

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, 2 December, 1976.

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. , 1976.

An Act to amend the Coal Mining Act, 1973, so as to provide for the conduct of tourist activities in mining areas, to make further provision in relation to the payment of rent under coal leases, and in certain other respects; and to amend section 140A of the Public Works Act, 1912, and section 531 of the Local Government Act, 1919.

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 follows:—

1. This Act may be cited as the "Coal Mining (Amendment) Act, 1976". Short title.

2. (1) This section and sections 1 and 3 shall commence on the date of assent to this Act. Commencement.

10 (2) Section 4 shall, in its application to a provision of Schedules 1–12, commence or be deemed to have commenced on the day on which that provision commences or is deemed to have commenced, as the case may require.

15 (3) Section 5 and Schedules 3 (10) (c), 7 (2) and 10 (3) shall be deemed to have commenced on 29th March, 1974.

20 (4) The several provisions of Schedules 1–12, except Schedules 3 (10) (c), 7 (2) and 10 (3), 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. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO PART I OF THE COAL MINING ACT, 1973.

25 SCHEDULE 2.—AMENDMENTS TO PART III OF THE COAL MINING ACT, 1973.

SCHEDULE 3.—AMENDMENTS TO PART IV OF THE COAL MINING ACT, 1973.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 4.—AMENDMENTS TO PART VI OF THE COAL MINING ACT, 1973.

SCHEDULE 5.—AMENDMENT TO PART VIII OF THE COAL MINING ACT, 1973.

5 SCHEDULE 6.—AMENDMENTS TO PART IX OF THE COAL MINING ACT, 1973.

SCHEDULE 7.—AMENDMENTS TO PART XI OF THE COAL MINING ACT, 1973.

10 SCHEDULE 8.—AMENDMENTS TO PART XII OF THE COAL MINING ACT, 1973.

SCHEDULE 9.—AMENDMENT TO THE FIRST SCHEDULE TO THE COAL MINING ACT, 1973.

SCHEDULE 10.—AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL MINING ACT, 1973.

15 SCHEDULE 11.—AMENDMENT TO THE PUBLIC WORKS ACT, 1912.

SCHEDULE 12.—AMENDMENT TO THE LOCAL GOVERNMENT ACT, 1919.

20 4. (1) The Coal Mining Act, 1973, is amended in the manner set forth in Schedules 1–10. Amendment of Act No. 81, 1973.

(2) The Public Works Act, 1912, is amended in the manner set forth in Schedule 11. Amendment of Act No. 45, 1912.

(3) The Local Government Act, 1919, is amended in the manner set forth in Schedule 12. Amendment of Act No. 41, 1919.

25 5. (1) Any moneys that— Disposal of certain moneys.

(a) have been, or are, received in connection with a lease granted before 29th March, 1974, under section 83AM or 83AO of the Mining Act, 1906; and

(b)

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(b) would have been, or would be, payable in accordance with section 83AP of that Act if the Coal Mining Act, 1973, had not been enacted,

shall be paid in accordance with section 83AP of the Mining Act, 1906, as if—

(c) the Coal Mining Act, 1973, had not been enacted; and

(d) section 83AP (3) of the Mining Act, 1906, had not been enacted but subsections (3) and (4) appearing in Schedule 7 (2) (d) had been enacted instead of that subsection.

(2) In subsection (1), a reference to subsections (3) and (4) appearing in Schedule 7 (2) (d) is a reference to those subsections as amended—

(a) by omitting the words “coal lease”, wherever occurring, and by inserting instead the word “lease”;

(b) by omitting the matter “section 33 (2) (d)”, wherever occurring, and by inserting instead the matter “section 83AK (1) (d) or (e)”.

(3) For the purposes of subsection (1), section 83AP (2) (a), (b) and (c) of the Mining Act, 1906, shall be deemed not to have been enacted and the following paragraphs shall be deemed to have been enacted instead :—

(a) to unsuccessful tenderers in response to an invitation under section 83AJ of this Act, the fees and deposits refundable to them under section 83AK of this Act; and

(b) to the Consolidated Revenue Fund, fees paid by tenderers in response to an invitation under section 83AJ of this Act that are not refundable under section 83AK of this Act.

Coal Mining (Amendment).

SCHEDULE 1.

Sec. 4 (1).

AMENDMENTS TO PART I OF THE COAL MINING ACT, 1973.

(1) (a) Section 2—

5 From the matter relating to Division 5 of Part IV, omit "74", insert instead "74B".

(b) Section 2—

From the matter relating to Part VI, omit "92", insert instead "91".

(c) Section 2—

10 From the matter relating to Part XI, omit "134", insert instead "134A".

(2) (a) Section 6 (1), definition of "authorisation"—

Omit "or 21", insert instead ", 21 or 21A".

(b) Section 6 (1), definition of "copy"—

15 After the definition of "conditions", insert :—
"copy", in relation to a notice published in a newspaper pursuant to this Act, means so much of the newspaper as contains—

(a) the notice; and

20 (b) the name and date of the newspaper;

(c) Section 6 (1), definition of "date of publication"—

After the definition of "Crown lease for pastoral purposes", insert :—

25 "date of publication", in relation to a notice published in a newspaper pursuant to this Act, means the date of the newspaper in which the notice is published;

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE COAL MINING ACT,
1973—*continued.*

(3) Section 9 (2)—

5 Omit “document by certified mail”, insert instead :—

document—

- 10 (a) by certified mail, in a case where the person serving the document is not the Minister, the warden or a person employed in the Department; or
- (b) by certified mail or any other form of post, in any other case,

SCHEDULE 2.

Sec. 4 (1).

AMENDMENTS TO PART III OF THE COAL MINING ACT, 1973.

15 (1) Section 21A—

After section 21, insert :—

21A. (1) An application may be made to the Minister for the grant of an authorisation—

- 20 (a) to drill a bore hole; or
- (b) to carry out investigative work of a prescribed kind,

Grant of authorisation to drill bore hole, etc.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

or both, by—

- 5 (c) an applicant or a tenderer for the grant of a coal lease—over either or both of the following :—
- 10 (i) the land the subject of his application or tender for a coal lease;
- (ii) the land overlying the land the subject of his application or tender for a coal lease;
- 15 (d) the registered holder of a coal lease—over the land overlying the land the subject of that coal lease; or
- (e) the owner of a mine—over the land overlying the colliery holding of the mine.
- (2) An application under this section shall—
- 20 (a) be lodged with the Under Secretary;
- (b) contain such particulars as may be prescribed; and
- 25 (c) where the consent of a person is required by reason of subsection (3) to the grant of the authorisation for which the application is made—be accompanied by that consent in the form required by subsection (4).

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

5 (3) An authorisation shall not be granted
under this section over—

(a) land being—

(i) freehold or leasehold land held by
the owner of a mine within the
colliery holding of the mine; or

10 (ii) any other land within a colliery
holding of a mine in which the
owner of the mine has the right to
mine for coal or to carry out mining
15 purposes in connection with mining
for coal,

without the consent of the owner of that
mine;

(b) land the subject of a coal lease, without the
20 consent of the registered holder of that coal
lease;

(c) land the subject of an application for a coal
lease, without the consent of the applicant
for the coal lease;

25 (d) land the subject of an authority or a claim,
within the meaning of the Mining Act,
1973, without the consent of the registered
holder of the authority or claim, as the case
may be;

30 (e) land within a catchment area within the
meaning of the Metropolitan Water,
Sewerage, and Drainage Act, 1924, without
the consent of The Metropolitan Water
Sewerage and Drainage Board; or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

5 (f) land within a catchment area within the meaning of the Hunter District Water, Sewerage and Drainage Act, 1938, without the consent of The Hunter District Water Board.

10 (4) A consent for the purposes of subsection (3) shall be given by instrument in writing and the conditions, if any, subject to which that consent is given shall be set out in the instrument of consent.

15 (5) Where the consent of a person is required by reason of subsection (3) to the grant of an authorisation and the consent is given subject to a condition, the authorisation shall not be granted unless it is granted in accordance with the condition.

(6) On application made under this section the Minister may—

20 (a) subject to this Act, on such conditions, if any, as he may determine, grant to the applicant an authorisation to drill a bore hole or to carry out prescribed investigative work specified in the authorisation in or on
25 the land over which the authorisation is granted; or

(b) refuse the application.

(7) In this section, “owner”—

30 (a) in relation to a mine that is not an open cut working within the meaning of the Coal Mines Regulation Act, 1912, has the meaning assigned thereto in section 3 (1) of that Act; and

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Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

5 (b) in relation to a mine that is an open cut
working within the meaning of the Coal
Mines Regulation Act, 1912, has the mean-
ing assigned thereto in Regulation 3 (2) of
the Eighth Schedule to that Act.

(2) (a) Section 23 (2)—

10 After “authorisation” where firstly occurring,
insert “(not being an authorisation under section
21A)”.

(b) Section 23 (5)—

15 After “authorisation”, insert “(not being an
authorisation under section 21A)”.

(3) (a) Section 24 (1) (a)—

Omit “or an orchard.”.

(b) Section 24 (2)—

Omit “orchard.”.

20 (4) (a) Section 25 (1)—

After “mine”, insert “or an authorisation under
section 21A”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 25 (2A), (2B)—

5 After section 25 (2), insert :—

(2A) An authorisation under section 21A,
while it remains in force, confers on the regis-
tered holder of the authorisation, subject to this
Act and the conditions on which it was granted,
10 the right—

(a) to drill a bore hole or to carry out
prescribed investigative work in or on
the land over which the authorisation
was granted; and

15 (b) to remove and test any sample
obtained as a result of the drilling of
the bore hole or the carrying out of
the prescribed investigative work.

(2B) The registered holder of an authorisa-
20 tion under section 21A may exercise a right con-
ferred on him by subsection (2A) for purposes
only connected with the location and recovery
of coal in the land that is the subject of—

25 (a) the application or tender for a coal
lease; or

(b) the coal lease or colliery holding,
in respect of which he applied for the
authorisation.

(c) Section 25 (6)—

30 After “land” where firstly occurring, insert “or
to carry out any drilling or other work in
accordance with an authorisation granted under
section 21A”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(d) Section 25 (8)—

- 5 After “authorisation” where firstly occurring,
 insert “(not being an authorisation granted
 under section 21A)”.

SCHEDULE 3.

Sec. 4 (1).

10 AMENDMENTS TO PART IV OF THE COAL MINING ACT,
 1973.

(1) Section 30 (4)—

 Before “publication”, insert “date of”.

(2) (a) Section 31 (1) (a)—

 Omit the paragraph.

15 (b) Section 31 (1) (b)—

 Omit “the block” wherever occurring, insert
 instead “any block”.

(3) Section 34 (4)—

- 20 Omit “, 89 (3) and (5) and 92 (1) and (7)”, insert
 instead “and 89 (3) and (5)”.

(4) (a) Section 41 (1)—

 After “made”, insert “under section 30”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 41 (1A), (1B)—

5 After section 41 (1), insert :—

(1A) On application made, otherwise than under section 30, for the grant of one, or more than one, coal lease the Governor may—

10 (a) subject to this Act, on such conditions as he may determine, grant to the applicant one, or more than one, coal lease; or

(b) refuse the application.

15 (1B) Without affecting the generality of subsection (1A), the Governor may, under subsection (1A), grant one coal lease in respect of more than one application.

(c) Section 41 (5)—

20 Omit “41 (1) (a)”, insert instead “41 (1) (a), 41 (1A) (a)”.

(5) Section 42 (4)—

Omit “as from the date on which the instrument is so served.”, insert instead :—

from and including the date—

25 (a) specified in the instrument as the date of the alteration or amendment; or

(b) on which the instrument is so served,
whichever is the later date.

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(6) Section 53 (8)—

5 After section 53 (7), insert :—

(8) The Minister may renew an exploration permit and the Governor may renew a coal lease notwithstanding that the applicant has not in every respect complied with the requirements of the regulations or
10 the regulations under the Mining Act, 1906.

(7) Section 56 (3)—

Omit “the date on which the notice is served.”, insert instead :—

the date—

15 (a) specified in the notice as the date of the amendment; or

(b) on which the notice is so served,
whichever is the later date.

(8) Section 57 (a)—

20 Omit the paragraph, insert instead :—

(a) if section 56 applies, from and including the date—

(i) on which an instrument in writing is served on the registered holder of the concession pursuant to section 54 (1);
25 or

(ii) specified in the instrument in writing so served as the date of renewal of the concession,

30 whichever is the later date; or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(9) Section 60A (2)—

- 5 Omit “as from the date on which the instrument is served.”, insert instead :—
- from and including the date—
- (a) specified in the instrument as the date of the amendment; or
- 10 (b) on which the instrument is so served,
- whichever is the later date.

(10) (a) Section 62 (1) (a)—

Omit “or an orchard,”.

(b) Section 62 (2)—

15 Omit “orchard,”.

(c) Section 62 (8) (b)—

Omit “34”, insert instead “32”.

(11) Section 68 (1)—

20 Omit “, 91 (4) and 92 (4)”, insert instead “and 91 (4)”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(12) Section 70 (4A)—

5 Omit “as from the date on which the instrument is served.”, insert instead :—

from and including the date—

(a) specified in the instrument as the date of effect of the order; or

10 (b) on which the instrument is so served,

whichever is the later date.

(13) Sections 74A, 74B—

After section 74, insert :—

15 74A. (1) In this section, “tourist activity” means an activity related to tourism and specified or described in an instrument referred to in subsection (2). ^{Tourist activities.}

20 (2) Subject to subsections (5) and (6), the Minister may, by instrument in writing, grant the registered holder of a coal lease a permission to carry on a tourist activity in his mining area and may, by the same instrument, attach such conditions to the permission as the Minister thinks fit.

25 (3) Where the registered holder of a coal lease carries on a tourist activity in accordance with a permission granted under subsection (2), the carrying on of that activity while the permission is in force does not—

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

5 (a) constitute a failure to comply with any condition of the holder's lease relating to the exclusive purposes for which his area may be used; or

(b) give rise to a ground on which the lease may be cancelled under section 59 (4).

10 (4) If any condition attached to a permission under subsection (2) is breached, the Minister may revoke the permission by causing a written notice of revocation of the permission to be served on the registered holder of the coal lease in respect of which the permission was granted and the revocation has effect from and including the date—

15 (a) specified in the notice as the date of the revocation; or

(b) on which the notice is so served,
20 whichever is the later date.

(5) The Minister shall not, under subsection (2), grant a permission to carry on a tourist activity on the surface of any land that is within a national park, a historic site, a nature reserve, an Aboriginal area, a protected archaeological area or an Aboriginal place within the meaning of the National Parks and Wildlife Act, 1974.

25 (6) The Minister shall not, under subsection (2), grant a permission to carry on a tourist activity on the surface of any land that is—

30 (a) private land—without the consent, given by instrument in writing, of every owner and occupier of the land;

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- 5 (b) Crown land held under a Crown lease for
pastoral purposes or a special lease for
pastoral purposes—without the consent,
given by instrument in writing, of every
occupier of the land;
- 10 (c) within a catchment area within the meaning
of the Metropolitan Water, Sewerage, and
Drainage Act, 1924—without the consent,
given by instrument in writing, of The
Metropolitan Water Sewerage and Drainage
Board; or
- 15 (d) within a wildlife district, a wildlife refuge
or a game reserve within the meaning of
the National Parks and Wildlife Act, 1974
—without the consent, given by instrument
in writing, of the Director of National Parks
20 and Wildlife.

(7) Where, in accordance with this section,
the Minister has granted to a registered holder a
permission to carry on a tourist activity in a mining
25 area, neither the holder nor any other person shall be
entitled to make or prosecute any claim for damages or
take any other proceedings against the Crown, the
Government of New South Wales or the Minister
arising out of any injury or loss suffered or incurred
by any person who enters the mining area pursuant
30 to the permission.

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- 5 74B. (1) Where the Minister is of the opinion that a Government Department or a statutory authority within the meaning of section 87 would be materially affected if a permission were to be granted under section 74A (2), he shall cause to be served on that Department or authority a notice—
- 10 (a) stating that an application for the permission has been lodged;
- (b) containing a description or a plan of the mining area in respect of which the permission is sought; and
- 15 (c) stating that objections to the granting of the permission, or proposals for the attaching to the permission of any condition, may be made to the Minister within the period specified in the notice.
- 20 (2) A Government Department or a statutory authority served with a notice pursuant to subsection (1) may, within the period specified in the notice, by instrument in writing lodged with the Under Secretary—
- 25 (a) object to the granting of the permission; or
- (b) propose that the conditions specified in the instrument be included in the permission, if granted.
- 30 (3) In deciding whether or not to grant a permission under section 74A (2) the Minister shall take into account any objection or proposal made under subsection (2).

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(14) (a) Section 75 (1), (1A)—

5 Omit section 75 (1), insert instead :—

(1) Subject to subsections (4), (6) and (7), where the area of land subject to a coal lease includes the surface of any Crown lands, the lease shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of that surface.

10

(1A) Subject to subsections (2), (4), (6) and (7), where the area of land subject to a coal lease includes the surface of any private lands, the lease shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of that surface.

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(b) Section 75 (2)—

25 Omit “specified in subsection (1) (b)”, insert instead “referred to in subsection (1A)”.

(c) Section 75 (3)–(3B)—

Omit section 75 (3), insert instead :—

(3) Subject to subsections (4), (6) and (7), in addition to any rent that may be reserved under subsection (1), (1A) or (2), or in substitution therefor under this section, a coal lease

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SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

5 granted wholly or partly in respect of land any
coal in which is reserved to, or owned by, the
Crown shall be deemed to reserve annual
amounts of rent, each amount of which shall be
calculated, at the rate of rent prescribed for the
10 purposes of this subsection at the time the
amount is required to be paid, for each hectare,
or portion of a hectare, of the area of the land—

(a) any coal in which is reserved to, or
owned by, the Crown; and

(b) that is subject to the lease.

15 (3A) Subject to subsections (3B), (4), (6)
and (7), in addition to any rent that may be
reserved under subsection (1), (1A), (2) or (3),
or in substitution therefor under this section, a
20 coal lease granted wholly or partly in respect of
land any coal in which is not reserved to, or
owned by, the Crown shall be deemed to reserve
annual amounts of rent, each amount of which
shall be calculated, at the rate of rent prescribed
for the purposes of this subsection at the time the
25 amount is required to be paid, for each hectare,
or portion of a hectare, of the area of the land—

(a) any coal in which is not reserved to, or
owned by, the Crown; and

(b) that is subject to the lease.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(3B) Where—

- 5 (a) an agreement in writing between the applicant for the grant of a coal lease and the owner of any coal—
- (i) not reserved to, or owned by, the Crown; and
- 10 (ii) to which the application for the grant of the lease relates, is lodged with the Under Secretary; and
- 15 (b) the agreement provides that rent at a rate other than that referred to in subsection (3A) shall be payable—
- (i) by reason of the fact that any coal in the land is owned by that owner; and
- 20 (ii) in respect of part or all of the area of land that is the subject of the application,
- 25 the rent reserved in favour of that owner by the lease in respect of the area of land any coal in which is owned by that owner shall be that specified in the agreement.

(d) Section 75 (8)—

Omit “Rent referred”, insert instead “Subject to subsections (9) and (10), rent referred”.

30 (e) Section 75 (8) (b)—

Omit “and”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

5 (f) Section 75 (8) (c)—
Omit “the coal,” insert instead “the coal; and”.

(g) Section 75 (8) (d)—

After section 75 (8) (c), insert :—

10 (d) in the case of rent in respect of coal
reserved to, or owned by, the Crown, to
the Crown,

(h) Section 75 (8)—

Omit “prescribed”, insert instead “set forth in the
coal lease for the payment of the rent”.

(i) Section 75 (9)–(11)—

15 After section 75 (8), insert :—

(9) Where a coal lease that has effect at the
commencement of this subsection—

20 (a) has a term that extends for not less
than 12 months after that commence-
ment; and

(b) does not set forth the times and manner
for the payment of annual amounts of
rent reserved by the lease by reason of
subsection (3) or (3A),

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Coal Mining (Amendment).

SCHEDULE 3—continued.

AMENDMENTS TO PART IV OF THE COAL MINING ACT, 1973—continued.

the annual amounts so reserved shall—

5 (c) in the case of rent in respect of coal reserved to, or owned by, the Crown, be paid at the office of the Department in Sydney; and

10 (d) in every case, be paid annually in advance.

(10) The first of the annual amounts of rent reserved by a coal lease and referred to in subsection (9) shall be paid on or before the first day—

15 (a) that is an anniversary of the first day on which the lease had effect; and

(b) that occurs after the commencement of this subsection.

20 (11) No rent is payable under this section by The Electricity Commission of New South Wales in respect of the surface of any land vested in that Commission or any land containing coal vested in that Commission where the surface or coal, as the case may be, is subject to a coal lease granted
25 after 30th June, 1970, to that Commission.

(15) Section 75A—

After section 75, insert :—

75A. (1) Subject to subsection (2)—

(a) any provision in—

30 (i) a coal lease; or

Variation of liability for rent in respect of certain coal leases.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

5 (ii) an instrument (other than a regulation made under this Act) made, issued or given under or for the purposes of the Mining Act, 1906, or this Act,

10 in force or having effect on the date of commencement of this section, shall, in so far as it relates to an amount of rent that becomes payable on or after that date in respect of a coal lease, be deemed, on and from that date, not to have any force or effect; and

15

(b) rent that becomes payable on or after that date under the coal lease is payable in accordance with section 75.

20 (2) Subsection (1) does not apply to or in respect of—

(a) a provision of any agreement referred to in section 75 (2), or rent reserved in accordance with that subsection; or

25 (b) a provision of a consent entitling a person to mine for coal given under section 28, 57 (5) or 83AU of the Mining Act, 1906, or rent payable under a condition of any such consent.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(16) Section 77 (5A)—

5 Omit “as from the date on which the notice is served.”,
insert instead :—

from and including the date—

(a) specified in the notice as the date of effect of
the notice; or

10 (b) on which the notice is so served,
whichever is the later date.

(17) Section 77B—

After section 77A, insert :—

15 77B. The Minister may cause to be served on the Trust fund,
registered holder of a coal lease an instrument in etc.
writing requiring him—

20 (a) to establish a trust fund, in such manner as
the Minister in that instrument directs, and
to pay into that trust fund from time to time
in accordance with the directions in that
instrument, such proportion of moneys
accruing from the sale of coal as is specified
in that instrument and which will, in the
opinion of the Minister, be sufficient to meet
25 the royalty payable in respect of that coal;
or

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- 5 (b) to lodge with the Under Secretary within such time as may be specified in the instrument, security in such amount and in such form as may be specified in the instrument, for the performance of his obligations in respect of the payment of royalty,
- 10 and the registered holder of the coal lease shall comply with any such requirement.

