Act, 1973, is amended—

Para. 8.
(Authority
to prospect
and pros-
pecting
license
under 1906
Act.)

(a) by omitting from paragraph 8 (5) the word “duly” wherever occurring;

Para. 9.
(Coal
and shale
leases,
etc.,
under the
1906 Act.)

(b) (i) by omitting from paragraph 9 the word “duly” wherever occurring;

(ii) by inserting after paragraph 9 (11) the following subparagraphs :—

(11A) The provisions of section 43 (1) and section 62 (8) do not apply to an application deemed under subparagraph (7) to be an application for a coal lease.

(11B)

Coal Mining (Amendment).

(11B) For the purposes of section 62, the prescribed date is, in the case of an application deemed under subparagraph (7) to be an application for a coal lease that was—

- (a) made by a person when he was the holder of an authority to enter or an authority to prospect granted under the 1906 Act in respect of the land the subject of the application—the date when the application for the authority was made; or
- (b) made by any other person—the date when the marking out of the land the subject of the application for the lease was carried out.

(iii) by inserting after paragraph 9 (12) the following subparagraph :—

(13) The Minister may modify an application deemed under subparagraph (7) to be an application for a coal lease so as to include within the land applied for any land—

- (a) that adjoins, or is within the boundaries of, the land applied for; and
- (b) that, in the opinion of the Minister, is of so limited an area as may only be practicably worked for the winning of coal by the applicant for the lease,

but the application shall not be so modified so as to include that land without the consent of every owner of that land (to the extent to

which

Coal Mining (Amendment).

which it is comprised of private lands) and of every occupier (to the extent to which it is comprised of Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes).

Amendment
of Act No.
37, 1912.
Sec. 35A.
(Plans to be
furnished.)

14. The Coal Mines Regulation Act, 1912, is amended—

(a) by omitting from section 35A (3) (c) the words “Mining Act, 1906, as amended by subsequent Acts” and by inserting instead the words “Coal Mining Act, 1973”;

(b) by omitting section 35A (3) (d) and by inserting instead the following paragraph:—

(d) upon any order under section 67 (4) of the Coal Mining Act, 1973, taking effect; or.

Savings and
transitional
provisions.

15. (1) An amendment made by section 5 (section 5 (k) excepted) does not affect, or apply to or in respect of, an application lodged or made under the Coal Mining Act, 1973, before the commencement of that amendment.

(2) Nothing in section 5 (k) applies to an application that was made under the Mining Act, 1906, and was refused after the commencement of the Coal Mining Act, 1973 (section 139 (1) excepted), but before the date of assent to this Act.

(3) An amendment made by this Act does not affect, or apply to or in respect of, a direction, order, requirement, notice or instrument given, made, served, published or lodged before the commencement of that amendment.

(4)

Coal Mining (Amendment).

(4) Nothing in section 13 applies to an application that was made under the Mining Act, 1906, and was refused after the commencement of the Coal Mining Act, 1973 (section 139 (1) excepted), but before the date of assent to this Act.

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

L. W. STREET,
Lieutenant-Governor.

*Government House,
Sydney, 14th April, 1975.*