SCHEDULE 4.

Sec. 4 (1).

AMENDMENTS TO PART VI OF THE COAL MINING ACT, 1973.

(1) Section 88 (4A)—

- 15 Omit “the date on which the notice is served.”, insert instead :—
- and including the date—
- (a) specified in the notice as the date of the amendment; or
- 20 (b) on which the notice is so served, whichever is the later date.

(2) Section 90—

Omit “sections 91 and 92”, insert instead “section 91”.

(3) (a) Section 91 (9) (a)—

- 25 Omit “and”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART VI OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 91 (9) (b)—

5 Omit “the lease.”, insert instead “the lease; and”.

(c) Section 91 (9) (c)—

After section 91 (9) (b), insert :—

(c) a person applying under section 35 for the
grant of a coal lease.

10 (4) Section 92—

Omit the section.

SCHEDULE 5.

Sec. 4 (1).

AMENDMENT TO PART VIII OF THE COAL MINING ACT,
1973.

15 Section 100A—

After section 100, insert :—

100A. (1) Where the warden considers that the
owner or occupier of any land may be entitled to
compensation under this Part in respect of an
authorisation or a concession, he may, by instrument
in writing served on the registered holder of the
authorisation or concession, direct the holder to furnish
him, in writing verified by statutory declaration under
the hand of the holder or his agent, with the name and
address of the owner or occupier of the land at the
time, or within the period of time, specified in the
instrument.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 5—*continued.*

AMENDMENT TO PART VIII OF THE COAL MINING ACT,
1973—*continued.*

5 (2) An instrument served under subsection
(1) shall specify a date on or before which compliance with the direction contained in the instrument is required.

10 (3) For the purposes of sections 26 (1) (b) and 59 (2) (b), a direction given to a person by the warden under this section, requiring the person to furnish the warden with information on or before a specified date, is deemed to be a provision of this Act with which the person is required to comply.

SCHEDULE 6.

Sec. 4 (1).

15 AMENDMENTS TO PART IX OF THE COAL MINING ACT, 1973.

(1) Section 104 (2)—

After “accordance with”, insert “subsection (2A) and”.

(2) Section 104 (2A)—

20 After section 104 (2), insert :—

(2A) An application in respect of a transfer or an instrument referred to in subsection (2) shall be accompanied by the fee prescribed for the purposes of this subsection in respect of the transfer or instrument if it is lodged within the period of 90 days after

25

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IX OF THE COAL MINING ACT,
1973—*continued.*

- 5 the date of its execution and an additional fee, if it is not so lodged, calculated at the rate of 100 per centum of the firstmentioned fee for each month or part thereof between the expiration of that period and the date of lodgment.

SCHEDULE 7.

Sec. 4 (1).

10 AMENDMENTS TO PART XI OF THE COAL MINING ACT, 1973.

(1) Section 115 (2A)—

Omit “the date on which notice is served.”, insert instead :—

and including the date—

- 15 (a) specified in the notice as the date of effect of the direction; or
(b) on which the notice is so served,
whichever is the later date.

(2) (a) Section 128 (1) (c)—

- 20 Omit “interest paid”, insert instead “moneys paid as interest”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 128 (2) (a)—

- 5 Omit “section 33 (8);”, insert instead “section 33 (8); and”.

(c) Section 128 (2) (b), (c)—

Omit the paragraphs, insert instead :—

- 10 (b) to the Consolidated Revenue Fund, fees paid by tenderers for the grant of a coal lease in response to an invitation to tender under section 32 that are not refundable under section 33 (8).

(d) Section 128 (3), (4)—

- 15 Omit section 128 (3), insert instead :—

20 (3) Moneys referred to in subsection (1) that are not payable under subsection (2) shall, if those moneys have been paid to an account under subsection (1) in respect of a coal lease that relates to land in which the coal (if any)—

- (a) in the case of any part of those moneys that has been deposited under section 33 (2) (d)—was, at the time the lease was granted; or
- 25 (b) in the case of any other part of those moneys—was, at the time at which it became payable,

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

5 exclusively owned by, or reserved to, one person,
be paid—

(c) if that person is the Crown—to the
Consolidated Revenue Fund; and

(d) if that person is not the Crown—to
that person.

10 (4) Moneys referred to in subsection (1)
that are not payable under subsection (2) shall,
if those moneys have been paid to an account
under subsection (1) in respect of a coal lease
that relates to land in which the coal (if any)—

15 (a) in the case of any part of those moneys
that has been deposited under section
33 (2) (d)—was, at the time the
lease was granted; or

20 (b) in the case of any other part of those
moneys—was, at the time at which it
became payable,

25 exclusively owned by, or reserved to, two or
more persons, be apportioned among those per-
sons in the proportions in which the Minister
estimates that the coal (if any) was, or, if any
coal has been extracted, would, but for the
extraction of that coal, have been, owned by, or
reserved to, those persons at the time referred to
in paragraph (a) or (b), whichever is applicable,
30 and the amounts so apportioned shall be paid—

(c) in the case of an amount apportioned
to the Crown—to the Consolidated
Revenue Fund; and

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

- 5 (d) in any other case—to the person or persons to whom the amount or amounts is or are apportioned, as the case may require.

(3) Section 134A—

After section 134, insert :—

- 10 134A. Notwithstanding the provisions of any other Act, the taking, resumption or appropriation of land under any other Act after the commencement of this section does not affect—

Resumption,
etc., not
to affect
authorisation
to mine or
coal lease.

- 15 (a) an authorisation to mine; or
(b) a coal lease,
or any rights thereunder granted pursuant to this Act.

SCHEDULE 8.

Sec. 4 (1).

AMENDMENTS TO PART XII OF THE COAL MINING ACT,
1973.

20 (1) Section 135 (2) (e)—

After “leases”, insert “, or coal leases with mining purposes leases within the meaning of the Mining Act, 1973.”.

Coal Mining (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO PART XII OF THE COAL MINING ACT,
1973—*continued.*

(2) Section 135 (2) (11)—

5 After section 135 (2) (1), insert :—

- (11) the regulation of tourist activities carried on
in a mining area under a permission granted
under section 74A;

SCHEDULE 9.

Sec. 4 (1).

10 AMENDMENT TO THE FIRST SCHEDULE TO THE COAL MINING
ACT, 1973.

Paragraph 1 (1), definition of “agricultural land”—

Omit paragraph (c), insert instead :—

(c) land on which—

- 15 (i) at the relevant date, shade, shelter or
windbreak trees are growing; or
- 20 (ii) at any time during the period of 10
years immediately preceding the rele-
vant date, edible fruit or nut bearing
trees, vines or any other perennial crop
approved by the Director have or has
been growing;

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 10.

Sec. 4 (1).

AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL MINING ACT, 1973.

(1) Paragraph 7 (2)—

5 After "mine", insert "or an authorisation granted under section 21A".

(2) Paragraph 9 (2)—

Omit "A lease", insert instead "Subject to this Act, a lease".

10 (3) Paragraph 9A—

After paragraph 9, insert :—

9A. Where—

(a) by reason of this Schedule—

15 (i) a lease within the meaning of paragraph 9 is deemed to be a coal lease granted under this Act; or

20 (ii) an authority to prospect or an exploration license is deemed to be an exploration permit granted under this Act; and

(b) the coal lease or exploration permit includes a condition that could have been included—

(i) in any case—under section 94; or

Certain conditions deemed to have been imposed under this Act.

Coal Mining (Amendment).

SCHEDULE 10—*continued.*

AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL
MINING ACT, 1973—*continued.*

- 5 (ii) in the case of a coal lease—under
section 95,
if the coal lease or permit, as the case may
be, had been granted under this Act,
the condition shall, for the purposes of section 96, be
deemed to have been so included.

10

SCHEDULE 11.

Sec. 4 (2).

AMENDMENT TO THE PUBLIC WORKS ACT, 1912.

Section 140A—

After “1973”, insert “, and the Coal Mining Act,
1973”.

15

SCHEDULE 12.

Sec. 4 (3).

AMENDMENT TO THE LOCAL GOVERNMENT ACT, 1919.

Section 531 (3)—

After “1973”, insert “, and the Coal Mining Act,
1973”.

BY AUTHORITY

L. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1976

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:—

- 1. This Act may be cited as the Coal Mining (Amendment) Act, 1976.
- 2. (1) This section and sections 1 and 3 shall commence on the date of assent to this Act.

(2) Section 4 shall, in its application to a provision of Schedules 1–12, commence on the day on which that provision commences or is deemed to have commenced, as the case may require.

No. , 1976.

A BILL

To amend the Coal Mining Act, 1973, so as to provide for the conduct of tourist activities in mining areas, to make further provision in relation to the payment of rent under coal leases, and in certain other respects; and to amend section 140A of the Public Works Act, 1912, and section 531 of the Local Government Act, 1919.

[MR HILLS—18 November, 1976.]

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 follows:—

1. This Act may be cited as the "Coal Mining Short title.
(Amendment) Act, 1976".

2. (1) This section and sections 1 and 3 shall commence Commence-
on the date of assent to this Act. ment.

10 (2) Section 4 shall, in its application to a provision of Schedules 1–12, commence or be deemed to have commenced on the day on which that provision commences or is deemed to have commenced, as the case may require.

15 (3) Section 5 and Schedules 3 (10) (c), 7 (2) and 10 (3) shall be deemed to have commenced on 29th March, 1974.

20 (4) The several provisions of Schedules 1–12, except Schedules 3 (10) (c), 7 (2) and 10 (3), 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. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO PART I OF THE
COAL MINING ACT, 1973.

25 SCHEDULE 2.—AMENDMENTS TO PART III OF THE
COAL MINING ACT, 1973.

SCHEDULE 3.—AMENDMENTS TO PART IV OF THE
COAL MINING ACT, 1973.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 4.—AMENDMENTS TO PART VI OF THE COAL MINING ACT, 1973.

SCHEDULE 5.—AMENDMENT TO PART VIII OF THE COAL MINING ACT, 1973.

5 SCHEDULE 6.—AMENDMENTS TO PART IX OF THE COAL MINING ACT, 1973.

SCHEDULE 7.—AMENDMENTS TO PART XI OF THE COAL MINING ACT, 1973.

10 SCHEDULE 8.—AMENDMENTS TO PART XII OF THE COAL MINING ACT, 1973.

SCHEDULE 9.—AMENDMENT TO THE FIRST SCHEDULE TO THE COAL MINING ACT, 1973.

SCHEDULE 10.—AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL MINING ACT, 1973.

15 SCHEDULE 11.—AMENDMENT TO THE PUBLIC WORKS ACT, 1912.

SCHEDULE 12.—AMENDMENT TO THE LOCAL GOVERNMENT ACT, 1919.

20 4. (1) The Coal Mining Act, 1973, is amended in the manner set forth in Schedules 1–10. Amendment of Act No. 81, 1973.

(2) The Public Works Act, 1912, is amended in the manner set forth in Schedule 11. Amendment of Act No. 45, 1912.

(3) The Local Government Act, 1919, is amended in the manner set forth in Schedule 12. Amendment of Act No. 41, 1919.

25 5. (1) Any moneys that— Disposal of certain moneys.
(a) have been, or are, received in connection with a lease granted before 29th March, 1974, under section 83AM or 83AO of the Mining Act, 1906; and

(b)

Coal Mining (Amendment).

- (b) would have been, or would be, payable in accordance with section 83AP of that Act if the Coal Mining Act, 1973, had not been enacted,
- shall be paid in accordance with section 83AP of the Mining Act, 1906, as if—
- (c) the Coal Mining Act, 1973, had not been enacted; and
- (d) section 83AP (3) of the Mining Act, 1906, had not been enacted but subsections (3) and (4) appearing in Schedule 7 (2) (d) had been enacted instead of that subsection.
- (2) In subsection (1), a reference to subsections (3) and (4) appearing in Schedule 7 (2) (d) is a reference to those subsections as amended—
- (a) by omitting the words “coal lease”, wherever occurring, and by inserting instead the word “lease”;
- (b) by omitting the matter “section 33 (2) (d)”, wherever occurring, and by inserting instead the matter “section 83AK (1) (d) or (e)”.
- (3) For the purposes of subsection (1), section 83AP (2) (a), (b) and (c) of the Mining Act, 1906, shall be deemed not to have been enacted and the following paragraphs shall be deemed to have been enacted instead :—
- (a) to unsuccessful tenderers in response to an invitation under section 83AJ of this Act, the fees and deposits refundable to them under section 83AK of this Act; and
- (b) to the Consolidated Revenue Fund, fees paid by tenderers in response to an invitation under section 83AJ of this Act that are not refundable under section 83AK of this Act.

Coal Mining (Amendment).

SCHEDULE 1.

Sec. 4 (1).

AMENDMENTS TO PART I OF THE COAL MINING ACT, 1973.

(1) (a) Section 2—

5 From the matter relating to Division 5 of Part IV, omit "74", insert instead "74B".

(b) Section 2—

From the matter relating to Part VI, omit "92", insert instead "91".

(c) Section 2—

10 From the matter relating to Part XI, omit "134", insert instead "134A".

(2) (a) Section 6 (1), definition of "authorisation"—

Omit "or 21", insert instead ", 21 or 21A".

(b) Section 6 (1), definition of "copy"—

15 After the definition of "conditions", insert :—

"copy", in relation to a notice published in a newspaper pursuant to this Act, means so much of the newspaper as contains—

(a) the notice; and

20 (b) the name and date of the newspaper;

(c) Section 6 (1), definition of "date of publication"—

After the definition of "Crown lease for pastoral purposes", insert :—

25 "date of publication", in relation to a notice published in a newspaper pursuant to this Act, means the date of the newspaper in which the notice is published;

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE COAL MINING ACT,
1973—*continued.*

(3) Section 9 (2)—

5 Omit “document by certified mail”, insert instead :—

document—

- 10 (a) by certified mail, in a case where the person serving the document is not the Minister, the warden or a person employed in the Department; or
- (b) by certified mail or any other form of post, in any other case,

SCHEDULE 2.

Sec. 4 (1).

AMENDMENTS TO PART III OF THE COAL MINING ACT, 1973.

15 (1) Section 21A—

After section 21, insert :—

21A. (1) An application may be made to the Minister for the grant of an authorisation—

- 20 (a) to drill a bore hole; or
- (b) to carry out investigative work of a prescribed kind,

Grant of authorisation to drill bore hole, etc.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

or both, by—

- 5 (c) an applicant or a tenderer for the grant of a
coal lease—over either or both of the
following :—
- 10 (i) the land the subject of his
application or tender for a coal
lease;
- (ii) the land overlying the land the
subject of his application or tender
for a coal lease;
- 15 (d) the registered holder of a coal lease—over
the land overlying the land the subject of
that coal lease; or
- (e) the owner of a mine—over the land
overlying the colliery holding of the mine.
- (2) An application under this section shall—
- 20 (a) be lodged with the Under Secretary;
- (b) contain such particulars as may be
prescribed; and
- 25 (c) where the consent of a person is required
by reason of subsection (3) to the grant of
the authorisation for which the application
is made—be accompanied by that consent
in the form required by subsection (4).

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

5 (3) An authorisation shall not be granted
under this section over—

(a) land being—

(i) freehold or leasehold land held by
the owner of a mine within the
colliery holding of the mine; or

10 (ii) any other land within a colliery
holding of a mine in which the
owner of the mine has the right to
mine for coal or to carry out mining
15 purposes in connection with mining
for coal,

without the consent of the owner of that
mine;

(b) land the subject of a coal lease, without the
20 consent of the registered holder of that coal
lease;

(c) land the subject of an application for a coal
lease, without the consent of the applicant
for the coal lease;

25 (d) land the subject of an authority or a claim,
within the meaning of the Mining Act,
1973, without the consent of the registered
holder of the authority or claim, as the case
may be;

30 (e) land within a catchment area within the
meaning of the Metropolitan Water,
Sewerage, and Drainage Act, 1924, without
the consent of The Metropolitan Water
Sewerage and Drainage Board; or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

- 5 (f) land within a catchment area within the meaning of the Hunter District Water, Sewerage and Drainage Act, 1938, without the consent of The Hunter District Water Board.
- 10 (4) A consent for the purposes of subsection (3) shall be given by instrument in writing and the conditions, if any, subject to which that consent is given shall be set out in the instrument of consent.
- 15 (5) Where the consent of a person is required by reason of subsection (3) to the grant of an authorisation and the consent is given subject to a condition, the authorisation shall not be granted unless it is granted in accordance with the condition.
- (6) On application made under this section the Minister may—
- 20 (a) subject to this Act, on such conditions, if any, as he may determine, grant to the applicant an authorisation to drill a bore hole or to carry out prescribed investigative work specified in the authorisation in or on
- 25 the land over which the authorisation is granted; or
- (b) refuse the application.
- (7) In this section, "owner"—
- 30 (a) in relation to a mine that is not an open cut working within the meaning of the Coal Mines Regulation Act, 1912, has the meaning assigned thereto in section 3 (1) of that Act; and

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

5 (b) in relation to a mine that is an open cut working within the meaning of the Coal Mines Regulation Act, 1912, has the meaning assigned thereto in Regulation 3 (2) of the Eighth Schedule to that Act.

(2) (a) Section 23 (2)—

10 After “authorisation” where firstly occurring, insert “(not being an authorisation under section 21A)”.

(b) Section 23 (5)—

15 After “authorisation”, insert “(not being an authorisation under section 21A)”.

(3) (a) Section 24 (1) (a)—

Omit “or an orchard,”.

(b) Section 24 (2)—

Omit “orchard,”.

20 (4) (a) Section 25 (1)—

After “mine”, insert “or an authorisation under section 21A”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 25 (2A), (2B)—

5 After section 25 (2), insert :—

 (2A) An authorisation under section 21A,
 while it remains in force, confers on the regis-
 tered holder of the authorisation, subject to this
10 Act and the conditions on which it was granted,
 the right—

 (a) to drill a bore hole or to carry out
 prescribed investigative work in or on
 the land over which the authorisation
 was granted; and

15 (b) to remove and test any sample
 obtained as a result of the drilling of
 the bore hole or the carrying out of
 the prescribed investigative work.

20 (2B) The registered holder of an authorisa-
 tion under section 21A may exercise a right con-
 ferred on him by subsection (2A) for purposes
 only connected with the location and recovery
 of coal in the land that is the subject of—

25 (a) the application or tender for a coal
 lease; or

 (b) the coal lease or colliery holding,
 in respect of which he applied for the
 authorisation.

(c) Section 25 (6)—

30 After “land” where firstly occurring, insert “or
 to carry out any drilling or other work in
 accordance with an authorisation granted under
 section 21A”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—continued.

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—continued.

(d) Section 25 (8)—

- 5 After “authorisation” where firstly occurring,
insert “(not being an authorisation granted
under section 21A)”.

SCHEDULE 3.

Sec. 4 (1).

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973.

10

(1) Section 30 (4)—

Before “publication”, insert “date of”.

(2) (a) Section 31 (1) (a)—

Omit the paragraph.

15 (b) Section 31 (1) (b)—

Omit “the block” wherever occurring, insert
instead “any block”.

(3) Section 34 (4)—

20

Omit “, 89 (3) and (5) and 92 (1) and (7)”, insert
instead “and 89 (3) and (5)”.

(4) (a) Section 41 (1)—

After “made”, insert “under section 30”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 41 (1A), (1B)—

5 After section 41 (1), insert :—

(1A) On application made, otherwise than under section 30, for the grant of one, or more than one, coal lease the Governor may—

10 (a) subject to this Act, on such conditions as he may determine, grant to the applicant one, or more than one, coal lease; or

(b) refuse the application.

15 (1B) Without affecting the generality of subsection (1A), the Governor may, under subsection (1A), grant one coal lease in respect of more than one application.

(c) Section 41 (5)—

20 Omit “41 (1) (a)”, insert instead “41 (1) (a), 41 (1A) (a)”.

(5) Section 42 (4)—

Omit “as from the date on which the instrument is so served.”, insert instead :—

from and including the date—

25 (a) specified in the instrument as the date of the alteration or amendment; or

(b) on which the instrument is so served,
whichever is the later date.

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(6) Section 53 (8)—

5 After section 53 (7), insert :—

(8) The Minister may renew an exploration permit and the Governor may renew a coal lease notwithstanding that the applicant has not in every respect complied with the requirements of the regulations or
10 the regulations under the Mining Act, 1906.

(7) Section 56 (3)—

Omit “the date on which the notice is served.”, insert instead :—

the date—

15 (a) specified in the notice as the date of the amendment; or

(b) on which the notice is so served,
whichever is the later date.

(8) Section 57 (a)—

20 Omit the paragraph, insert instead :—

(a) if section 56 applies, from and including the date—

25 (i) on which an instrument in writing is served on the registered holder of the concession pursuant to section 54 (1);
or

(ii) specified in the instrument in writing so served as the date of renewal of the concession,

30 whichever is the later date; or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(9) Section 60A (2)—

5 Omit “as from the date on which the instrument is served.”, insert instead :—

from and including the date—

(a) specified in the instrument as the date of the amendment; or

10 (b) on which the instrument is so served,

whichever is the later date.

(10) (a) Section 62 (1) (a)—

Omit “or an orchard.”.

(b) Section 62 (2)—

15 Omit “orchard.”.

(c) Section 62 (8) (b)—

Omit “34”, insert instead “32”.

(11) Section 68 (1)—

20 Omit “, 91 (4) and 92 (4)”, insert instead “and 91 (4)”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(12) Section 70 (4A)—

- 5 Omit “as from the date on which the instrument is served.”, insert instead :—
- from and including the date—
- (a) specified in the instrument as the date of effect of the order; or
- 10 (b) on which the instrument is so served, whichever is the later date.

(13) Sections 74A, 74B—

After section 74, insert :—

15 74A. (1) In this section, “tourist activity” means **Tourist** an activity related to tourism and specified or **activities.** described in an instrument referred to in subsection (2).

20 (2) Subject to subsections (5) and (6), the Minister may, by instrument in writing, grant the registered holder of a coal lease a permission to carry on a tourist activity in his mining area and may, by the same instrument, attach such conditions to the permission as the Minister thinks fit.

25 (3) Where the registered holder of a coal lease carries on a tourist activity in accordance with a permission granted under subsection (2), the carrying on of that activity while the permission is in force does not—

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

5 (a) constitute a failure to comply with any condition of the holder's lease relating to the exclusive purposes for which his area may be used; or

(b) give rise to a ground on which the lease may be cancelled under section 59 (4).

10 (4) If any condition attached to a permission under subsection (2) is breached, the Minister may revoke the permission by causing a written notice of revocation of the permission to be served on the registered holder of the coal lease in respect of which
15 the permission was granted and the revocation has effect from and including the date—

(a) specified in the notice as the date of the revocation; or

(b) on which the notice is so served,
20 whichever is the later date.

(5) The Minister shall not, under subsection (2), grant a permission to carry on a tourist activity on the surface of any land that is within a national park, a historic site, a nature reserve, an Aboriginal area, a protected archaeological area or an Aboriginal place within the meaning of the National Parks and
25 Wildlife Act, 1974.

(6) The Minister shall not, under subsection (2), grant a permission to carry on a tourist activity on the surface of any land that is—
30

(a) private land—without the consent, given by instrument in writing, of every owner and occupier of the land;

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- 5 (b) Crown land held under a Crown lease for pastoral purposes or a special lease for pastoral purposes—without the consent, given by instrument in writing, of every occupier of the land;
- 10 (c) within a catchment area within the meaning of the Metropolitan Water, Sewerage, and Drainage Act, 1924—without the consent, given by instrument in writing, of The Metropolitan Water Sewerage and Drainage Board; or
- 15 (d) within a wildlife district, a wildlife refuge or a game reserve within the meaning of the National Parks and Wildlife Act, 1974 —without the consent, given by instrument in writing, of the Director of National Parks and Wildlife.
- 20

25 (7) Where, in accordance with this section, the Minister has granted to a registered holder a permission to carry on a tourist activity in a mining area, neither the holder nor any other person shall be entitled to make or prosecute any claim for damages or take any other proceedings against the Crown, the Government of New South Wales or the Minister arising out of any injury or loss suffered or incurred by any person who enters the mining area pursuant to the permission.

30

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- 5 74B. (1) Where the Minister is of the opinion that a Government Department or a statutory authority within the meaning of section 87 would be materially affected if a permission were to be granted under section 74A (2), he shall cause to be served on that Department or authority a notice—
- 10 (a) stating that an application for the permission has been lodged;
- (b) containing a description or a plan of the mining area in respect of which the permission is sought; and
- 15 (c) stating that objections to the granting of the permission, or proposals for the attaching to the permission of any condition, may be made to the Minister within the period specified in the notice.
- 20 (2) A Government Department or a statutory authority served with a notice pursuant to subsection (1) may, within the period specified in the notice, by instrument in writing lodged with the Under Secretary—
- 25 (a) object to the granting of the permission; or
- (b) propose that the conditions specified in the instrument be included in the permission, if granted.
- 30 (3) In deciding whether or not to grant a permission under section 74A (2) the Minister shall take into account any objection or proposal made under subsection (2).

Notice of application for permission to be sent to Government Departments.

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(14) (a) Section 75 (1), (1A)—

5 Omit section 75 (1), insert instead :—

10 (1) Subject to subsections (4), (6) and (7), where the area of land subject to a coal lease includes the surface of any Crown lands, the lease shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of that surface.

15 (1A) Subject to subsections (2), (4), (6) and (7), where the area of land subject to a coal lease includes the surface of any private lands, the lease shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of that surface.

20

(b) Section 75 (2)—

25 Omit “specified in subsection (1) (b)”, insert instead “referred to in subsection (1A)”.

(c) Section 75 (3)—(3B)—

Omit section 75 (3), insert instead :—

30 (3) Subject to subsections (4), (6) and (7), in addition to any rent that may be reserved under subsection (1), (1A) or (2), or in substitution therefor under this section, a coal lease

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

5 granted wholly or partly in respect of land any
coal in which is reserved to, or owned by, the
Crown shall be deemed to reserve annual
amounts of rent, each amount of which shall be
calculated, at the rate of rent prescribed for the
10 purposes of this subsection at the time the
amount is required to be paid, for each hectare,
or portion of a hectare, of the area of the land—

(a) any coal in which is reserved to, or
owned by, the Crown; and

(b) that is subject to the lease.

15 (3A) Subject to subsections (3B), (4), (6)
and (7), in addition to any rent that may be
reserved under subsection (1), (1A), (2) or (3),
or in substitution therefor under this section, a
20 coal lease granted wholly or partly in respect of
land any coal in which is not reserved to, or
owned by, the Crown shall be deemed to reserve
annual amounts of rent, each amount of which
shall be calculated, at the rate of rent prescribed
for the purposes of this subsection at the time the
25 amount is required to be paid, for each hectare,
or portion of a hectare, of the area of the land—

(a) any coal in which is not reserved to, or
owned by, the Crown; and

(b) that is subject to the lease.

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(3B) Where—

- 5 (a) an agreement in writing between the applicant for the grant of a coal lease and the owner of any coal—
- (i) not reserved to, or owned by, the Crown; and
- 10 (ii) to which the application for the grant of the lease relates, is lodged with the Under Secretary; and
- 15 (b) the agreement provides that rent at a rate other than that referred to in subsection (3A) shall be payable—
- (i) by reason of the fact that any coal in the land is owned by that owner; and
- 20 (ii) in respect of part or all of the area of land that is the subject of the application,
- 25 the rent reserved in favour of that owner by the lease in respect of the area of land any coal in which is owned by that owner shall be that specified in the agreement.
- (d) Section 75 (8)—
Omit “Rent referred”, insert instead “Subject to subsections (9) and (10), rent referred”.
- 30 (e) Section 75 (8) (b)—
Omit “and”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(f) Section 75 (8) (c)—

5 Omit “the coal,” insert instead “the coal; and”.

(g) Section 75 (8) (d)—

After section 75 (8) (c), insert :—

10 (d) in the case of rent in respect of coal reserved to, or owned by, the Crown, to the Crown,

(h) Section 75 (8)—

Omit “prescribed”, insert instead “set forth in the coal lease for the payment of the rent”.

(i) Section 75 (9)–(11)—

15 After section 75 (8), insert :—

(9) Where a coal lease that has effect at the commencement of this subsection—

20 (a) has a term that extends for not less than 12 months after that commencement; and

(b) does not set forth the times and manner for the payment of annual amounts of rent reserved by the lease by reason of subsection (3) or (3A),

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

the annual amounts so reserved shall—

5 (c) in the case of rent in respect of coal reserved to, or owned by, the Crown, be paid at the office of the Department in Sydney; and

10 (d) in every case, be paid annually in advance.

(10) The first of the annual amounts of rent reserved by a coal lease and referred to in subsection (9) shall be paid on or before the first day—

15 (a) that is an anniversary of the first day on which the lease had effect; and

(b) that occurs after the commencement of this subsection.

20 (11) No rent is payable under this section by The Electricity Commission of New South Wales in respect of the surface of any land vested in that Commission or any land containing coal vested in that Commission where the surface or coal, as the case may be, is subject to a coal lease granted after 30th June, 1970, to that Commission.

(15) Section 75A—

After section 75, insert :—

75A. (1) Subject to subsection (2)—

30 (a) any provision in—

(i) a coal lease; or

Variation of liability for rent in respect of certain coal leases.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

5 (ii) an instrument (other than a regulation made under this Act) made, issued or given under or for the purposes of the Mining Act, 1906, or this Act,

10 in force or having effect on the date of commencement of this section, shall, in so far as it relates to an amount of rent that becomes payable on or after that date in respect of a coal lease, be deemed, on and from that date, not to have any force or effect; and

15 (b) rent that becomes payable on or after that date under the coal lease is payable in accordance with section 75.

20 (2) Subsection (1) does not apply to or in respect of—

(a) a provision of any agreement referred to in section 75 (2), or rent reserved in accordance with that subsection; or

25 (b) a provision of a consent entitling a person to mine for coal given under section 28, 57 (5) or 83AU of the Mining Act, 1906, or rent payable under a condition of any such consent.

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(16) Section 77 (5A)—

5 Omit “as from the date on which the notice is served.”,
insert instead :—

from and including the date—

(a) specified in the notice as the date of effect of
the notice; or

10 (b) on which the notice is so served,

whichever is the later date.

(17) Section 77B—

After section 77A, insert :—

15 77B. The Minister may cause to be served on the Trust fund,
registered holder of a coal lease an instrument in etc.
writing requiring him—

20 (a) to establish a trust fund, in such manner as
the Minister in that instrument directs, and
to pay into that trust fund from time to time
in accordance with the directions in that
instrument, such proportion of moneys
accruing from the sale of coal as is specified
in that instrument and which will, in the
opinion of the Minister, be sufficient to meet
25 the royalty payable in respect of that coal;
or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- 5 (b) to lodge with the Under Secretary within such time as may be specified in the instrument, security in such amount and in such form as may be specified in the instrument, for the performance of his obligations in respect of the payment of royalty,
- 10 and the registered holder of the coal lease shall comply with any such requirement.

SCHEDULE 4.

Sec. 4 (1).

AMENDMENTS TO PART VI OF THE COAL MINING ACT, 1973.

(1) Section 88 (4A)—

- 15 Omit "the date on which the notice is served.", insert instead :—
- and including the date—
- (a) specified in the notice as the date of the amendment; or
- 20 (b) on which the notice is so served, whichever is the later date.

(2) Section 90—

Omit "sections 91 and 92", insert instead "section 91".

(3) (a) Section 91 (9) (a)—

- 25 Omit "and".

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART VI OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 91 (9) (b)—

5 Omit “the lease.”, insert instead “the lease; and”.

(c) Section 91 (9) (c)—

After section 91 (9) (b), insert :—

(c) a person applying under section 35 for the
grant of a coal lease.

10 (4) Section 92—

Omit the section.

SCHEDULE 5. — Sec. 4 (1).

AMENDMENT TO PART VIII OF THE COAL MINING ACT,
1973.

15 Section 100A—

After section 100, insert :—

100A. (1) Where the warden considers that the
owner or occupier of any land may be entitled to
compensation under this Part in respect of an
authorisation or a concession, he may, by instrument
in writing served on the registered holder of the
authorisation or concession, direct the holder to furnish
him, in writing verified by statutory declaration under
the hand of the holder or his agent, with the name and
address of the owner or occupier of the land at the
time, or within the period of time, specified in the
instrument.

Directions
to furnish
names and
addresses.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 5—*continued.*

AMENDMENT TO PART VIII OF THE COAL MINING ACT,
1973—*continued.*

5 (2) An instrument served under subsection
(1) shall specify a date on or before which compliance with the direction contained in the instrument is required.

10 (3) For the purposes of sections 26 (1) (b) and 59 (2) (b), a direction given to a person by the warden under this section, requiring the person to furnish the warden with information on or before a specified date, is deemed to be a provision of this Act with which the person is required to comply.

SCHEDULE 6.

Sec. 4 (1).

15 AMENDMENTS TO PART IX OF THE COAL MINING ACT, 1973.

(1) Section 104 (2)—

After “accordance with”, insert “subsection (2A) and”.

(2) Section 104 (2A)—

20 After section 104 (2), insert :—

(2A) An application in respect of a transfer or an instrument referred to in subsection (2) shall be accompanied by the fee prescribed for the purposes of this subsection in respect of the transfer or instrument if it is lodged within the period of 90 days after

25

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IX OF THE COAL MINING ACT,
1973—*continued.*

- 5 the date of its execution and an additional fee, if it is not so lodged, calculated at the rate of 100 per centum of the firstmentioned fee for each month or part thereof between the expiration of that period and the date of lodgment.

SCHEDULE 7.

Sec. 4 (1).

10 AMENDMENTS TO PART XI OF THE COAL MINING ACT, 1973.

(1) Section 115 (2A)—

Omit “the date on which notice is served.”, insert instead :—

and including the date—

- 15 (a) specified in the notice as the date of effect of the direction; or
(b) on which the notice is so served,
whichever is the later date.

(2) (a) Section 128 (1) (c)—

- 20 Omit “interest paid”, insert instead “moneys paid as interest”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 128 (2) (a)—

5 Omit “section 33 (8);”, insert instead “section
33 (8); and”.

(c) Section 128 (2) (b), (c)—

Omit the paragraphs, insert instead :—

10 (b) to the Consolidated Revenue Fund, fees
paid by tenderers for the grant of a coal
lease in response to an invitation to
tender under section 32 that are not
refundable under section 33 (8).

(d) Section 128 (3), (4)—

15 Omit section 128 (3), insert instead :—

20 (3) Moneys referred to in subsection (1) that
are not payable under subsection (2) shall, if
those moneys have been paid to an account under
subsection (1) in respect of a coal lease that
relates to land in which the coal (if any)—

(a) in the case of any part of those moneys
that has been deposited under section
33 (2) (d)—was, at the time the lease
was granted; or

25 (b) in the case of any other part of those
moneys—was, at the time at which it
became payable,

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

5 exclusively owned by, or reserved to, one person,
be paid—

(c) if that person is the Crown—to the
Consolidated Revenue Fund; and

(d) if that person is not the Crown—to
that person.

10 (4) Moneys referred to in subsection (1)
that are not payable under subsection (2) shall,
if those moneys have been paid to an account
under subsection (1) in respect of a coal lease
that relates to land in which the coal (if any)—

15 (a) in the case of any part of those moneys
that has been deposited under section
33 (2) (d)—was, at the time the
lease was granted; or

20 (b) in the case of any other part of those
moneys—was, at the time at which it
became payable,

25 exclusively owned by, or reserved to, two or
more persons, be apportioned among those per-
sons in the proportions in which the Minister
estimates that the coal (if any) was, or, if any
coal has been extracted, would, but for the
extraction of that coal, have been, owned by, or
reserved to, those persons at the time referred to
in paragraph (a) or (b), whichever is applicable,
30 and the amounts so apportioned shall be paid—

(c) in the case of an amount apportioned
to the Crown—to the Consolidated
Revenue Fund; and

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

- 5 (d) in any other case—to the person or persons to whom the amount or amounts is or are apportioned, as the case may require.

(3) Section 134A—

After section 134, insert :—

- 10 134A. Notwithstanding the provisions of any other Act, the taking, resumption or appropriation of land under any other Act after the commencement of this section does not affect—

Resumption, etc., not to affect authorisation to mine or coal lease.

- (a) an authorisation to mine; or
- 15 (b) a coal lease,
or any rights thereunder granted pursuant to this Act.

SCHEDULE 8.

Sec. 4 (1).

AMENDMENTS TO PART XII OF THE COAL MINING ACT,
1973.

20 (1) Section 135 (2) (e)—

After “leases”, insert “, or coal leases with mining purposes leases within the meaning of the Mining Act, 1973.”.

Coal Mining (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO PART XII OF THE COAL MINING ACT,
1973—*continued.*

(2) Section 135 (2) (11)—

5 After section 135 (2) (1), insert :—

- (11) the regulation of tourist activities carried on
in a mining area under a permission granted
under section 74A;

SCHEDULE 9.

Sec. 4 (1).

10 AMENDMENT TO THE FIRST SCHEDULE TO THE COAL MINING
ACT, 1973.

Paragraph 1 (1), definition of “agricultural land”—

Omit paragraph (c), insert instead :—

(c) land on which—

- 15 (i) at the relevant date, shade, shelter or
windbreak trees are growing; or
- (ii) at any time during the period of 10
years immediately preceding the rele-
vant date, edible fruit or nut bearing
20 trees, vines or any other perennial crop
approved by the Director have or has
been growing;

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 10.

Sec. 4 (1).

AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL
MINING ACT, 1973.

(1) Paragraph 7 (2)—

- 5 After “mine”, insert “or an authorisation granted
under section 21A”.

(2) Paragraph 9 (2)—

Omit “A lease”, insert instead “Subject to this Act, a
lease”.

10 (3) Paragraph 9A—

After paragraph 9, insert :—

9A. Where—

(a) by reason of this Schedule—

- 15 (i) a lease within the meaning of para-
graph 9 is deemed to be a coal lease
granted under this Act; or
- 20 (ii) an authority to prospect or an
exploration license is deemed to be
an exploration permit granted under
this Act; and

Certain
conditions
deemed to
have been
imposed
under this
Act.

(b) the coal lease or exploration permit includes
a condition that could have been included—

- (i) in any case—under section 94; or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 10—*continued.*

AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL
MINING ACT, 1973—*continued.*

- 5 (ii) in the case of a coal lease—under
section 95,
if the coal lease or permit, as the case may
be, had been granted under this Act,
the condition shall, for the purposes of section 96, be
deemed to have been so included.

10

SCHEDULE 11.

Sec. 4 (2).

AMENDMENT TO THE PUBLIC WORKS ACT, 1912.

Section 140A—

After “1973”, insert “, and the Coal Mining Act,
1973”.

15

SCHEDULE 12.

Sec. 4 (3).

AMENDMENT TO THE LOCAL GOVERNMENT ACT, 1919.

Section 531 (3)—

After “1973”, insert “, and the Coal Mining Act,
1973”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1976

COAL MINING (AMENDMENT) BILL, 1976**EXPLANATORY NOTE**

THE objects of this Bill are—

- (a) to provide that where a copy of a notice published in a newspaper is to be lodged for the purposes of the Coal Mining Act, 1973, so much of the newspaper as contains the name and date of the newspaper is also to be lodged (Schedule 1 (2) (b));
- (b) to establish that where a notice is published in a newspaper it is deemed to be published on the date of the newspaper (Schedule 1 (2) (c));
- (c) to provide that a document authorised or required to be served on a person that is served by post need not be served by certified mail if it is served by the Minister, the warden or a person employed in the Department of Mines (Schedule 1 (3));
- (d) to empower the Minister to grant an authorisation to drill a bore hole or to carry out prescribed investigative work to an applicant or a tenderer for the grant of a coal lease, the registered holder of a coal lease or the owner of a colliery holding, principally so that the applicant, holder or owner may investigate the land the subject of his application, lease or holding through other overlying land (Schedule 2 (1));
- (e) to remove the requirement that the Minister must be satisfied that the Governor may grant a coal lease before the Minister may publish a notice of his intention to invite tenders for the grant of the lease (Schedule 3 (2));
- (f) to enable more than one coal lease to be granted in respect of one application and enable one coal lease to be granted in respect of more than one application (Schedule 3 (4));
- (g) to provide that various instruments and notices served under the Coal Mining Act, 1973, may have effect from and including a date specified in the instrument or notice (Schedules 3 (5), (7), (8), (9), (12) and (16), 4 (1) and 7 (1));
- (h) to provide for the renewal of an exploration permit or a coal lease notwithstanding that the applicant therefor has not in every respect complied with regulations under the Mining Act, 1906, or under the Coal Mining Act, 1973, to which he is subject (Schedule 3 (6));
- (i) to empower the holder of a coal lease to conduct tourist activities on his mining area subject to certain consents being obtained and to provide for the regulation of those activities (Schedules 3 (13) and 8 (2));

- (j) to provide that annual rents payable in respect of a coal lease shall be calculated at rates prescribed by the regulations when they fall due for payment and that the times for payment of rent shall be set forth in the coal lease (Schedule 3 (14) and (15));
 - (k) to make provision for a rent to be payable in respect of a coal lease over land containing Crown coal (Schedule 3 (14));
 - (l) to enable the Minister to require the registered holder of a coal lease to establish a trust fund or to lodge security with the Under Secretary of the Department of Mines to ensure the payment of royalty in respect of coal won by the holder (Schedule 3 (17));
 - (m) to remove the requirement that the Minister acquire the consent of a local government council or another authority to the use of land for the purpose of obtaining coal before he invites applications for the grant of a coal lease in respect of that land (Schedule 4 (4));
 - (n) to empower the warden to require a registered holder of a coal lease to supply him with the names and addresses of owners and occupiers of land who may be entitled to compensation (Schedule 5);
 - (o) to provide for lodging fees (and additional fees for late lodgment calculated at the rate of 100 per centum of the lodging fee per month) in respect of applications for the Minister's approval to the transfer of a concession or an instrument by which a legal or equitable interest in, or affecting, a concession is created, assigned or dealt with, whether directly or indirectly (Schedule 6 (2));
 - (p) to make further provision for the disposal of certain moneys paid or to be paid to an account within the Special Deposits Account at the Treasury in connection with a coal lease granted pursuant to an invitation under section 32 or 34 of the Coal Mining Act, 1973, to tender or apply for the grant of a coal lease (Schedule 7 (2));
 - (q) to provide that rights under a coal lease are not affected by the taking, resumption or appropriation of land under any Act (Schedule 7 (3));
 - (r) to enable regulations to be made for or with respect to the amalgamation of coal leases and mining purposes leases within the meaning of the Mining Act, 1973 (Schedule 8 (1));
 - (s) to amend the definition of "agricultural land" (Schedule 9);
 - (t) to deem certain conditions relating to protection of the environment imposed on coal leases and exploration permits deemed to have been granted under the Coal Mining Act, 1973, to have been imposed under section 94 or 95 of that Act if the conditions could have been so imposed had the leases and permits been so granted (Schedule 10 (3));
 - (u) to make further provision for the disposal of certain moneys paid or to be paid to an account within the Special Deposits Account at the Treasury in connection with leases granted under section 83AM or 83AO of the Mining Act, 1906 (clause 5); and
 - (v) to make other provision of a minor, consequential or ancillary nature.
-

No. , 1976.

A BILL

To amend the Coal Mining Act, 1973, so as to provide for the conduct of tourist activities in mining areas, to make further provision in relation to the payment of rent under coal leases, and in certain other respects; and to amend section 140A of the Public Works Act, 1912, and section 531 of the Local Government Act, 1919.

[MR HILLS—18 November, 1976.]

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 follows:—

1. This Act may be cited as the "Coal Mining (Amendment) Act, 1976". Short title.

2. (1) This section and sections 1 and 3 shall commence on the date of assent to this Act. Commencement.

10 (2) Section 4 shall, in its application to a provision of Schedules 1–12, commence or be deemed to have commenced on the day on which that provision commences or is deemed to have commenced, as the case may require.

15 (3) Section 5 and Schedules 3 (10) (c), 7 (2) and 10 (3) shall be deemed to have commenced on 29th March, 1974.

20 (4) The several provisions of Schedules 1–12, except Schedules 3 (10) (c), 7 (2) and 10 (3), 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. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO PART I OF THE COAL MINING ACT, 1973.

25 SCHEDULE 2.—AMENDMENTS TO PART III OF THE COAL MINING ACT, 1973.

SCHEDULE 3.—AMENDMENTS TO PART IV OF THE COAL MINING ACT, 1973.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 4.—AMENDMENTS TO PART VI OF THE COAL MINING ACT, 1973.

SCHEDULE 5.—AMENDMENT TO PART VIII OF THE COAL MINING ACT, 1973.

5 SCHEDULE 6.—AMENDMENTS TO PART IX OF THE COAL MINING ACT, 1973.

SCHEDULE 7.—AMENDMENTS TO PART XI OF THE COAL MINING ACT, 1973.

10 SCHEDULE 8.—AMENDMENTS TO PART XII OF THE COAL MINING ACT, 1973.

SCHEDULE 9.—AMENDMENT TO THE FIRST SCHEDULE TO THE COAL MINING ACT, 1973.

SCHEDULE 10.—AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL MINING ACT, 1973.

15 SCHEDULE 11.—AMENDMENT TO THE PUBLIC WORKS ACT, 1912.

SCHEDULE 12.—AMENDMENT TO THE LOCAL GOVERNMENT ACT, 1919.

20 4. (1) The Coal Mining Act, 1973, is amended in the manner set forth in Schedules 1–10. Amendment of Act No. 81, 1973.

(2) The Public Works Act, 1912, is amended in the manner set forth in Schedule 11. Amendment of Act No. 45, 1912.

(3) The Local Government Act, 1919, is amended in the manner set forth in Schedule 12. Amendment of Act No. 41, 1919.

25 5. (1) Any moneys that— Disposal of certain moneys.

(a) have been, or are, received in connection with a lease granted before 29th March, 1974, under section 83AM or 83AO of the Mining Act, 1906; and

(b)

Coal Mining (Amendment).

(b) would have been, or would be, payable in accordance with section 83AP of that Act if the Coal Mining Act, 1973, had not been enacted,

shall be paid in accordance with section 83AP of the Mining Act, 1906, as if—

(c) the Coal Mining Act, 1973, had not been enacted; and

10 (d) section 83AP (3) of the Mining Act, 1906, had not been enacted but subsections (3) and (4) appearing in Schedule 7 (2) (d) had been enacted instead of that subsection.

(2) In subsection (1), a reference to subsections (3) and (4) appearing in Schedule 7 (2) (d) is a reference to those subsections as amended—

15 (a) by omitting the words “coal lease”, wherever occurring, and by inserting instead the word “lease”;

20 (b) by omitting the matter “section 33 (2) (d)”, wherever occurring, and by inserting instead the matter “section 83AK (1) (d) or (e)”.

(3) For the purposes of subsection (1), section 83AP (2) (a), (b) and (c) of the Mining Act, 1906, shall be deemed not to have been enacted and the following paragraphs shall be deemed to have been enacted instead :—

25 (a) to unsuccessful tenderers in response to an invitation under section 83AJ of this Act, the fees and deposits refundable to them under section 83AK of this Act; and

30 (b) to the Consolidated Revenue Fund, fees paid by tenderers in response to an invitation under section 83AJ of this Act that are not refundable under section 83AK of this Act.

Coal Mining (Amendment).

SCHEDULE 1.

Sec. 4 (1).

AMENDMENTS TO PART I OF THE COAL MINING ACT, 1973.

(1) (a) Section 2—

5 From the matter relating to Division 5 of Part IV, omit “74”, insert instead “74B”.

(b) Section 2—

From the matter relating to Part VI, omit “92”, insert instead “91”.

(c) Section 2—

10 From the matter relating to Part XI, omit “134”, insert instead “134A”.

(2) (a) Section 6 (1), definition of “authorisation”—

Omit “or 21”, insert instead “, 21 or 21A”.

(b) Section 6 (1), definition of “copy”—

15 After the definition of “conditions”, insert :—

“copy”, in relation to a notice published in a newspaper pursuant to this Act, means so much of the newspaper as contains—

(a) the notice; and

20 (b) the name and date of the newspaper;

(c) Section 6 (1), definition of “date of publication”—

After the definition of “Crown lease for pastoral purposes”, insert :—

25 “date of publication”, in relation to a notice published in a newspaper pursuant to this Act, means the date of the newspaper in which the notice is published;

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE COAL MINING ACT,
1973—*continued.*

(3) Section 9 (2)—

5 Omit “document by certified mail”, insert instead :—

document—

- (a) by certified mail, in a case where the person serving the document is not the Minister, the warden or a person employed in the Department; or
- 10 (b) by certified mail or any other form of post, in any other case,

SCHEDULE 2.

Sec. 4 (1).

AMENDMENTS TO PART III OF THE COAL MINING ACT, 1973.

15 (1) Section 21A—

After section 21, insert :—

21A. (1) An application may be made to the Minister for the grant of an authorisation—

- (a) to drill a bore hole; or
- 20 (b) to carry out investigative work of a prescribed kind,

Grant of authorisation to drill bore hole, etc.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

or both, by—

- 5 (c) an applicant or a tenderer for the grant of a coal lease—over either or both of the following :—
- 10 (i) the land the subject of his application or tender for a coal lease;
- (ii) the land overlying the land the subject of his application or tender for a coal lease;
- 15 (d) the registered holder of a coal lease—over the land overlying the land the subject of that coal lease; or
- (e) the owner of a mine—over the land overlying the colliery holding of the mine.
- (2) An application under this section shall—
- 20 (a) be lodged with the Under Secretary;
- (b) contain such particulars as may be prescribed; and
- 25 (c) where the consent of a person is required by reason of subsection (3) to the grant of the authorisation for which the application is made—be accompanied by that consent in the form required by subsection (4).

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

5 (3) An authorisation shall not be granted
under this section over—

(a) land being—

(i) freehold or leasehold land held by
the owner of a mine within the
colliery holding of the mine; or

10 (ii) any other land within a colliery
holding of a mine in which the
owner of the mine has the right to
mine for coal or to carry out mining
purposes in connection with mining
15 for coal,

without the consent of the owner of that
mine;

(b) land the subject of a coal lease, without the
20 consent of the registered holder of that coal
lease;

(c) land the subject of an application for a coal
lease, without the consent of the applicant
for the coal lease;

25 (d) land the subject of an authority or a claim,
within the meaning of the Mining Act,
1973, without the consent of the registered
holder of the authority or claim, as the case
may be;

30 (e) land within a catchment area within the
meaning of the Metropolitan Water,
Sewerage, and Drainage Act, 1924, without
the consent of The Metropolitan Water
Sewerage and Drainage Board; or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

5 (f) land within a catchment area within the meaning of the Hunter District Water, Sewerage and Drainage Act, 1938, without the consent of The Hunter District Water Board.

10 (4) A consent for the purposes of subsection (3) shall be given by instrument in writing and the conditions, if any, subject to which that consent is given shall be set out in the instrument of consent.

15 (5) Where the consent of a person is required by reason of subsection (3) to the grant of an authorisation and the consent is given subject to a condition, the authorisation shall not be granted unless it is granted in accordance with the condition.

(6) On application made under this section the Minister may—

20 (a) subject to this Act, on such conditions, if any, as he may determine, grant to the applicant an authorisation to drill a bore hole or to carry out prescribed investigative work specified in the authorisation in or on
25 the land over which the authorisation is granted; or

(b) refuse the application.

(7) In this section, “owner”—

30 (a) in relation to a mine that is not an open cut working within the meaning of the Coal Mines Regulation Act, 1912, has the meaning assigned thereto in section 3 (1) of that Act; and

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

5 (b) in relation to a mine that is an open cut working within the meaning of the Coal Mines Regulation Act, 1912, has the meaning assigned thereto in Regulation 3 (2) of the Eighth Schedule to that Act.

(2) (a) Section 23 (2)—

10 After “authorisation” where firstly occurring, insert “(not being an authorisation under section 21A)”.

(b) Section 23 (5)—

15 After “authorisation”, insert “(not being an authorisation under section 21A)”.

(3) (a) Section 24 (1) (a)—

Omit “or an orchard,”.

(b) Section 24 (2)—

Omit “orchard,”.

20 (4) (a) Section 25 (1)—

After “mine”, insert “or an authorisation under section 21A”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 25 (2A), (2B)—

5 After section 25 (2), insert :—

 (2A) An authorisation under section 21A,
 while it remains in force, confers on the regis-
 tered holder of the authorisation, subject to this
10 Act and the conditions on which it was granted,
 the right—

 (a) to drill a bore hole or to carry out
 prescribed investigative work in or on
 the land over which the authorisation
 was granted; and

15 (b) to remove and test any sample
 obtained as a result of the drilling of
 the bore hole or the carrying out of
 the prescribed investigative work.

 (2B) The registered holder of an authorisa-
20 tion under section 21A may exercise a right con-
 ferred on him by subsection (2A) for purposes
 only connected with the location and recovery
 of coal in the land that is the subject of—

 (a) the application or tender for a coal
25 lease; or

 (b) the coal lease or colliery holding,
 in respect of which he applied for the
 authorisation.

(c) Section 25 (6)—

30 After “land” where firstly occurring, insert “or
 to carry out any drilling or other work in
 accordance with an authorisation granted under
 section 21A”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(d) Section 25 (8)—

- 5 After “authorisation” where firstly occurring,
 insert “(not being an authorisation granted
 under section 21A)”.

SCHEDULE 3.

Sec. 4 (1).

10 AMENDMENTS TO PART IV OF THE COAL MINING ACT,
 1973.

(1) Section 30 (4)—

 Before “publication”, insert “date of”.

(2) (a) Section 31 (1) (a)—

 Omit the paragraph.

15 (b) Section 31 (1) (b)—

 Omit “the block” wherever occurring, insert
 instead “any block”.

(3) Section 34 (4)—

- 20 Omit “, 89 (3) and (5) and 92 (1) and (7)”, insert
 instead “and 89 (3) and (5)”.

(4) (a) Section 41 (1)—

 After “made”, insert “under section 30”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 41 (1A), (1B)—

- 5 After section 41 (1), insert :—
- (1A) On application made, otherwise than
 under section 30, for the grant of one, or more
 than one, coal lease the Governor may—
- 10 (a) subject to this Act, on such conditions
 as he may determine, grant to the
 applicant one, or more than one, coal
 lease; or
- (b) refuse the application.
- 15 (1B) Without affecting the generality of sub-
 section (1A), the Governor may, under subsec-
 tion (1A), grant one coal lease in respect of
 more than one application.

(c) Section 41 (5)—

- 20 Omit “41 (1) (a)”, insert instead “41 (1) (a),
 41 (1A) (a)”.

(5) Section 42 (4)—

- Omit “as from the date on which the instrument is so
 served.”, insert instead :—
- from and including the date—
- 25 (a) specified in the instrument as the date of
 the alteration or amendment; or
- (b) on which the instrument is so served,
 whichever is the later date.

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(6) Section 53 (8)—

5 After section 53 (7), insert :—

(8) The Minister may renew an exploration permit
and the Governor may renew a coal lease notwith-
standing that the applicant has not in every respect
10 complied with the requirements of the regulations or
the regulations under the Mining Act, 1906.

(7) Section 56 (3)—

Omit “the date on which the notice is served.”, insert
instead :—

the date—

15 (a) specified in the notice as the date of the
amendment; or

(b) on which the notice is so served,
whichever is the later date.

(8) Section 57 (a)—

20 Omit the paragraph, insert instead :—

(a) if section 56 applies, from and including the
date—

25 (i) on which an instrument in writing is
served on the registered holder of the
concession pursuant to section 54 (1);
or

(ii) specified in the instrument in writing so
served as the date of renewal of the
concession,

30 whichever is the later date; or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(9) Section 60A (2)—

- 5 Omit “as from the date on which the instrument is served.”, insert instead :—
- from and including the date—
- (a) specified in the instrument as the date of the amendment; or
- 10 (b) on which the instrument is so served,
- whichever is the later date.

(10) (a) Section 62 (1) (a)—

Omit “or an orchard,”.

(b) Section 62 (2)—

- 15 Omit “orchard,”.

(c) Section 62 (8) (b)—

Omit “34”, insert instead “32”.

(11) Section 68 (1)—

- 20 Omit “, 91 (4) and 92 (4)”, insert instead “and 91 (4)”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(12) Section 70 (4A)—

- 5 Omit “as from the date on which the instrument is served.”, insert instead :—
- from and including the date—
- (a) specified in the instrument as the date of effect of the order; or
- 10 (b) on which the instrument is so served,
- whichever is the later date.

(13) Sections 74A, 74B—

After section 74, insert :—

- 15 74A. (1) In this section, “tourist activity” means ^{Tourist activities.} an activity related to tourism and specified or described in an instrument referred to in subsection (2).
- 20 (2) Subject to subsections (5) and (6), the Minister may, by instrument in writing, grant the registered holder of a coal lease a permission to carry on a tourist activity in his mining area and may, by the same instrument, attach such conditions to the permission as the Minister thinks fit.
- 25 (3) Where the registered holder of a coal lease carries on a tourist activity in accordance with a permission granted under subsection (2), the carrying on of that activity while the permission is in force does not—

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- 5 (a) constitute a failure to comply with any condition of the holder's lease relating to the exclusive purposes for which his area may be used; or
- (b) give rise to a ground on which the lease may be cancelled under section 59 (4).

10 (4) If any condition attached to a permission under subsection (2) is breached, the Minister may revoke the permission by causing a written notice of revocation of the permission to be served on the registered holder of the coal lease in respect of which the permission was granted and the revocation has effect from and including the date—

- 15 (a) specified in the notice as the date of the revocation; or
- (b) on which the notice is so served,
- 20 whichever is the later date.

(5) The Minister shall not, under subsection (2), grant a permission to carry on a tourist activity on the surface of any land that is within a national park, a historic site, a nature reserve, an Aboriginal area, a protected archaeological area or an Aboriginal place within the meaning of the National Parks and Wildlife Act, 1974.

25 (6) The Minister shall not, under subsection (2), grant a permission to carry on a tourist activity on the surface of any land that is—

30 (a) private land—without the consent, given by instrument in writing, of every owner and occupier of the land;

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- 5 (b) Crown land held under a Crown lease for pastoral purposes or a special lease for pastoral purposes—without the consent, given by instrument in writing, of every occupier of the land;
- 10 (c) within a catchment area within the meaning of the Metropolitan Water, Sewerage, and Drainage Act, 1924—without the consent, given by instrument in writing, of The Metropolitan Water Sewerage and Drainage Board; or
- 15 (d) within a wildlife district, a wildlife refuge or a game reserve within the meaning of the National Parks and Wildlife Act, 1974—without the consent, given by instrument in writing, of the Director of National Parks and Wildlife.
- 20

25 (7) Where, in accordance with this section, the Minister has granted to a registered holder a permission to carry on a tourist activity in a mining area, neither the holder nor any other person shall be entitled to make or prosecute any claim for damages or take any other proceedings against the Crown, the Government of New South Wales or the Minister arising out of any injury or loss suffered or incurred by any person who enters the mining area pursuant to the permission.

30

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- 5 74B. (1) Where the Minister is of the opinion that a Government Department or a statutory authority within the meaning of section 87 would be materially affected if a permission were to be granted under section 74A (2), he shall cause to be served on that Department or authority a notice—
- 10 (a) stating that an application for the permission has been lodged;
- (b) containing a description or a plan of the mining area in respect of which the permission is sought; and
- 15 (c) stating that objections to the granting of the permission, or proposals for the attaching to the permission of any condition, may be made to the Minister within the period specified in the notice.
- 20 (2) A Government Department or a statutory authority served with a notice pursuant to subsection (1) may, within the period specified in the notice, by instrument in writing lodged with the Under Secretary—
- 25 (a) object to the granting of the permission; or
- (b) propose that the conditions specified in the instrument be included in the permission, if granted.
- 30 (3) In deciding whether or not to grant a permission under section 74A (2) the Minister shall take into account any objection or proposal made under subsection (2).

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(14) (a) Section 75 (1), (1A)—

5 Omit section 75 (1), insert instead :—

(1) Subject to subsections (4), (6) and (7),
where the area of land subject to a coal lease
includes the surface of any Crown lands, the lease
shall be deemed to reserve annual amounts of
10 rent, each amount of which shall be calculated,
at the rate of rent prescribed for the purposes of
this subsection at the time the amount is required
to be paid, for each hectare, or portion of a
hectare, of that surface.

15 (1A) Subject to subsections (2), (4), (6)
and (7), where the area of land subject to a coal
lease includes the surface of any private lands,
the lease shall be deemed to reserve annual
amounts of rent, each amount of which shall be
20 calculated, at the rate of rent prescribed for the
purposes of this subsection at the time the
amount is required to be paid, for each hectare,
or portion of a hectare, of that surface.

(b) Section 75 (2)—

25 Omit “specified in subsection (1) (b)”, insert
instead “referred to in subsection (1A)”.

(c) Section 75 (3)–(3B)—

Omit section 75 (3), insert instead :—

30 (3) Subject to subsections (4), (6) and (7),
in addition to any rent that may be reserved
under subsection (1), (1A) or (2), or in sub-
stitution therefor under this section, a coal lease

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

5 granted wholly or partly in respect of land any
coal in which is reserved to, or owned by, the
Crown shall be deemed to reserve annual
amounts of rent, each amount of which shall be
calculated, at the rate of rent prescribed for the
10 purposes of this subsection at the time the
amount is required to be paid, for each hectare,
or portion of a hectare, of the area of the land—

(a) any coal in which is reserved to, or
owned by, the Crown; and

(b) that is subject to the lease.

15 (3A) Subject to subsections (3B), (4), (6)
and (7), in addition to any rent that may be
reserved under subsection (1), (1A), (2) or (3),
or in substitution therefor under this section, a
20 coal lease granted wholly or partly in respect of
land any coal in which is not reserved to, or
owned by, the Crown shall be deemed to reserve
annual amounts of rent, each amount of which
shall be calculated, at the rate of rent prescribed
for the purposes of this subsection at the time the
25 amount is required to be paid, for each hectare,
or portion of a hectare, of the area of the land—

(a) any coal in which is not reserved to, or
owned by, the Crown; and

(b) that is subject to the lease.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(3B) Where—

- 5 (a) an agreement in writing between the applicant for the grant of a coal lease and the owner of any coal—
- (i) not reserved to, or owned by, the Crown; and
- 10 (ii) to which the application for the grant of the lease relates, is lodged with the Under Secretary; and
- (b) the agreement provides that rent at a rate other than that referred to in subsection (3A) shall be payable—
- 15 (i) by reason of the fact that any coal in the land is owned by that owner; and
- 20 (ii) in respect of part or all of the area of land that is the subject of the application, the rent reserved in favour of that owner by the lease in respect of the area of land any coal in which is owned by that owner shall be that specified in the agreement.
- 25 (d) Section 75 (8)—
Omit “Rent referred”, insert instead “Subject to subsections (9) and (10), rent referred”.
- 30 (e) Section 75 (8) (b)—
Omit “and”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(f) Section 75 (8) (c)—

5 Omit “the coal,” insert instead “the coal ; and”.

(g) Section 75 (8) (d)—

After section 75 (8) (c), insert :—

10 (d) in the case of rent in respect of coal reserved to, or owned by, the Crown, to the Crown,

(h) Section 75 (8)—

Omit “prescribed”, insert instead “set forth in the coal lease for the payment of the rent”.

(i) Section 75 (9)–(11)—

15 After section 75 (8), insert :—

(9) Where a coal lease that has effect at the commencement of this subsection—

20 (a) has a term that extends for not less than 12 months after that commencement ; and

(b) does not set forth the times and manner for the payment of annual amounts of rent reserved by the lease by reason of subsection (3) or (3A),

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

the annual amounts so reserved shall—

5 (c) in the case of rent in respect of coal reserved to, or owned by, the Crown, be paid at the office of the Department in Sydney; and

10 (d) in every case, be paid annually in advance.

(10) The first of the annual amounts of rent reserved by a coal lease and referred to in subsection (9) shall be paid on or before the first day—

15 (a) that is an anniversary of the first day on which the lease had effect; and

(b) that occurs after the commencement of this subsection.

20 (11) No rent is payable under this section by The Electricity Commission of New South Wales in respect of the surface of any land vested in that Commission or any land containing coal vested in that Commission where the surface or coal, as the case may be, is subject to a coal lease granted
25 after 30th June, 1970, to that Commission.

(15) Section 75A—

After section 75, insert :—

75A. (1) Subject to subsection (2)—

(a) any provision in—

30 (i) a coal lease; or

Variation of liability for rent in respect of certain coal leases.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

5 (ii) an instrument (other than a regulation made under this Act) made, issued or given under or for the purposes of the Mining Act, 1906, or this Act,

10 in force or having effect on the date of commencement of this section, shall, in so far as it relates to an amount of rent that becomes payable on or after that date in respect of a coal lease, be deemed, on and from that date, not to have any force or effect; and

15

(b) rent that becomes payable on or after that date under the coal lease is payable in accordance with section 75.

20 (2) Subsection (1) does not apply to or in respect of—

(a) a provision of any agreement referred to in section 75 (2), or rent reserved in accordance with that subsection; or

25 (b) a provision of a consent entitling a person to mine for coal given under section 28, 57 (5) or 83AU of the Mining Act, 1906, or rent payable under a condition of any such consent.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(16) Section 77 (5A)—

5 Omit “as from the date on which the notice is served.”,
insert instead :—

from and including the date—

(a) specified in the notice as the date of effect of
the notice; or

10 (b) on which the notice is so served,
whichever is the later date.

(17) Section 77B—

After section 77A, insert :—

15 77B. The Minister may cause to be served on the Trust fund,
registered holder of a coal lease an instrument in ^{etc.}
writing requiring him—

20 (a) to establish a trust fund, in such manner as
the Minister in that instrument directs, and
to pay into that trust fund from time to time
in accordance with the directions in that
instrument, such proportion of moneys
accruing from the sale of coal as is specified
in that instrument and which will, in the
opinion of the Minister, be sufficient to meet
25 the royalty payable in respect of that coal;
or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- 5 (b) to lodge with the Under Secretary within
such time as may be specified in the instru-
ment, security in such amount and in such
form as may be specified in the instrument,
for the performance of his obligations in
respect of the payment of royalty,
10 and the registered holder of the coal lease shall comply
with any such requirement.

SCHEDULE 4.

Sec. 4 (1).

AMENDMENTS TO PART VI OF THE COAL MINING ACT, 1973.

(1) Section 88 (4A)—

- 15 Omit “the date on which the notice is served.”, insert
instead :—
and including the date—
(a) specified in the notice as the date of the
amendment; or
20 (b) on which the notice is so served,
whichever is the later date.

(2) Section 90—

Omit “sections 91 and 92”, insert instead “section 91”.

(3) (a) Section 91 (9) (a)—

- 25 Omit “and”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART VI OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 91 (9) (b)—

5 Omit “the lease.”, insert instead “the lease; and”.

(c) Section 91 (9) (c)—

After section 91 (9) (b), insert :—

(c) a person applying under section 35 for the
grant of a coal lease.

10 (4) Section 92—

Omit the section.

SCHEDULE 5.

Sec. 4 (1).

AMENDMENT TO PART VIII OF THE COAL MINING ACT,
1973.

15 Section 100A—

After section 100, insert :—

20 100A. (1) Where the warden considers that the owner or occupier of any land may be entitled to compensation under this Part in respect of an authorisation or a concession, he may, by instrument in writing served on the registered holder of the authorisation or concession, direct the holder to furnish him, in writing verified by statutory declaration under the hand of the holder or his agent, with the name and address of the owner or occupier of the land at the time, or within the period of time, specified in the instrument.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 5—*continued.*

AMENDMENT TO PART VIII OF THE COAL MINING ACT,
1973—*continued.*

5 (2) An instrument served under subsection
(1) shall specify a date on or before which compliance with the direction contained in the instrument is required.

10 (3) For the purposes of sections 26 (1)
(b) and 59 (2) (b), a direction given to a person by the warden under this section, requiring the person to furnish the warden with information on or before a specified date, is deemed to be a provision of this Act with which the person is required to comply.

SCHEDULE 6.

Sec. 4 (1).

15 AMENDMENTS TO PART IX OF THE COAL MINING ACT, 1973.

(1) Section 104 (2)—

After “accordance with”, insert “subsection (2A) and”.

(2) Section 104 (2A)—

20 After section 104 (2), insert :—

(2A) An application in respect of a transfer or an instrument referred to in subsection (2) shall be accompanied by the fee prescribed for the purposes of this subsection in respect of the transfer or instrument if it is lodged within the period of 90 days after

25

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IX OF THE COAL MINING ACT,
1973—*continued.*

- 5 the date of its execution and an additional fee, if it is not so lodged, calculated at the rate of 100 per centum of the firstmentioned fee for each month or part thereof between the expiration of that period and the date of lodgment.

SCHEDULE 7.

Sec. 4 (1).

10 AMENDMENTS TO PART XI OF THE COAL MINING ACT, 1973.

(1) Section 115 (2A)—

Omit “the date on which notice is served.”, insert instead :—

and including the date—

- 15 (a) specified in the notice as the date of effect of the direction; or
(b) on which the notice is so served,
whichever is the later date.

(2) (a) Section 128 (1) (c)—

- 20 Omit “interest paid”, insert instead “moneys paid as interest”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 128 (2) (a)—

5 Omit “section 33 (8);”, insert instead “section
33 (8); and”.

(c) Section 128 (2) (b), (c)—

Omit the paragraphs, insert instead :—

10 (b) to the Consolidated Revenue Fund, fees
paid by tenderers for the grant of a coal
lease in response to an invitation to
tender under section 32 that are not
refundable under section 33 (8).

(d) Section 128 (3), (4)—

15 Omit section 128 (3), insert instead :—

20 (3) Moneys referred to in subsection (1) that
are not payable under subsection (2) shall, if
those moneys have been paid to an account under
subsection (1) in respect of a coal lease that
relates to land in which the coal (if any)—

(a) in the case of any part of those moneys
that has been deposited under section
33 (2) (d)—was, at the time the lease
was granted; or

25 (b) in the case of any other part of those
moneys—was, at the time at which it
became payable,

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

5 exclusively owned by, or reserved to, one person,
be paid—

(c) if that person is the Crown—to the
Consolidated Revenue Fund; and

(d) if that person is not the Crown—to
that person.

10 (4) Moneys referred to in subsection (1)
that are not payable under subsection (2) shall,
if those moneys have been paid to an account
under subsection (1) in respect of a coal lease
that relates to land in which the coal (if any)—

15 (a) in the case of any part of those moneys
that has been deposited under section
33 (2) (d)—was, at the time the
lease was granted; or

20 (b) in the case of any other part of those
moneys—was, at the time at which it
became payable,

25 exclusively owned by, or reserved to, two or
more persons, be apportioned among those per-
sons in the proportions in which the Minister
estimates that the coal (if any) was, or, if any
coal has been extracted, would, but for the
extraction of that coal, have been, owned by, or
reserved to, those persons at the time referred to
in paragraph (a) or (b), whichever is applicable,
30 and the amounts so apportioned shall be paid—

(c) in the case of an amount apportioned
to the Crown—to the Consolidated
Revenue Fund; and

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

- 5 (d) in any other case—to the person or persons to whom the amount or amounts is or are apportioned, as the case may require.

(3) Section 134A—

After section 134, insert :—

- 10 134A. Notwithstanding the provisions of any other Act, the taking, resumption or appropriation of land under any other Act after the commencement of this section does not affect—

Resumption, etc., not to affect authorisation to mine or coal lease.

- 15 (a) an authorisation to mine; or
(b) a coal lease,
or any rights thereunder granted pursuant to this Act.

SCHEDULE 8.

Sec. 4 (1).

AMENDMENTS TO PART XII OF THE COAL MINING ACT,
1973.

20 (1) Section 135 (2) (e)—

After “leases”, insert “, or coal leases with mining purposes leases within the meaning of the Mining Act, 1973.”.

Coal Mining (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO PART XII OF THE COAL MINING ACT,
1973—*continued.*

(2) Section 135 (2) (11)—

5 After section 135 (2) (1), insert :—

- (11) the regulation of tourist activities carried on
in a mining area under a permission granted
under section 74A;

SCHEDULE 9.

Sec. 4 (1).

10 AMENDMENT TO THE FIRST SCHEDULE TO THE COAL MINING
ACT, 1973.

Paragraph 1 (1), definition of "agricultural land"—

Omit paragraph (c), insert instead :—

(c) land on which—

- 15 (i) at the relevant date, shade, shelter or
windbreak trees are growing; or
- 20 (ii) at any time during the period of 10
years immediately preceding the rele-
vant date, edible fruit or nut bearing
trees, vines or any other perennial crop
approved by the Director have or has
been growing;

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 10.

Sec. 4 (1).

AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL MINING ACT, 1973.

(1) Paragraph 7 (2)—

5 After "mine", insert "or an authorisation granted under section 21A".

(2) Paragraph 9 (2)—

Omit "A lease", insert instead "Subject to this Act, a lease".

10 (3) Paragraph 9A—

After paragraph 9, insert :—

9A. Where—

(a) by reason of this Schedule—

15 (i) a lease within the meaning of paragraph 9 is deemed to be a coal lease granted under this Act; or

20 (ii) an authority to prospect or an exploration license is deemed to be an exploration permit granted under this Act; and

(b) the coal lease or exploration permit includes a condition that could have been included—

(i) in any case—under section 94; or

Certain conditions deemed to have been imposed under this Act.

Coal Mining (Amendment).

SCHEDULE 10—*continued.*

AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL
MINING ACT, 1973—*continued.*

- 5 (ii) in the case of a coal lease—under
section 95,
if the coal lease or permit, as the case may
be, had been granted under this Act,
the condition shall, for the purposes of section 96, be
deemed to have been so included.

10

SCHEDULE 11.

Sec. 4 (2).

AMENDMENT TO THE PUBLIC WORKS ACT, 1912.

Section 140A—

After “1973”, insert “, and the Coal Mining Act,
1973”.

15

SCHEDULE 12.

Sec. 4 (3).

AMENDMENT TO THE LOCAL GOVERNMENT ACT, 1919.

Section 531 (3)—

After “1973”, insert “, and the Coal Mining Act,
1973”.

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 98, 1976.

An Act to amend the Coal Mining Act, 1973, so as to provide for the conduct of tourist activities in mining areas, to make further provision in relation to the payment of rent under coal leases, and in certain other respects; and to amend section 140A of the Public Works Act, 1912, and section 531 of the Local Government Act, 1919. [Assented to, 17th December, 1976.]

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 follows:—

Short title. 1. This Act may be cited as the "Coal Mining (Amendment) Act, 1976".

**Commence-
ment.** 2. (1) This section and sections 1 and 3 shall commence on the date of assent to this Act.

(2) Section 4 shall, in its application to a provision of Schedules 1–12, commence or be deemed to have commenced on the day on which that provision commences or is deemed to have commenced, as the case may require.

(3) Section 5 and Schedules 3 (10) (c), 7 (2) and 10 (3) shall be deemed to have commenced on 29th March, 1974.

(4) The several provisions of Schedules 1–12, except Schedules 3 (10) (c), 7 (2) and 10 (3), 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.

Schedules. 3. This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO PART I OF THE
COAL MINING ACT, 1973.

SCHEDULE 2.—AMENDMENTS TO PART III OF THE
COAL MINING ACT, 1973.

SCHEDULE 3.—AMENDMENTS TO PART IV OF THE
COAL MINING ACT, 1973.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 4.—AMENDMENTS TO PART VI OF THE COAL MINING ACT, 1973.

SCHEDULE 5.—AMENDMENT TO PART VIII OF THE COAL MINING ACT, 1973.

SCHEDULE 6.—AMENDMENTS TO PART IX OF THE COAL MINING ACT, 1973.

SCHEDULE 7.—AMENDMENTS TO PART XI OF THE COAL MINING ACT, 1973.

SCHEDULE 8.—AMENDMENTS TO PART XII OF THE COAL MINING ACT, 1973.

SCHEDULE 9.—AMENDMENT TO THE FIRST SCHEDULE TO THE COAL MINING ACT, 1973.

SCHEDULE 10.—AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL MINING ACT, 1973.

SCHEDULE 11.—AMENDMENT TO THE PUBLIC WORKS ACT, 1912.

SCHEDULE 12.—AMENDMENT TO THE LOCAL GOVERNMENT ACT, 1919.

4. (1) The Coal Mining Act, 1973, is amended in the manner set forth in Schedules 1–10. Amendment of Act No. 81, 1973.

(2) The Public Works Act, 1912, is amended in the manner set forth in Schedule 11. Amendment of Act No. 45, 1912.

(3) The Local Government Act, 1919, is amended in the manner set forth in Schedule 12. Amendment of Act No. 41, 1919.

5. (1) Any moneys that—

(a) have been, or are, received in connection with a lease granted before 29th March, 1974, under section 83AM or 83AO of the Mining Act, 1906; and

Disposal of certain moneys.

(b)

Coal Mining (Amendment).

- (b) would have been, or would be, payable in accordance with section 83AP of that Act if the Coal Mining Act, 1973, had not been enacted,

shall be paid in accordance with section 83AP of the Mining Act, 1906, as if—

- (c) the Coal Mining Act, 1973, had not been enacted; and
- (d) section 83AP (3) of the Mining Act, 1906, had not been enacted but subsections (3) and (4) appearing in Schedule 7 (2) (d) had been enacted instead of that subsection.

(2) In subsection (1), a reference to subsections (3) and (4) appearing in Schedule 7 (2) (d) is a reference to those subsections as amended—

- (a) by omitting the words “coal lease”, wherever occurring, and by inserting instead the word “lease”;
- (b) by omitting the matter “section 33 (2) (d)”, wherever occurring, and by inserting instead the matter “section 83AK (1) (d) or (e)”.

(3) For the purposes of subsection (1), section 83AP (2) (a), (b) and (c) of the Mining Act, 1906, shall be deemed not to have been enacted and the following paragraphs shall be deemed to have been enacted instead :—

- (a) to unsuccessful tenderers in response to an invitation under section 83AJ of this Act, the fees and deposits refundable to them under section 83AK of this Act; and
- (b) to the Consolidated Revenue Fund, fees paid by tenderers in response to an invitation under section 83AJ of this Act that are not refundable under section 83AK of this Act.

Coal Mining (Amendment).

SCHEDULE 1.

Sec. 4 (1).

AMENDMENTS TO PART I OF THE COAL MINING ACT, 1973.

(1) (a) Section 2—

From the matter relating to Division 5 of Part IV, omit “74”, insert instead “74B”.

(b) Section 2—

From the matter relating to Part VI, omit “92”, insert instead “91”.

(c) Section 2—

From the matter relating to Part XI, omit “134”, insert instead “134A”.

(2) (a) Section 6 (1), definition of “authorisation”—

Omit “or 21”, insert instead “, 21 or 21A”.

(b) Section 6 (1), definition of “copy”—

After the definition of “conditions”, insert :—

“copy”, in relation to a notice published in a newspaper pursuant to this Act, means so much of the newspaper as contains—

- (a) the notice; and
- (b) the name and date of the newspaper;

(c) Section 6 (1), definition of “date of publication”—

After the definition of “Crown lease for pastoral purposes”, insert :—

“date of publication”, in relation to a notice published in a newspaper pursuant to this Act, means the date of the newspaper in which the notice is published;

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO PART I OF THE COAL MINING ACT,
1973—*continued.*

(3) Section 9 (2)—

Omit "document by certified mail", insert instead :—

document—

- (a) by certified mail, in a case where the person serving the document is not the Minister, the warden or a person employed in the Department; or
- (b) by certified mail or any other form of post, in any other case,

Sec. 4 (1).

SCHEDULE 2.

AMENDMENTS TO PART III OF THE COAL MINING ACT, 1973.

(1) Section 21A—

After section 21, insert :—

21A. (1) An application may be made to the Minister for the grant of an authorisation—

- (a) to drill a bore hole; or
- (b) to carry out investigative work of a prescribed kind,

Grant of
authori-
sation
to drill
bore hole,
etc.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

or both, by—

- (c) an applicant or a tenderer for the grant of a coal lease—over either or both of the following :—
 - (i) the land the subject of his application or tender for a coal lease;
 - (ii) the land overlying the land the subject of his application or tender for a coal lease;
- (d) the registered holder of a coal lease—over the land overlying the land the subject of that coal lease; or
- (e) the owner of a mine—over the land overlying the colliery holding of the mine.

(2) An application under this section shall—

- (a) be lodged with the Under Secretary;
- (b) contain such particulars as may be prescribed; and
- (c) where the consent of a person is required by reason of subsection (3) to the grant of the authorisation for which the application is made—be accompanied by that consent in the form required by subsection (4).

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(3) An authorisation shall not be granted under this section over—

(a) land being—

(i) freehold or leasehold land held by the owner of a mine within the colliery holding of the mine; or

(ii) any other land within a colliery holding of a mine in which the owner of the mine has the right to mine for coal or to carry out mining purposes in connection with mining for coal,

without the consent of the owner of that mine;

(b) land the subject of a coal lease, without the consent of the registered holder of that coal lease;

(c) land the subject of an application for a coal lease, without the consent of the applicant for the coal lease;

(d) land the subject of an authority or a claim, within the meaning of the Mining Act, 1973, without the consent of the registered holder of the authority or claim, as the case may be;

(e) land within a catchment area within the meaning of the Metropolitan Water, Sewerage, and Drainage Act, 1924, without the consent of The Metropolitan Water Sewerage and Drainage Board; or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(f) land within a catchment area within the meaning of the Hunter District Water, Sewerage and Drainage Act, 1938, without the consent of The Hunter District Water Board.

(4) A consent for the purposes of subsection (3) shall be given by instrument in writing and the conditions, if any, subject to which that consent is given shall be set out in the instrument of consent.

(5) Where the consent of a person is required by reason of subsection (3) to the grant of an authorisation and the consent is given subject to a condition, the authorisation shall not be granted unless it is granted in accordance with the condition.

(6) On application made under this section the Minister may—

- (a) subject to this Act, on such conditions, if any, as he may determine, grant to the applicant an authorisation to drill a bore hole or to carry out prescribed investigative work specified in the authorisation in or on the land over which the authorisation is granted; or
- (b) refuse the application.

(7) In this section, "owner"—

- (a) in relation to a mine that is not an open cut working within the meaning of the Coal Mines Regulation Act, 1912, has the meaning assigned thereto in section 3 (1) of that Act; and

Coal Mining (Amendment).

 SCHEDULE 2—*continued.*

 AMENDMENTS TO PART III OF THE COAL MINING ACT,
 1973—*continued.*

- (b) in relation to a mine that is an open cut working within the meaning of the Coal Mines Regulation Act, 1912, has the meaning assigned thereto in Regulation 3 (2) of the Eighth Schedule to that Act.
- (2) (a) Section 23 (2)—
 After “authorisation” where firstly occurring, insert “(not being an authorisation under section 21A)”.
- (b) Section 23 (5)—
 After “authorisation”, insert “(not being an authorisation under section 21A)”.
- (3) (a) Section 24 (1) (a)—
 Omit “or an orchard.”.
- (b) Section 24 (2)—
 Omit “orchard.”.
- (4) (a) Section 25 (1)—
 After “mine”, insert “or an authorisation under section 21A”.

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 25 (2A), (2B)—

After section 25 (2), insert :—

(2A) An authorisation under section 21A, while it remains in force, confers on the registered holder of the authorisation, subject to this Act and the conditions on which it was granted, the right—

(a) to drill a bore hole or to carry out prescribed investigative work in or on the land over which the authorisation was granted; and

(b) to remove and test any sample obtained as a result of the drilling of the bore hole or the carrying out of the prescribed investigative work.

(2B) The registered holder of an authorisation under section 21A may exercise a right conferred on him by subsection (2A) for purposes only connected with the location and recovery of coal in the land that is the subject of—

(a) the application or tender for a coal lease; or

(b) the coal lease or colliery holding,

in respect of which he applied for the authorisation.

(c) Section 25 (6)—

After “land” where firstly occurring, insert “or to carry out any drilling or other work in accordance with an authorisation granted under section 21A”.

SCHEDULE

Coal Mining (Amendment).

 SCHEDULE 2—*continued.*

 AMENDMENTS TO PART III OF THE COAL MINING ACT,
 1973—*continued.*

(d) Section 25 (8)—

After “authorisation” where firstly occurring,
 insert “(not being an authorisation granted
 under section 21A)”.

Sec. 4 (1).

SCHEDULE 3.

 AMENDMENTS TO PART IV OF THE COAL MINING ACT,
 1973.

(1) Section 30 (4)—

Before “publication”, insert “date of”.

(2) (a) Section 31 (1) (a)—

Omit the paragraph.

(b) Section 31 (1) (b)—

Omit “the block” wherever occurring, insert
 instead “any block”.

(3) Section 34 (4)—

Omit “, 89 (3) and (5) and 92 (1) and (7)”, insert
 instead “and 89 (3) and (5)”.

(4) (a) Section 41 (1)—

After “made”, insert “under section 30”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 41 (1A), (1B)—

After section 41 (1), insert :—

(1A) On application made, otherwise than under section 30, for the grant of one, or more than one, coal lease the Governor may—

(a) subject to this Act, on such conditions as he may determine, grant to the applicant one, or more than one, coal lease; or

(b) refuse the application.

(1B) Without affecting the generality of subsection (1A), the Governor may, under subsection (1A), grant one coal lease in respect of more than one application.

(c) Section 41 (5)—

Omit “41 (1) (a)”, insert instead “41 (1) (a), 41 (1A) (a)”.

(5) Section 42 (4)—

Omit “as from the date on which the instrument is so served.”, insert instead :—

from and including the date—

(a) specified in the instrument as the date of the alteration or amendment; or

(b) on which the instrument is so served,
whichever is the later date.

SCHEDULE

Coal Mining (Amendment).

 SCHEDULE 3—*continued.*

 AMENDMENTS TO PART IV OF THE COAL MINING ACT,
 1973—*continued.*

(6) Section 53 (8)—

After section 53 (7), insert :—

(8) The Minister may renew an exploration permit and the Governor may renew a coal lease notwithstanding that the applicant has not in every respect complied with the requirements of the regulations or the regulations under the Mining Act, 1906.

(7) Section 56 (3)—

Omit “the date on which the notice is served.”, insert instead :—

the date—

(a) specified in the notice as the date of the amendment; or

(b) on which the notice is so served,

whichever is the later date.

(8) Section 57 (a)—

Omit the paragraph, insert instead :—

(a) if section 56 applies, from and including the date—

(i) on which an instrument in writing is served on the registered holder of the concession pursuant to section 54 (1); or

(ii) specified in the instrument in writing so served as the date of renewal of the concession,

whichever is the later date; or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(9) Section 60A (2)—

Omit “as from the date on which the instrument is served.”, insert instead :—

from and including the date—

- (a) specified in the instrument as the date of the amendment; or
- (b) on which the instrument is so served,

whichever is the later date.

(10) (a) Section 62 (1) (a)—

Omit “or an orchard.”.

(b) Section 62 (2)—

Omit “orchard.”.

(c) Section 62 (8) (b)—

Omit “34”, insert instead “32”.

(11) Section 68 (1)—

Omit “, 91 (4) and 92 (4)”, insert instead “and 91 (4)”.

SCHEDULE

Coal Mining (Amendment).

 SCHEDULE 3—*continued.*

 AMENDMENTS TO PART IV OF THE COAL MINING ACT,
 1973—*continued.*

(12) Section 70 (4A)—

Omit “as from the date on which the instrument is served.”, insert instead :—

from and including the date—

(a) specified in the instrument as the date of effect of the order; or

(b) on which the instrument is so served,

whichever is the later date.

(13) Sections 74A, 74B—

After section 74, insert :—

Tourist
activities.

74A. (1) In this section, “tourist activity” means an activity related to tourism and specified or described in an instrument referred to in subsection (2).

(2) Subject to subsections (5) and (6), the Minister may, by instrument in writing, grant the registered holder of a coal lease a permission to carry on a tourist activity in his mining area and may, by the same instrument, attach such conditions to the permission as the Minister thinks fit.

(3) Where the registered holder of a coal lease carries on a tourist activity in accordance with a permission granted under subsection (2), the carrying on of that activity while the permission is in force does not—

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- (a) constitute a failure to comply with any condition of the holder's lease relating to the exclusive purposes for which his area may be used; or
- (b) give rise to a ground on which the lease may be cancelled under section 59 (4).

(4) If any condition attached to a permission under subsection (2) is breached, the Minister may revoke the permission by causing a written notice of revocation of the permission to be served on the registered holder of the coal lease in respect of which the permission was granted and the revocation has effect from and including the date—

- (a) specified in the notice as the date of the revocation; or
- (b) on which the notice is so served,

whichever is the later date.

(5) The Minister shall not, under subsection (2), grant a permission to carry on a tourist activity on the surface of any land that is within a national park, a historic site, a nature reserve, an Aboriginal area, a protected archaeological area or an Aboriginal place within the meaning of the National Parks and Wildlife Act, 1974.

(6) The Minister shall not, under subsection (2), grant a permission to carry on a tourist activity on the surface of any land that is—

- (a) private land—without the consent, given by instrument in writing, of every owner and occupier of the land;

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- (b) Crown land held under a Crown lease for pastoral purposes or a special lease for pastoral purposes—without the consent, given by instrument in writing, of every occupier of the land;
- (c) within a catchment area within the meaning of the Metropolitan Water, Sewerage, and Drainage Act, 1924—without the consent, given by instrument in writing, of The Metropolitan Water Sewerage and Drainage Board; or
- (d) within a wildlife district, a wildlife refuge or a game reserve within the meaning of the National Parks and Wildlife Act, 1974—without the consent, given by instrument in writing, of the Director of National Parks and Wildlife.

(7) Where, in accordance with this section, the Minister has granted to a registered holder a permission to carry on a tourist activity in a mining area, neither the holder nor any other person shall be entitled to make or prosecute any claim for damages or take any other proceedings against the Crown, the Government of New South Wales or the Minister arising out of any injury or loss suffered or incurred by any person who enters the mining area pursuant to the permission.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*
**AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.***

74B. (1) Where the Minister is of the opinion that a Government Department or a statutory authority within the meaning of section 87 would be materially affected if a permission were to be granted under section 74A (2), he shall cause to be served on that Department or authority a notice—

Notice of application for permission to be sent to Government Departments.

(a) stating that an application for the permission has been lodged;

(b) containing a description or a plan of the mining area in respect of which the permission is sought; and

(c) stating that objections to the granting of the permission, or proposals for the attaching to the permission of any condition, may be made to the Minister within the period specified in the notice.

(2) A Government Department or a statutory authority served with a notice pursuant to subsection (1) may, within the period specified in the notice, by instrument lodged with the Under Secretary—

(a) object to the granting of the permission; or

(b) propose that the conditions specified in the instrument be included in the permission, if granted.

(3) In deciding whether or not to grant a permission under section 74A (2) the Minister shall take into account any objection or proposal made under subsection (2).

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(14) (a) Section 75 (1), (1A)—

Omit section 75 (1), insert instead :—

(1) Subject to subsections (4), (6) and (7), where the area of land subject to a coal lease includes the surface of any Crown lands, the lease shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of that surface.

(1A) Subject to subsections (2), (4), (6) and (7), where the area of land subject to a coal lease includes the surface of any private lands, the lease shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of that surface.

(b) Section 75 (2)—

Omit “specified in subsection (1) (b)”, insert instead “referred to in subsection (1A)”.

(c) Section 75 (3)—(3B)—

Omit section 75 (3), insert instead :—

(3) Subject to subsections (4), (6) and (7), in addition to any rent that may be reserved under subsection (1), (1A) or (2), or in substitution therefor under this section, a coal lease

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

granted wholly or partly in respect of land any coal in which is reserved to, or owned by, the Crown shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of the area of the land—

(a) any coal in which is reserved to, or owned by, the Crown; and

(b) that is subject to the lease.

(3A) Subject to subsections (3B), (4), (6) and (7), in addition to any rent that may be reserved under subsection (1), (1A), (2) or (3), or in substitution therefor under this section, a coal lease granted wholly or partly in respect of land any coal in which is not reserved to, or owned by, the Crown shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of the area of the land—

(a) any coal in which is not reserved to, or owned by, the Crown; and

(b) that is subject to the lease.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(3B) Where—

(a) an agreement in writing between the applicant for the grant of a coal lease and the owner of any coal—

(i) not reserved to, or owned by, the Crown; and

(ii) to which the application for the grant of the lease relates,

is lodged with the Under Secretary; and

(b) the agreement provides that rent at a rate other than that referred to in subsection (3A) shall be payable—

(i) by reason of the fact that any coal in the land is owned by that owner; and

(ii) in respect of part or all of the area of land that is the subject of the application,

the rent reserved in favour of that owner by the lease in respect of the area of land any coal in which is owned by that owner shall be that specified in the agreement.

(d) Section 75 (8)—

Omit “Rent referred”, insert instead “Subject to subsections (9) and (10), rent referred”.

(e) Section 75 (8) (b)—

Omit “and”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(f) Section 75 (8) (c)—

Omit “the coal,” insert instead “the coal ; and”.

(g) Section 75 (8) (d)—

After section 75 (8) (c), insert :—

(d) in the case of rent in respect of coal reserved to, or owned by, the Crown, to the Crown,

(h) Section 75 (8)—

Omit “prescribed”, insert instead “set forth in the coal lease for the payment of the rent”.

(i) Section 75 (9)–(11)—

After section 75 (8), insert :—

(9) Where a coal lease that has effect at the commencement of this subsection—

(a) has a term that extends for not less than 12 months after that commencement ; and

(b) does not set forth the times and manner for the payment of annual amounts of rent reserved by the lease by reason of subsection (3) or (3A),

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

the annual amounts so reserved shall—

- (c) in the case of rent in respect of coal reserved to, or owned by, the Crown, be paid at the office of the Department in Sydney; and
- (d) in every case, be paid annually in advance.

(10) The first of the annual amounts of rent reserved by a coal lease and referred to in subsection (9) shall be paid on or before the first day—

- (a) that is an anniversary of the first day on which the lease had effect; and
- (b) that occurs after the commencement of this subsection.

(11) No rent is payable under this section by The Electricity Commission of New South Wales in respect of the surface of any land vested in that Commission or any land containing coal vested in that Commission where the surface or coal, as the case may be, is subject to a coal lease granted after 30th June, 1970, to that Commission.

(15) Section 75A—

After section 75, insert :—

75A. (1) Subject to subsection (2)—

- (a) any provision in—
 - (i) a coal lease; or

Variation
of liability
for rent
in respect
of certain
coal
leases.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- (ii) an instrument (other than a regulation made under this Act) made, issued or given under or for the purposes of the Mining Act, 1906, or this Act,

in force or having effect on the date of commencement of this section, shall, in so far as it relates to an amount of rent that becomes payable on or after that date in respect of a coal lease, be deemed, on and from that date, not to have any force or effect; and

- (b) rent that becomes payable on or after that date under the coal lease is payable in accordance with section 75.

(2) Subsection (1) does not apply to or in respect of—

- (a) a provision of any agreement referred to in section 75 (2), or rent reserved in accordance with that subsection; or
- (b) a provision of a consent entitling a person to mine for coal given under section 28, 57 (5) or 83AU of the Mining Act, 1906, or rent payable under a condition of any such consent.

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(16) Section 77 (5A)—

Omit "as from the date on which the notice is served.",
insert instead :—

from and including the date—

(a) specified in the notice as the date of effect of
the notice; or

(b) on which the notice is so served,

whichever is the later date.

(17) Section 77B—

After section 77A, insert :—

Trust fund,
etc.

77B. The Minister may cause to be served on the
registered holder of a coal lease an instrument in
writing requiring him—

- (a) to establish a trust fund, in such manner as
the Minister in that instrument directs, and
to pay into that trust fund from time to time
in accordance with the directions in that
instrument, such proportion of moneys
accruing from the sale of coal as is specified
in that instrument and which will, in the
opinion of the Minister, be sufficient to meet
the royalty payable in respect of that coal;
or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- (b) to lodge with the Under Secretary within such time as may be specified in the instrument, security in such amount and in such form as may be specified in the instrument, for the performance of his obligations in respect of the payment of royalty,
- and the registered holder of the coal lease shall comply with any such requirement.

SCHEDULE 4.

Sec. 4 (1).

AMENDMENTS TO PART VI OF THE COAL MINING ACT, 1973.

(1) Section 88 (4A)—

Omit “the date on which the notice is served.”, insert instead :—

and including the date—

(a) specified in the notice as the date of the amendment; or

(b) on which the notice is so served,
whichever is the later date.

(2) Section 90—

Omit “sections 91 and 92”, insert instead “section 91”.

(3) (a) Section 91 (9) (a)—

Omit “and”.

SCHEDULE

Coal Mining (Amendment).

 SCHEDULE 4—*continued.*

 AMENDMENTS TO PART VI OF THE COAL MINING ACT,
 1973—*continued.*

(b) Section 91 (9) (b)—

Omit “the lease.”, insert instead “the lease; and”.

(c) Section 91 (9) (c)—

After section 91 (9) (b), insert :—

 (c) a person applying under section 35 for the
 grant of a coal lease.

(4) Section 92—

Omit the section.

 SCHEDULE 5.

Sec. 4 (1).

 AMENDMENT TO PART VIII OF THE COAL MINING ACT,
 1973.

Section 100A—

After section 100, insert :—

 Directions
 to furnish
 names and
 addresses.

100A. (1) Where the warden considers that the owner or occupier of any land may be entitled to compensation under this Part in respect of an authorisation or a concession, he may, by instrument in writing served on the registered holder of the authorisation or concession, direct the holder to furnish him, in writing verified by statutory declaration under the hand of the holder or his agent, with the name and address of the owner or occupier of the land at the time, or within the period of time, specified in the instrument.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 5—*continued.*

AMENDMENT TO PART VIII OF THE COAL MINING ACT,
1973—*continued.*

(2) An instrument served under subsection (1) shall specify a date on or before which compliance with the direction contained in the instrument is required.

(3) For the purposes of sections 26 (1) (b) and 59 (2) (b), a direction given to a person by the warden under this section, requiring the person to furnish the warden with information on or before a specified date, is deemed to be a provision of this Act with which the person is required to comply.

SCHEDULE 6.

Sec. 4 (1).

AMENDMENTS TO PART IX OF THE COAL MINING ACT, 1973.

(1) Section 104 (2)—

After “accordance with”, insert “subsection (2A) and”.

(2) Section 104 (2A)—

After section 104 (2), insert :—

(2A) An application in respect of a transfer or an instrument referred to in subsection (2) shall be accompanied by the fee prescribed for the purposes of this subsection in respect of the transfer or instrument if it is lodged within the period of 90 days after

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART IX OF THE COAL MINING ACT,
1973—*continued.*

the date of its execution and an additional fee, if it is not so lodged, calculated at the rate of 100 per centum of the firstmentioned fee for each month or part thereof between the expiration of that period and the date of lodgment.

Sec. 4 (1).

SCHEDULE 7.

AMENDMENTS TO PART XI OF THE COAL MINING ACT, 1973.

(1) Section 115 (2A)—

Omit “the date on which notice is served.”, insert instead :—

and including the date—

(a) specified in the notice as the date of effect of the direction; or

(b) on which the notice is so served,

whichever is the later date.

(2) (a) Section 128 (1) (c)—

Omit “interest paid”, insert instead “moneys paid as interest”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 128 (2) (a)—

Omit “section 33 (8);”, insert instead “section 33 (8); and”.

(c) Section 128 (2) (b), (c)—

Omit the paragraphs, insert instead :—

- (b) to the Consolidated Revenue Fund, fees paid by tenderers for the grant of a coal lease in response to an invitation to tender under section 32 that are not refundable under section 33 (8).

(d) Section 128 (3), (4)—

Omit section 128 (3), insert instead :—

(3) Moneys referred to in subsection (1) that are not payable under subsection (2) shall, if those moneys have been paid to an account under subsection (1) in respect of a coal lease that relates to land in which the coal (if any)—

- (a) in the case of any part of those moneys that has been deposited under section 33 (2) (d)—was, at the time the lease was granted; or
- (b) in the case of any other part of those moneys—was, at the time at which it became payable,

SCHEDULE

Coal Mining (Amendment).

 SCHEDULE 7—*continued.*

 AMENDMENTS TO PART XI OF THE COAL MINING ACT,
 1973—*continued.*

exclusively owned by, or reserved to, one person,
 be paid—

(c) if that person is the Crown—to the
 Consolidated Revenue Fund; and

(d) if that person is not the Crown—to
 that person.

(4) Moneys referred to in subsection (1)
 that are not payable under subsection (2) shall,
 if those moneys have been paid to an account
 under subsection (1) in respect of a coal lease
 that relates to land in which the coal (if any)—

(a) in the case of any part of those moneys
 that has been deposited under section
 33 (2) (d)—was, at the time the
 lease was granted; or

(b) in the case of any other part of those
 moneys—was, at the time at which it
 became payable,

exclusively owned by, or reserved to, two or
 more persons, be apportioned among those per-
 sons in the proportions in which the Minister
 estimates that the coal (if any) was, or, if any
 coal has been extracted, would, but for the
 extraction of that coal, have been, owned by,
 or reserved to, those persons at the time referred
 to in paragraph (a) or (b), whichever is applicable,
 and the amounts so apportioned shall be paid—

(c) in the case of an amount apportioned
 to the Crown—to the Consolidated
 Revenue Fund; and

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

- (d) in any other case—to the person or persons to whom the amount or amounts is or are apportioned, as the case may require.

(3) Section 134A—

After section 134, insert :—

134A. Notwithstanding the provisions of any other Act, the taking, resumption or appropriation of land under any other Act after the commencement of this section does not affect—

Resumption,
etc., not
to affect
authorisation
to mine or
coal lease.

- (a) an authorisation to mine; or
- (b) a coal lease,
- or any rights thereunder granted pursuant to this Act.

 SCHEDULE 8.

Sec. 4 (1).

AMENDMENTS TO PART XII OF THE COAL MINING ACT,
1973.

(1) Section 135 (2) (e)—

After “leases”, insert “, or coal leases with mining purposes leases within the meaning of the Mining Act, 1973.”.

Coal Mining (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO PART XII OF THE COAL MINING ACT,
1973—*continued.*

(2) Section 135 (2) (11)—

After section 135 (2) (1), insert :—

- (11) the regulation of tourist activities carried on in a mining area under a permission granted under section 74A;

Sec. 4 (1).

SCHEDULE 9.

AMENDMENT TO THE FIRST SCHEDULE TO THE COAL MINING
ACT, 1973.

Paragraph 1 (1), definition of “agricultural land”—

Omit paragraph (c), insert instead :—

(c) land on which—

- (i) at the relevant date, shade, shelter or windbreak trees are growing; or
- (ii) at any time during the period of 10 years immediately preceding the relevant date, edible fruit or nut bearing trees, vines or any other perennial crop approved by the Director have or has been growing;
-

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 10.

Sec. 4 (1).

 AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL
 MINING ACT, 1973.

(1) Paragraph 7 (2)—

After “mine”, insert “or an authorisation granted under section 21A”.

(2) Paragraph 9 (2)—

Omit “A lease”, insert instead “Subject to this Act, a lease”.

(3) Paragraph 9A—

After paragraph 9, insert :—

9A. Where—

(a) by reason of this Schedule—

(i) a lease within the meaning of paragraph 9 is deemed to be a coal lease granted under this Act; or

(ii) an authority to prospect or an exploration license is deemed to be an exploration permit granted under this Act; and

(b) the coal lease or exploration permit includes a condition that could have been included—

(i) in any case—under section 94; or

Certain conditions deemed to have been imposed under this Act.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 10—*continued.*

AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL
MINING ACT, 1973—*continued.*

(ii) in the case of a coal lease—under
section 95,

if the coal lease or permit, as the case may
be, had been granted under this Act,

the condition shall, for the purposes of section 96, be
deemed to have been so included.

Sec. 4 (2).

SCHEDULE 11.

AMENDMENT TO THE PUBLIC WORKS ACT, 1912.

Section 140A—

After “1973”, insert “, and the Coal Mining Act,
1973”.

Sec. 4 (3).

SCHEDULE 12.

AMENDMENT TO THE LOCAL GOVERNMENT ACT, 1919.

Section 531 (3)—

After “1973”, insert “, and the Coal Mining Act,
1973”.

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, 2 December, 1976.*

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 98, 1976.

An Act to amend the Coal Mining Act, 1973, so as to provide for the conduct of tourist activities in mining areas, to make further provision in relation to the payment of rent under coal leases, and in certain other respects; and to amend section 140A of the Public Works Act, 1912, and section 531 of the Local Government Act, 1919. [Assented to, 17th December, 1976.]

BE

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

T. J. CAHILL,
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, 1976".

Commence-
ment. **2.** (1) This section and sections 1 and 3 shall commence on the date of assent to this Act.

(2) Section 4 shall, in its application to a provision of Schedules 1–12, commence or be deemed to have commenced on the day on which that provision commences or is deemed to have commenced, as the case may require.

(3) Section 5 and Schedules 3 (10) (c), 7 (2) and 10 (3) shall be deemed to have commenced on 29th March, 1974.

(4) The several provisions of Schedules 1–12, except Schedules 3 (10) (c), 7 (2) and 10 (3), 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.

Schedules. **3.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO PART I OF THE
COAL MINING ACT, 1973.

SCHEDULE 2.—AMENDMENTS TO PART III OF THE
COAL MINING ACT, 1973.

SCHEDULE 3.—AMENDMENTS TO PART IV OF THE
COAL MINING ACT, 1973.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 4.—AMENDMENTS TO PART VI OF THE COAL MINING ACT, 1973.

SCHEDULE 5.—AMENDMENT TO PART VIII OF THE COAL MINING ACT, 1973.

SCHEDULE 6.—AMENDMENTS TO PART IX OF THE COAL MINING ACT, 1973.

SCHEDULE 7.—AMENDMENTS TO PART XI OF THE COAL MINING ACT, 1973.

SCHEDULE 8.—AMENDMENTS TO PART XII OF THE COAL MINING ACT, 1973.

SCHEDULE 9.—AMENDMENT TO THE FIRST SCHEDULE TO THE COAL MINING ACT, 1973.

SCHEDULE 10.—AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL MINING ACT, 1973.

SCHEDULE 11.—AMENDMENT TO THE PUBLIC WORKS ACT, 1912.

SCHEDULE 12.—AMENDMENT TO THE LOCAL GOVERNMENT ACT, 1919.

4. (1) The Coal Mining Act, 1973, is amended in the manner set forth in Schedules 1–10. Amendment of Act No. 81, 1973.

(2) The Public Works Act, 1912, is amended in the manner set forth in Schedule 11. Amendment of Act No. 45, 1912.

(3) The Local Government Act, 1919, is amended in the manner set forth in Schedule 12. Amendment of Act No. 41, 1919.

5. (1) Any moneys that— Disposal of certain moneys.
(a) have been, or are, received in connection with a lease granted before 29th March, 1974, under section 83AM or 83AO of the Mining Act, 1906; and

(b)

Coal Mining (Amendment).

- (b) would have been, or would be, payable in accordance with section 83AP of that Act if the Coal Mining Act, 1973, had not been enacted,

shall be paid in accordance with section 83AP of the Mining Act, 1906, as if—

- (c) the Coal Mining Act, 1973, had not been enacted; and
- (d) section 83AP (3) of the Mining Act, 1906, had not been enacted but subsections (3) and (4) appearing in Schedule 7 (2) (d) had been enacted instead of that subsection.

(2) In subsection (1), a reference to subsections (3) and (4) appearing in Schedule 7 (2) (d) is a reference to those subsections as amended—

- (a) by omitting the words “coal lease”, wherever occurring, and by inserting instead the word “lease”;
- (b) by omitting the matter “section 33 (2) (d)”, wherever occurring, and by inserting instead the matter “section 83AK (1) (d) or (e)”.

(3) For the purposes of subsection (1), section 83AP (2) (a), (b) and (c) of the Mining Act, 1906, shall be deemed not to have been enacted and the following paragraphs shall be deemed to have been enacted instead :—

- (a) to unsuccessful tenderers in response to an invitation under section 83AJ of this Act, the fees and deposits refundable to them under section 83AK of this Act; and
- (b) to the Consolidated Revenue Fund, fees paid by tenderers in response to an invitation under section 83AJ of this Act that are not refundable under section 83AK of this Act.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 1.

Sec. 4 (1).

AMENDMENTS TO PART I OF THE COAL MINING ACT, 1973.

(1) (a) Section 2—

From the matter relating to Division 5 of Part IV, omit "74", insert instead "74B".

(b) Section 2—

From the matter relating to Part VI, omit "92", insert instead "91".

(c) Section 2—

From the matter relating to Part XI, omit "134", insert instead "134A".

(2) (a) Section 6 (1), definition of "authorisation"—

Omit "or 21", insert instead ", 21 or 21A".

(b) Section 6 (1), definition of "copy"—

After the definition of "conditions", insert :—

"copy", in relation to a notice published in a newspaper pursuant to this Act, means so much of the newspaper as contains—

- (a) the notice; and
- (b) the name and date of the newspaper;

(c) Section 6 (1), definition of "date of publication"—

After the definition of "Crown lease for pastoral purposes", insert :—

"date of publication", in relation to a notice published in a newspaper pursuant to this Act, means the date of the newspaper in which the notice is published;

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO PART I OF THE COAL MINING ACT,
1973—*continued.*

(3) Section 9 (2)—

Omit “document by certified mail”, insert instead :—

document—

- (a) by certified mail, in a case where the person serving the document is not the Minister, the warden or a person employed in the Department; or
- (b) by certified mail or any other form of post, in any other case,

Sec. 4 (1).

SCHEDULE 2.

AMENDMENTS TO PART III OF THE COAL MINING ACT, 1973.

(1) Section 21A—

After section 21, insert :—

21A. (1) An application may be made to the Minister for the grant of an authorisation—

- (a) to drill a bore hole; or
- (b) to carry out investigative work of a prescribed kind,

SCHEDULE

Grant of
authori-
sation
to drill
bore hole,
etc.

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

or both, by—

- (c) an applicant or a tenderer for the grant of a coal lease—over either or both of the following :—
 - (i) the land the subject of his application or tender for a coal lease;
 - (ii) the land overlying the land the subject of his application or tender for a coal lease;
- (d) the registered holder of a coal lease—over the land overlying the land the subject of that coal lease; or
- (e) the owner of a mine—over the land overlying the colliery holding of the mine.

(2) An application under this section shall—

- (a) be lodged with the Under Secretary;
- (b) contain such particulars as may be prescribed; and
- (c) where the consent of a person is required by reason of subsection (3) to the grant of the authorisation for which the application is made—be accompanied by that consent in the form required by subsection (4).

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(3) An authorisation shall not be granted under this section over—

(a) land being—

- (i) freehold or leasehold land held by the owner of a mine within the colliery holding of the mine; or
- (ii) any other land within a colliery holding of a mine in which the owner of the mine has the right to mine for coal or to carry out mining purposes in connection with mining for coal,

without the consent of the owner of that mine;

- (b) land the subject of a coal lease, without the consent of the registered holder of that coal lease;
- (c) land the subject of an application for a coal lease, without the consent of the applicant for the coal lease;
- (d) land the subject of an authority or a claim, within the meaning of the Mining Act, 1973, without the consent of the registered holder of the authority or claim, as the case may be;
- (e) land within a catchment area within the meaning of the Metropolitan Water, Sewerage, and Drainage Act, 1924, without the consent of The Metropolitan Water Sewerage and Drainage Board; or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(f) land within a catchment area within the meaning of the Hunter District Water, Sewerage and Drainage Act, 1938, without the consent of The Hunter District Water Board.

(4) A consent for the purposes of subsection (3) shall be given by instrument in writing and the conditions, if any, subject to which that consent is given shall be set out in the instrument of consent.

(5) Where the consent of a person is required by reason of subsection (3) to the grant of an authorisation and the consent is given subject to a condition, the authorisation shall not be granted unless it is granted in accordance with the condition.

(6) On application made under this section the Minister may—

- (a) subject to this Act, on such conditions, if any, as he may determine, grant to the applicant an authorisation to drill a bore hole or to carry out prescribed investigative work specified in the authorisation in or on the land over which the authorisation is granted; or
- (b) refuse the application.

(7) In this section, "owner"—

- (a) in relation to a mine that is not an open cut working within the meaning of the Coal Mines Regulation Act, 1912, has the meaning assigned thereto in section 3 (1) of that Act; and

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(b) in relation to a mine that is an open cut working within the meaning of the Coal Mines Regulation Act, 1912, has the meaning assigned thereto in Regulation 3 (2) of the Eighth Schedule to that Act.

(2) (a) Section 23 (2)—

After “authorisation” where firstly occurring, insert “(not being an authorisation under section 21A)”.

(b) Section 23 (5)—

After “authorisation”, insert “(not being an authorisation under section 21A)”.

(3) (a) Section 24 (1) (a)—

Omit “or an orchard.”.

(b) Section 24 (2)—

Omit “orchard.”.

(4) (a) Section 25 (1)—

After “mine”, insert “or an authorisation under section 21A”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 25 (2A), (2B)—

After section 25 (2), insert :—

(2A) An authorisation under section 21A, while it remains in force, confers on the registered holder of the authorisation, subject to this Act and the conditions on which it was granted, the right—

- (a) to drill a bore hole or to carry out prescribed investigative work in or on the land over which the authorisation was granted; and
- (b) to remove and test any sample obtained as a result of the drilling of the bore hole or the carrying out of the prescribed investigative work.

(2B) The registered holder of an authorisation under section 21A may exercise a right conferred on him by subsection (2A) for purposes only connected with the location and recovery of coal in the land that is the subject of—

- (a) the application or tender for a coal lease; or
 - (b) the coal lease or colliery holding,
- in respect of which he applied for the authorisation.

(c) Section 25 (6)—

After “land” where firstly occurring, insert “or to carry out any drilling or other work in accordance with an authorisation granted under section 21A”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—continued.
**AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—continued.**
(d) Section 25 (8)—

After "authorisation" where firstly occurring, insert "(not being an authorisation granted under section 21A)".

Sec. 4 (1).
SCHEDULE 3.
**AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973.**
(1) Section 30 (4)—

Before "publication", insert "date of".

(2) (a) Section 31 (1) (a)—

Omit the paragraph.

(b) Section 31 (1) (b)—

Omit "the block" wherever occurring, insert instead "any block".

(3) Section 34 (4)—

Omit ", 89 (3) and (5) and 92 (1) and (7)", insert instead "and 89 (3) and (5)".

(4) (a) Section 41 (1)—

After "made", insert "under section 30".

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 41 (1A), (1B)—

After section 41 (1), insert :—

(1A) On application made, otherwise than under section 30, for the grant of one, or more than one, coal lease the Governor may—

- (a) subject to this Act, on such conditions as he may determine, grant to the applicant one, or more than one, coal lease; or

- (b) refuse the application.

(1B) Without affecting the generality of subsection (1A), the Governor may, under subsection (1A), grant one coal lease in respect of more than one application.

(c) Section 41 (5)—

Omit “41 (1) (a)”, insert instead “41 (1) (a), 41 (1A) (a)”.

(5) Section 42 (4)—

Omit “as from the date on which the instrument is so served.”, insert instead :—

from and including the date—

- (a) specified in the instrument as the date of the alteration or amendment; or

- (b) on which the instrument is so served,

whichever is the later date.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(6) Section 53 (8)—

After section 53 (7), insert :—

(8) The Minister may renew an exploration permit and the Governor may renew a coal lease notwithstanding that the applicant has not in every respect complied with the requirements of the regulations or the regulations under the Mining Act, 1906.

(7) Section 56 (3)—

Omit “the date on which the notice is served.”, insert instead :—

the date—

(a) specified in the notice as the date of the amendment; or

(b) on which the notice is so served,
whichever is the later date.

(8) Section 57 (a)—

Omit the paragraph, insert instead :—

(a) if section 56 applies, from and including the date—

(i) on which an instrument in writing is served on the registered holder of the concession pursuant to section 54 (1);
or

(ii) specified in the instrument in writing so served as the date of renewal of the concession,

whichever is the later date; or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(9) Section 60A (2)—

Omit “as from the date on which the instrument is served.”, insert instead :—

from and including the date—

(a) specified in the instrument as the date of the amendment; or

(b) on which the instrument is so served,

whichever is the later date.

(10) (a) Section 62 (1) (a)—

Omit “or an orchard,”.

(b) Section 62 (2)—

Omit “orchard,”.

(c) Section 62 (8) (b)—

Omit “34”, insert instead “32”.

(11) Section 68 (1)—

Omit “, 91 (4) and 92 (4)”, insert instead “and 91 (4)”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*
 AMENDMENTS TO PART IV OF THE COAL MINING ACT,
 1973—*continued.*

(12) Section 70 (4A)—

Omit “as from the date on which the instrument is served.”, insert instead :—

from and including the date—

(a) specified in the instrument as the date of effect of the order; or

(b) on which the instrument is so served,

whichever is the later date.

(13) Sections 74A, 74B—

After section 74, insert :—

Tourist
activities.

74A. (1) In this section, “tourist activity” means an activity related to tourism and specified or described in an instrument referred to in subsection (2).

(2) Subject to subsections (5) and (6), the Minister may, by instrument in writing, grant the registered holder of a coal lease a permission to carry on a tourist activity in his mining area and may, by the same instrument, attach such conditions to the permission as the Minister thinks fit.

(3) Where the registered holder of a coal lease carries on a tourist activity in accordance with a permission granted under subsection (2), the carrying on of that activity while the permission is in force does not—

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- (a) constitute a failure to comply with any condition of the holder's lease relating to the exclusive purposes for which his area may be used; or
- (b) give rise to a ground on which the lease may be cancelled under section 59 (4).

(4) If any condition attached to a permission under subsection (2) is breached, the Minister may revoke the permission by causing a written notice of revocation of the permission to be served on the registered holder of the coal lease in respect of which the permission was granted and the revocation has effect from and including the date—

- (a) specified in the notice as the date of the revocation; or
- (b) on which the notice is so served,

whichever is the later date.

(5) The Minister shall not, under subsection (2), grant a permission to carry on a tourist activity on the surface of any land that is within a national park, a historic site, a nature reserve, an Aboriginal area, a protected archaeological area or an Aboriginal place within the meaning of the National Parks and Wildlife Act, 1974.

(6) The Minister shall not, under subsection (2), grant a permission to carry on a tourist activity on the surface of any land that is—

- (a) private land—without the consent, given by instrument in writing, of every owner and occupier of the land;

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- (b) Crown land held under a Crown lease for pastoral purposes or a special lease for pastoral purposes—without the consent, given by instrument in writing, of every occupier of the land;
- (c) within a catchment area within the meaning of the Metropolitan Water, Sewerage, and Drainage Act, 1924—without the consent, given by instrument in writing, of The Metropolitan Water Sewerage and Drainage Board; or
- (d) within a wildlife district, a wildlife refuge or a game reserve within the meaning of the National Parks and Wildlife Act, 1974—without the consent, given by instrument in writing, of the Director of National Parks and Wildlife.

(7) Where, in accordance with this section, the Minister has granted to a registered holder a permission to carry on a tourist activity in a mining area, neither the holder nor any other person shall be entitled to make or prosecute any claim for damages or take any other proceedings against the Crown, the Government of New South Wales or the Minister arising out of any injury or loss suffered or incurred by any person who enters the mining area pursuant to the permission.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*
 AMENDMENTS TO PART IV OF THE COAL MINING ACT,
 1973—*continued.*

74B. (1) Where the Minister is of the opinion that a Government Department or a statutory authority within the meaning of section 87 would be materially affected if a permission were to be granted under section 74A (2), he shall cause to be served on that Department or authority a notice—

Notice of application for permission to be sent to Government Departments.

- (a) stating that an application for the permission has been lodged;
- (b) containing a description or a plan of the mining area in respect of which the permission is sought; and
- (c) stating that objections to the granting of the permission, or proposals for the attaching to the permission of any condition, may be made to the Minister within the period specified in the notice.

(2) A Government Department or a statutory authority served with a notice pursuant to subsection (1) may, within the period specified in the notice, by instrument in writing lodged with the Under Secretary—

- (a) object to the granting of the permission; or
- (b) propose that the conditions specified in the instrument be included in the permission, if granted.

(3) In deciding whether or not to grant a permission under section 74A (2) the Minister shall take into account any objection or proposal made under subsection (2).

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(14) (a) Section 75 (1), (1A)—

Omit section 75 (1), insert instead :—

(1) Subject to subsections (4), (6) and (7), where the area of land subject to a coal lease includes the surface of any Crown lands, the lease shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of that surface.

(1A) Subject to subsections (2), (4), (6) and (7), where the area of land subject to a coal lease includes the surface of any private lands, the lease shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of that surface.

(b) Section 75 (2)—

Omit “specified in subsection (1) (b)”, insert instead “referred to in subsection (1A)”.

(c) Section 75 (3)–(3B)—

Omit section 75 (3), insert instead :—

(3) Subject to subsections (4), (6) and (7), in addition to any rent that may be reserved under subsection (1), (1A) or (2), or in substitution therefor under this section, a coal lease

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

granted wholly or partly in respect of land any coal in which is reserved to, or owned by, the Crown shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of the area of the land—

- (a) any coal in which is reserved to, or owned by, the Crown; and
- (b) that is subject to the lease.

(3A) Subject to subsections (3B), (4), (6) and (7), in addition to any rent that may be reserved under subsection (1), (1A), (2) or (3), or in substitution therefor under this section, a coal lease granted wholly or partly in respect of land any coal in which is not reserved to, or owned by, the Crown shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of the area of the land—

- (a) any coal in which is not reserved to, or owned by, the Crown; and
- (b) that is subject to the lease.

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(3B) Where—

- (a) an agreement in writing between the applicant for the grant of a coal lease and the owner of any coal—
 - (i) not reserved to, or owned by, the Crown; and
 - (ii) to which the application for the grant of the lease relates,is lodged with the Under Secretary; and
- (b) the agreement provides that rent at a rate other than that referred to in subsection (3A) shall be payable—
 - (i) by reason of the fact that any coal in the land is owned by that owner; and
 - (ii) in respect of part or all of the area of land that is the subject of the application,

the rent reserved in favour of that owner by the lease in respect of the area of land any coal in which is owned by that owner shall be that specified in the agreement.

(d) Section 75 (8)—

Omit “Rent referred”, insert instead “Subject to subsections (9) and (10), rent referred”.

(e) Section 75 (8) (b)—

Omit “and”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(f) Section 75 (8) (c)—

Omit “the coal,” insert instead “the coal ; and”.

(g) Section 75 (8) (d)—

After section 75 (8) (c), insert :—

- (d) in the case of rent in respect of coal reserved to, or owned by, the Crown, to the Crown,

(h) Section 75 (8)—

Omit “prescribed”, insert instead “set forth in the coal lease for the payment of the rent”.

(i) Section 75 (9)–(11)—

After section 75 (8), insert :—

(9) Where a coal lease that has effect at the commencement of this subsection—

- (a) has a term that extends for not less than 12 months after that commencement; and
- (b) does not set forth the times and manner for the payment of annual amounts of rent reserved by the lease by reason of subsection (3) or (3A),

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

the annual amounts so reserved shall—

- (c) in the case of rent in respect of coal reserved to, or owned by, the Crown, be paid at the office of the Department in Sydney; and
- (d) in every case, be paid annually in advance.

(10) The first of the annual amounts of rent reserved by a coal lease and referred to in subsection (9) shall be paid on or before the first day—

- (a) that is an anniversary of the first day on which the lease had effect; and
- (b) that occurs after the commencement of this subsection.

(11) No rent is payable under this section by The Electricity Commission of New South Wales in respect of the surface of any land vested in that Commission or any land containing coal vested in that Commission where the surface or coal, as the case may be, is subject to a coal lease granted after 30th June, 1970, to that Commission.

(15) Section 75A—

After section 75, insert :—

75A. (1) Subject to subsection (2)—

- (a) any provision in—
 - (i) a coal lease; or

Variation
of liability
for rent
in respect
of certain
coal
leases.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- (ii) an instrument (other than a regulation made under this Act) made, issued or given under or for the purposes of the Mining Act, 1906, or this Act,

in force or having effect on the date of commencement of this section, shall, in so far as it relates to an amount of rent that becomes payable on or after that date in respect of a coal lease, be deemed, on and from that date, not to have any force or effect; and

- (b) rent that becomes payable on or after that date under the coal lease is payable in accordance with section 75.

(2) Subsection (1) does not apply to or in respect of—

- (a) a provision of any agreement referred to in section 75 (2), or rent reserved in accordance with that subsection; or
- (b) a provision of a consent entitling a person to mine for coal given under section 28, 57 (5) or 83AU of the Mining Act, 1906, or rent payable under a condition of any such consent.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(16) Section 77 (5A)—

Omit “as from the date on which the notice is served.”,
insert instead :—

from and including the date—

(a) specified in the notice as the date of effect of
the notice; or

(b) on which the notice is so served,

whichever is the later date.

(17) Section 77B—

After section 77A, insert :—

Trust fund,
etc.

77B. The Minister may cause to be served on the
registered holder of a coal lease an instrument in
writing requiring him—

(a) to establish a trust fund, in such manner as
the Minister in that instrument directs, and
to pay into that trust fund from time to time
in accordance with the directions in that
instrument, such proportion of moneys
accruing from the sale of coal as is specified
in that instrument and which will, in the
opinion of the Minister, be sufficient to meet
the royalty payable in respect of that coal;
or

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- (b) to lodge with the Under Secretary within such time as may be specified in the instrument, security in such amount and in such form as may be specified in the instrument, for the performance of his obligations in respect of the payment of royalty,
- and the registered holder of the coal lease shall comply with any such requirement.

SCHEDULE 4.

Sec. 4 (1).

AMENDMENTS TO PART VI OF THE COAL MINING ACT, 1973.

(1) Section 88 (4A)—

Omit “the date on which the notice is served.”, insert instead :—

and including the date—

- (a) specified in the notice as the date of the amendment; or
- (b) on which the notice is so served,
- whichever is the later date.

(2) Section 90—

Omit “sections 91 and 92”, insert instead “section 91”.

(3) (a) Section 91 (9) (a)—

Omit “and”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART VI OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 91 (9) (b)—

Omit "the lease.", insert instead "the lease; and".

(c) Section 91 (9) (c)—

After section 91 (9) (b), insert :—

- (c) a person applying under section 35 for the grant of a coal lease.

(4) Section 92—

Omit the section.

Sec. 4 (1).

SCHEDULE 5.

AMENDMENT TO PART VIII OF THE COAL MINING ACT,
1973.

Section 100A—

After section 100, insert :—

Directions
to furnish
names and
addresses.

100A. (1) Where the warden considers that the owner or occupier of any land may be entitled to compensation under this Part in respect of an authorisation or a concession, he may, by instrument in writing served on the registered holder of the authorisation or concession, direct the holder to furnish him, in writing verified by statutory declaration under the hand of the holder or his agent, with the name and address of the owner or occupier of the land at the time, or within the period of time, specified in the instrument.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 5—*continued.*

AMENDMENT TO PART VIII OF THE COAL MINING ACT,
1973—*continued.*

(2) An instrument served under subsection (1) shall specify a date on or before which compliance with the direction contained in the instrument is required.

(3) For the purposes of sections 26 (1) (b) and 59 (2) (b), a direction given to a person by the warden under this section, requiring the person to furnish the warden with information on or before a specified date, is deemed to be a provision of this Act with which the person is required to comply.

SCHEDULE 6.

Sec. 4 (1).

AMENDMENTS TO PART IX OF THE COAL MINING ACT, 1973.

(1) Section 104 (2)—

After “accordance with”, insert “subsection (2A) and”.

(2) Section 104 (2A)—

After section 104 (2), insert :—

(2A) An application in respect of a transfer or an instrument referred to in subsection (2) shall be accompanied by the fee prescribed for the purposes of this subsection in respect of the transfer or instrument if it is lodged within the period of 90 days after

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART IX OF THE COAL MINING ACT,
1973—*continued.*

the date of its execution and an additional fee, if it is not so lodged, calculated at the rate of 100 per centum of the firstmentioned fee for each month or part thereof between the expiration of that period and the date of lodgment.

Sec. 4 (1).

SCHEDULE 7.

AMENDMENTS TO PART XI OF THE COAL MINING ACT, 1973.

(1) Section 115 (2A)—

Omit “the date on which notice is served.”, insert instead :—

and including the date—

(a) specified in the notice as the date of effect of the direction; or

(b) on which the notice is so served,

whichever is the later date.

(2) (a) Section 128 (1) (c)—

Omit “interest paid”, insert instead “moneys paid as interest”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 128 (2) (a)—

Omit “section 33 (8);”, insert instead “section 33 (8); and”.

(c) Section 128 (2) (b), (c)—

Omit the paragraphs, insert instead :—

- (b) to the Consolidated Revenue Fund, fees paid by tenderers for the grant of a coal lease in response to an invitation to tender under section 32 that are not refundable under section 33 (8).

(d) Section 128 (3), (4)—

Omit section 128 (3), insert instead :—

(3) Moneys referred to in subsection (1) that are not payable under subsection (2) shall, if those moneys have been paid to an account under subsection (1) in respect of a coal lease that relates to land in which the coal (if any)—

- (a) in the case of any part of those moneys that has been deposited under section 33 (2) (d)—was, at the time the lease was granted; or
- (b) in the case of any other part of those moneys—was, at the time at which it became payable,

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

exclusively owned by, or reserved to, one person,
be paid—

- (c) if that person is the Crown—to the Consolidated Revenue Fund; and
- (d) if that person is not the Crown—to that person.

(4) Moneys referred to in subsection (1) that are not payable under subsection (2) shall, if those moneys have been paid to an account under subsection (1) in respect of a coal lease that relates to land in which the coal (if any)—

- (a) in the case of any part of those moneys that has been deposited under section 33 (2) (d)—was, at the time the lease was granted; or
- (b) in the case of any other part of those moneys—was, at the time at which it became payable,

exclusively owned by, or reserved to, two or more persons, be apportioned among those persons in the proportions in which the Minister estimates that the coal (if any) was, or, if any coal has been extracted, would, but for the extraction of that coal, have been, owned by, or reserved to, those persons at the time referred to in paragraph (a) or (b), whichever is applicable, and the amounts so apportioned shall be paid—

- (c) in the case of an amount apportioned to the Crown—to the Consolidated Revenue Fund; and

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

- (d) in any other case—to the person or persons to whom the amount or amounts is or are apportioned, as the case may require.

(3) Section 134A—

After section 134, insert :—

134A. Notwithstanding the provisions of any other Act, the taking, resumption or appropriation of land under any other Act after the commencement of this section does not affect—

Resumption,
etc., not
to affect
authorisation
to mine or
coal lease.

- (a) an authorisation to mine; or
- (b) a coal lease,
- or any rights thereunder granted pursuant to this Act.

SCHEDULE 8.

Sec. 4 (1).

AMENDMENTS TO PART XII OF THE COAL MINING ACT,
1973.

(1) Section 135 (2) (e)—

After “leases”, insert “, or coal leases with mining purposes leases within the meaning of the Mining Act, 1973.”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 8—*continued.*AMENDMENTS TO PART XII OF THE COAL MINING ACT,
1973—*continued.*

(2) Section 135 (2) (11)—

After section 135 (2) (1), insert :—

- (11) the regulation of tourist activities carried on in a mining area under a permission granted under section 74A;

Sec. 4 (1).

SCHEDULE 9.

AMENDMENT TO THE FIRST SCHEDULE TO THE COAL MINING
ACT, 1973.

Paragraph 1 (1), definition of "agricultural land"—

Omit paragraph (c), insert instead :—

(c) land on which—

- (i) at the relevant date, shade, shelter or windbreak trees are growing; or
- (ii) at any time during the period of 10 years immediately preceding the relevant date, edible fruit or nut bearing trees, vines or any other perennial crop approved by the Director have or has been growing;

Coal Mining (Amendment).

SCHEDULE 10.

Sec. 4 (1).

AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL
MINING ACT, 1973.

(1) Paragraph 7 (2)—

After “mine”, insert “or an authorisation granted under section 21A”.

(2) Paragraph 9 (2)—

Omit “A lease”, insert instead “Subject to this Act, a lease”.

(3) Paragraph 9A—

After paragraph 9, insert :—

9A. Where—

(a) by reason of this Schedule—

- (i) a lease within the meaning of paragraph 9 is deemed to be a coal lease granted under this Act; or
- (ii) an authority to prospect or an exploration license is deemed to be an exploration permit granted under this Act; and

(b) the coal lease or exploration permit includes a condition that could have been included—

- (i) in any case—under section 94; or

Certain conditions deemed to have been imposed under this Act.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 10—*continued.*AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL
MINING ACT, 1973—*continued.*

(ii) in the case of a coal lease—under
section 95,

if the coal lease or permit, as the case may
be, had been granted under this Act,

the condition shall, for the purposes of section 96, be
deemed to have been so included.

Sec. 4 (2).

SCHEDULE 11.

AMENDMENT TO THE PUBLIC WORKS ACT, 1912.

Section 140A—

After “1973”, insert “, and the Coal Mining Act,
1973”.

Sec. 4 (3).

SCHEDULE 12.

AMENDMENT TO THE LOCAL GOVERNMENT ACT, 1919.

Section 531 (3)—

After “1973”, insert “, and the Coal Mining Act,
1973”.

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

A. R. CUTLER,
Governor.

*Government House,
Sydney, 17th December, 1976.*

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 98, 1976.

An Act to amend the Coal Mining Act, 1973, so as to provide for the conduct of tourist activities in mining areas, to make further provision in relation to the payment of rent under coal leases, and in certain other respects; and to amend section 140A of the Public Works Act, 1912, and section 531 of the Local Government Act, 1919. [Assented to, 17th December, 1976.]

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 follows:—

Short title. 1. This Act may be cited as the "Coal Mining (Amendment) Act, 1976".

**Commence-
ment.** 2. (1) This section and sections 1 and 3 shall commence on the date of assent to this Act.

(2) Section 4 shall, in its application to a provision of Schedules 1–12, commence or be deemed to have commenced on the day on which that provision commences or is deemed to have commenced, as the case may require.

(3) Section 5 and Schedules 3 (10) (c), 7 (2) and 10 (3) shall be deemed to have commenced on 29th March, 1974.

(4) The several provisions of Schedules 1–12, except Schedules 3 (10) (c), 7 (2) and 10 (3), 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.

Schedules. 3. This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO PART I OF THE
COAL MINING ACT, 1973.

SCHEDULE 2.—AMENDMENTS TO PART III OF THE
COAL MINING ACT, 1973.

SCHEDULE 3.—AMENDMENTS TO PART IV OF THE
COAL MINING ACT, 1973.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 4.—AMENDMENTS TO PART VI OF THE COAL MINING ACT, 1973.

SCHEDULE 5.—AMENDMENT TO PART VIII OF THE COAL MINING ACT, 1973.

SCHEDULE 6.—AMENDMENTS TO PART IX OF THE COAL MINING ACT, 1973.

SCHEDULE 7.—AMENDMENTS TO PART XI OF THE COAL MINING ACT, 1973.

SCHEDULE 8.—AMENDMENTS TO PART XII OF THE COAL MINING ACT, 1973.

SCHEDULE 9.—AMENDMENT TO THE FIRST SCHEDULE TO THE COAL MINING ACT, 1973.

SCHEDULE 10.—AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL MINING ACT, 1973.

SCHEDULE 11.—AMENDMENT TO THE PUBLIC WORKS ACT, 1912.

SCHEDULE 12.—AMENDMENT TO THE LOCAL GOVERNMENT ACT, 1919.

4. (1) The Coal Mining Act, 1973, is amended in the manner set forth in Schedules 1–10. Amendment of Act No. 81, 1973.

(2) The Public Works Act, 1912, is amended in the manner set forth in Schedule 11. Amendment of Act No. 45, 1912.

(3) The Local Government Act, 1919, is amended in the manner set forth in Schedule 12. Amendment of Act No. 41, 1919.

5. (1) Any moneys that—

(a) have been, or are, received in connection with a lease granted before 29th March, 1974, under section 83AM or 83AO of the Mining Act, 1906; and

Disposal of certain moneys.

(b)

Coal Mining (Amendment).

(b) would have been, or would be, payable in accordance with section 83AP of that Act if the Coal Mining Act, 1973, had not been enacted, shall be paid in accordance with section 83AP of the Mining Act, 1906, as if—

- (c) the Coal Mining Act, 1973, had not been enacted; and
- (d) section 83AP (3) of the Mining Act, 1906, had not been enacted but subsections (3) and (4) appearing in Schedule 7 (2) (d) had been enacted instead of that subsection.

(2) In subsection (1), a reference to subsections (3) and (4) appearing in Schedule 7 (2) (d) is a reference to those subsections as amended—

- (a) by omitting the words “coal lease”, wherever occurring, and by inserting instead the word “lease”;
- (b) by omitting the matter “section 33 (2) (d)”, wherever occurring, and by inserting instead the matter “section 83AK (1) (d) or (e)”.

(3) For the purposes of subsection (1), section 83AP (2) (a), (b) and (c) of the Mining Act, 1906, shall be deemed not to have been enacted and the following paragraphs shall be deemed to have been enacted instead :—

- (a) to unsuccessful tenderers in response to an invitation under section 83AJ of this Act, the fees and deposits refundable to them under section 83AK of this Act; and
- (b) to the Consolidated Revenue Fund, fees paid by tenderers in response to an invitation under section 83AJ of this Act that are not refundable under section 83AK of this Act.

Coal Mining (Amendment).

SCHEDULE 1.

Sec. 4 (1).

AMENDMENTS TO PART I OF THE COAL MINING ACT, 1973.

(1) (a) Section 2—

From the matter relating to Division 5 of Part IV, omit “74”, insert instead “74B”.

(b) Section 2—

From the matter relating to Part VI, omit “92”, insert instead “91”.

(c) Section 2—

From the matter relating to Part XI, omit “134”, insert instead “134A”.

(2) (a) Section 6 (1), definition of “authorisation”—

Omit “or 21”, insert instead “, 21 or 21A”.

(b) Section 6 (1), definition of “copy”—

After the definition of “conditions”, insert :—

“copy”, in relation to a notice published in a newspaper pursuant to this Act, means so much of the newspaper as contains—

- (a) the notice; and
- (b) the name and date of the newspaper;

(c) Section 6 (1), definition of “date of publication”—

After the definition of “Crown lease for pastoral purposes”, insert :—

“date of publication”, in relation to a notice published in a newspaper pursuant to this Act, means the date of the newspaper in which the notice is published;

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO PART I OF THE COAL MINING ACT,
1973—*continued.*

(3) Section 9 (2)—

Omit “document by certified mail”, insert instead :—

document—

- (a) by certified mail, in a case where the person serving the document is not the Minister, the warden or a person employed in the Department; or
- (b) by certified mail or any other form of post, in any other case,

Sec. 4 (1).

SCHEDULE 2.

AMENDMENTS TO PART III OF THE COAL MINING ACT, 1973.

(1) Section 21A—

After section 21, insert :—

21A. (1) An application may be made to the Minister for the grant of an authorisation—

- (a) to drill a bore hole; or
- (b) to carry out investigative work of a prescribed kind,

Grant of
authori-
sation
to drill
bore hole,
etc.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

or both, by—

- (c) an applicant or a tenderer for the grant of a coal lease—over either or both of the following :—
 - (i) the land the subject of his application or tender for a coal lease;
 - (ii) the land overlying the land the subject of his application or tender for a coal lease;
- (d) the registered holder of a coal lease—over the land overlying the land the subject of that coal lease; or
- (e) the owner of a mine—over the land overlying the colliery holding of the mine.

(2) An application under this section shall—

- (a) be lodged with the Under Secretary;
- (b) contain such particulars as may be prescribed; and
- (c) where the consent of a person is required by reason of subsection (3) to the grant of the authorisation for which the application is made—be accompanied by that consent in the form required by subsection (4).

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(3) An authorisation shall not be granted under this section over—

(a) land being—

(i) freehold or leasehold land held by the owner of a mine within the colliery holding of the mine; or

(ii) any other land within a colliery holding of a mine in which the owner of the mine has the right to mine for coal or to carry out mining purposes in connection with mining for coal,

without the consent of the owner of that mine;

(b) land the subject of a coal lease, without the consent of the registered holder of that coal lease;

(c) land the subject of an application for a coal lease, without the consent of the applicant for the coal lease;

(d) land the subject of an authority or a claim, within the meaning of the Mining Act, 1973, without the consent of the registered holder of the authority or claim, as the case may be;

(e) land within a catchment area within the meaning of the Metropolitan Water, Sewerage, and Drainage Act, 1924, without the consent of The Metropolitan Water Sewerage and Drainage Board; or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(f) land within a catchment area within the meaning of the Hunter District Water, Sewerage and Drainage Act, 1938, without the consent of The Hunter District Water Board.

(4) A consent for the purposes of subsection (3) shall be given by instrument in writing and the conditions, if any, subject to which that consent is given shall be set out in the instrument of consent.

(5) Where the consent of a person is required by reason of subsection (3) to the grant of an authorisation and the consent is given subject to a condition, the authorisation shall not be granted unless it is granted in accordance with the condition.

(6) On application made under this section the Minister may—

- (a) subject to this Act, on such conditions, if any, as he may determine, grant to the applicant an authorisation to drill a bore hole or to carry out prescribed investigative work specified in the authorisation in or on the land over which the authorisation is granted; or
- (b) refuse the application.

(7) In this section, "owner"—

- (a) in relation to a mine that is not an open cut working within the meaning of the Coal Mines Regulation Act, 1912, has the meaning assigned thereto in section 3 (1) of that Act; and

Coal Mining (Amendment).

 SCHEDULE 2—*continued.*

 AMENDMENTS TO PART III OF THE COAL MINING ACT,
 1973—*continued.*

- (b) in relation to a mine that is an open cut working within the meaning of the Coal Mines Regulation Act, 1912, has the meaning assigned thereto in Regulation 3 (2) of the Eighth Schedule to that Act.
- (2) (a) Section 23 (2)—
 After “authorisation” where firstly occurring, insert “(not being an authorisation under section 21A)”.
- (b) Section 23 (5)—
 After “authorisation”, insert “(not being an authorisation under section 21A)”.
- (3) (a) Section 24 (1) (a)—
 Omit “or an orchard.”.
- (b) Section 24 (2)—
 Omit “orchard.”.
- (4) (a) Section 25 (1)—
 After “mine”, insert “or an authorisation under section 21A”.

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 25 (2A), (2B)—

After section 25 (2), insert :—

(2A) An authorisation under section 21A, while it remains in force, confers on the registered holder of the authorisation, subject to this Act and the conditions on which it was granted, the right—

(a) to drill a bore hole or to carry out prescribed investigative work in or on the land over which the authorisation was granted; and

(b) to remove and test any sample obtained as a result of the drilling of the bore hole or the carrying out of the prescribed investigative work.

(2B) The registered holder of an authorisation under section 21A may exercise a right conferred on him by subsection (2A) for purposes only connected with the location and recovery of coal in the land that is the subject of—

(a) the application or tender for a coal lease; or

(b) the coal lease or colliery holding,

in respect of which he applied for the authorisation.

(c) Section 25 (6)—

After “land” where firstly occurring, insert “or to carry out any drilling or other work in accordance with an authorisation granted under section 21A”.

SCHEDULE

Coal Mining (Amendment).

 SCHEDULE 2—*continued.*

 AMENDMENTS TO PART III OF THE COAL MINING ACT,
 1973—*continued.*

(d) Section 25 (8)—

After “authorisation” where firstly occurring, insert “(not being an authorisation granted under section 21A)”.

Sec. 4 (1).

SCHEDULE 3.

 AMENDMENTS TO PART IV OF THE COAL MINING ACT,
 1973.

(1) Section 30 (4)—

Before “publication”, insert “date of”.

(2) (a) Section 31 (1) (a)—

Omit the paragraph.

(b) Section 31 (1) (b)—

Omit “the block” wherever occurring, insert instead “any block”.

(3) Section 34 (4)—

Omit “, 89 (3) and (5) and 92 (1) and (7)”, insert instead “and 89 (3) and (5)”.

(4) (a) Section 41 (1)—

After “made”, insert “under section 30”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 41 (1A), (1B)—

After section 41 (1), insert :—

(1A) On application made, otherwise than under section 30, for the grant of one, or more than one, coal lease the Governor may—

(a) subject to this Act, on such conditions as he may determine, grant to the applicant one, or more than one, coal lease; or

(b) refuse the application.

(1B) Without affecting the generality of subsection (1A), the Governor may, under subsection (1A), grant one coal lease in respect of more than one application.

(c) Section 41 (5)—

Omit “41 (1) (a)”, insert instead “41 (1) (a), 41 (1A) (a)”.

(5) Section 42 (4)—

Omit “as from the date on which the instrument is so served.”, insert instead :—

from and including the date—

(a) specified in the instrument as the date of the alteration or amendment; or

(b) on which the instrument is so served,
whichever is the later date.

SCHEDULE

Coal Mining (Amendment).

 SCHEDULE 3—*continued.*

 AMENDMENTS TO PART IV OF THE COAL MINING ACT,
 1973—*continued.*

(6) Section 53 (8)—

After section 53 (7), insert :—

(8) The Minister may renew an exploration permit and the Governor may renew a coal lease notwithstanding that the applicant has not in every respect complied with the requirements of the regulations or the regulations under the Mining Act, 1906.

(7) Section 56 (3)—

Omit “the date on which the notice is served.”, insert instead :—

the date—

(a) specified in the notice as the date of the amendment; or

(b) on which the notice is so served,

whichever is the later date.

(8) Section 57 (a)—

Omit the paragraph, insert instead :—

(a) if section 56 applies, from and including the date—

(i) on which an instrument in writing is served on the registered holder of the concession pursuant to section 54 (1); or

(ii) specified in the instrument in writing so served as the date of renewal of the concession,

whichever is the later date; or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(9) Section 60A (2)—

Omit “as from the date on which the instrument is served.”, insert instead :—

from and including the date—

- (a) specified in the instrument as the date of the amendment; or
- (b) on which the instrument is so served,

whichever is the later date.

(10) (a) Section 62 (1) (a)—

Omit “or an orchard.”.

(b) Section 62 (2)—

Omit “orchard.”.

(c) Section 62 (8) (b)—

Omit “34”, insert instead “32”.

(11) Section 68 (1)—

Omit “, 91 (4) and 92 (4)”, insert instead “and 91 (4)”.

SCHEDULE

Coal Mining (Amendment).

 SCHEDULE 3—*continued.*

 AMENDMENTS TO PART IV OF THE COAL MINING ACT,
 1973—*continued.*

(12) Section 70 (4A)—

Omit “as from the date on which the instrument is served.”, insert instead :—

from and including the date—

(a) specified in the instrument as the date of effect of the order; or

(b) on which the instrument is so served,

whichever is the later date.

(13) Sections 74A, 74B—

After section 74, insert :—

Tourist
activities.

74A. (1) In this section, “tourist activity” means an activity related to tourism and specified or described in an instrument referred to in subsection (2).

(2) Subject to subsections (5) and (6), the Minister may, by instrument in writing, grant the registered holder of a coal lease a permission to carry on a tourist activity in his mining area and may, by the same instrument, attach such conditions to the permission as the Minister thinks fit.

(3) Where the registered holder of a coal lease carries on a tourist activity in accordance with a permission granted under subsection (2), the carrying on of that activity while the permission is in force does not—

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- (a) constitute a failure to comply with any condition of the holder's lease relating to the exclusive purposes for which his area may be used; or
- (b) give rise to a ground on which the lease may be cancelled under section 59 (4).

(4) If any condition attached to a permission under subsection (2) is breached, the Minister may revoke the permission by causing a written notice of revocation of the permission to be served on the registered holder of the coal lease in respect of which the permission was granted and the revocation has effect from and including the date—

- (a) specified in the notice as the date of the revocation; or
- (b) on which the notice is so served,

whichever is the later date.

(5) The Minister shall not, under subsection (2), grant a permission to carry on a tourist activity on the surface of any land that is within a national park, a historic site, a nature reserve, an Aboriginal area, a protected archaeological area or an Aboriginal place within the meaning of the National Parks and Wildlife Act, 1974.

(6) The Minister shall not, under subsection (2), grant a permission to carry on a tourist activity on the surface of any land that is—

- (a) private land—without the consent, given by instrument in writing, of every owner and occupier of the land;

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- (b) Crown land held under a Crown lease for pastoral purposes or a special lease for pastoral purposes—without the consent, given by instrument in writing, of every occupier of the land;
- (c) within a catchment area within the meaning of the Metropolitan Water, Sewerage, and Drainage Act, 1924—without the consent, given by instrument in writing, of The Metropolitan Water Sewerage and Drainage Board; or
- (d) within a wildlife district, a wildlife refuge or a game reserve within the meaning of the National Parks and Wildlife Act, 1974—without the consent, given by instrument in writing, of the Director of National Parks and Wildlife.

(7) Where, in accordance with this section, the Minister has granted to a registered holder a permission to carry on a tourist activity in a mining area, neither the holder nor any other person shall be entitled to make or prosecute any claim for damages or take any other proceedings against the Crown, the Government of New South Wales or the Minister arising out of any injury or loss suffered or incurred by any person who enters the mining area pursuant to the permission.

Coal Mining (Amendment).

SCHEDULE 3—*continued.*
**AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.***

74B. (1) Where the Minister is of the opinion that a Government Department or a statutory authority within the meaning of section 87 would be materially affected if a permission were to be granted under section 74A (2), he shall cause to be served on that Department or authority a notice—

Notice of application for permission to be sent to Government Departments.

(a) stating that an application for the permission has been lodged;

(b) containing a description or a plan of the mining area in respect of which the permission is sought; and

(c) stating that objections to the granting of the permission, or proposals for the attaching to the permission of any condition, may be made to the Minister within the period specified in the notice.

(2) A Government Department or a statutory authority served with a notice pursuant to subsection (1) may, within the period specified in the notice, by instrument lodged with the Under Secretary—

(a) object to the granting of the permission; or

(b) propose that the conditions specified in the instrument be included in the permission, if granted.

(3) In deciding whether or not to grant a permission under section 74A (2) the Minister shall take into account any objection or proposal made under subsection (2).

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(14) (a) Section 75 (1), (1A)—

Omit section 75 (1), insert instead :—

(1) Subject to subsections (4), (6) and (7), where the area of land subject to a coal lease includes the surface of any Crown lands, the lease shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of that surface.

(1A) Subject to subsections (2), (4), (6) and (7), where the area of land subject to a coal lease includes the surface of any private lands, the lease shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of that surface.

(b) Section 75 (2)—

Omit “specified in subsection (1) (b)”, insert instead “referred to in subsection (1A)”.

(c) Section 75 (3)—(3B)—

Omit section 75 (3), insert instead :—

(3) Subject to subsections (4), (6) and (7), in addition to any rent that may be reserved under subsection (1), (1A) or (2), or in substitution therefor under this section, a coal lease

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

granted wholly or partly in respect of land any coal in which is reserved to, or owned by, the Crown shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of the area of the land—

(a) any coal in which is reserved to, or owned by, the Crown; and

(b) that is subject to the lease.

(3A) Subject to subsections (3B), (4), (6) and (7), in addition to any rent that may be reserved under subsection (1), (1A), (2) or (3), or in substitution therefor under this section, a coal lease granted wholly or partly in respect of land any coal in which is not reserved to, or owned by, the Crown shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of the area of the land—

(a) any coal in which is not reserved to, or owned by, the Crown; and

(b) that is subject to the lease.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(3B) Where—

(a) an agreement in writing between the applicant for the grant of a coal lease and the owner of any coal—

(i) not reserved to, or owned by, the Crown; and

(ii) to which the application for the grant of the lease relates,

is lodged with the Under Secretary; and

(b) the agreement provides that rent at a rate other than that referred to in subsection (3A) shall be payable—

(i) by reason of the fact that any coal in the land is owned by that owner; and

(ii) in respect of part or all of the area of land that is the subject of the application,

the rent reserved in favour of that owner by the lease in respect of the area of land any coal in which is owned by that owner shall be that specified in the agreement.

(d) Section 75 (8)—

Omit “Rent referred”, insert instead “Subject to subsections (9) and (10), rent referred”.

(e) Section 75 (8) (b)—

Omit “and”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(f) Section 75 (8) (c)—

Omit “the coal,” insert instead “the coal ; and”.

(g) Section 75 (8) (d)—

After section 75 (8) (c), insert :—

(d) in the case of rent in respect of coal reserved to, or owned by, the Crown, to the Crown,

(h) Section 75 (8)—

Omit “prescribed”, insert instead “set forth in the coal lease for the payment of the rent”.

(i) Section 75 (9)–(11)—

After section 75 (8), insert :—

(9) Where a coal lease that has effect at the commencement of this subsection—

(a) has a term that extends for not less than 12 months after that commencement ; and

(b) does not set forth the times and manner for the payment of annual amounts of rent reserved by the lease by reason of subsection (3) or (3A),

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

the annual amounts so reserved shall—

(c) in the case of rent in respect of coal reserved to, or owned by, the Crown, be paid at the office of the Department in Sydney; and

(d) in every case, be paid annually in advance.

(10) The first of the annual amounts of rent reserved by a coal lease and referred to in subsection (9) shall be paid on or before the first day—

(a) that is an anniversary of the first day on which the lease had effect; and

(b) that occurs after the commencement of this subsection.

(11) No rent is payable under this section by The Electricity Commission of New South Wales in respect of the surface of any land vested in that Commission or any land containing coal vested in that Commission where the surface or coal, as the case may be, is subject to a coal lease granted after 30th June, 1970, to that Commission.

(15) Section 75A—

After section 75, insert :—

75A. (1) Subject to subsection (2)—

(a) any provision in—

(i) a coal lease; or

Variation
of liability
for rent
in respect
of certain
coal
leases.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- (ii) an instrument (other than a regulation made under this Act) made, issued or given under or for the purposes of the Mining Act, 1906, or this Act,

in force or having effect on the date of commencement of this section, shall, in so far as it relates to an amount of rent that becomes payable on or after that date in respect of a coal lease, be deemed, on and from that date, not to have any force or effect; and

- (b) rent that becomes payable on or after that date under the coal lease is payable in accordance with section 75.

(2) Subsection (1) does not apply to or in respect of—

- (a) a provision of any agreement referred to in section 75 (2), or rent reserved in accordance with that subsection; or
- (b) a provision of a consent entitling a person to mine for coal given under section 28, 57 (5) or 83AU of the Mining Act, 1906, or rent payable under a condition of any such consent.

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(16) Section 77 (5A)—

Omit "as from the date on which the notice is served.",
insert instead :—

from and including the date—

(a) specified in the notice as the date of effect of
the notice; or

(b) on which the notice is so served,

whichever is the later date.

(17) Section 77B—

After section 77A, insert :—

Trust fund,
etc.

77B. The Minister may cause to be served on the
registered holder of a coal lease an instrument in
writing requiring him—

- (a) to establish a trust fund, in such manner as
the Minister in that instrument directs, and
to pay into that trust fund from time to time
in accordance with the directions in that
instrument, such proportion of moneys
accruing from the sale of coal as is specified
in that instrument and which will, in the
opinion of the Minister, be sufficient to meet
the royalty payable in respect of that coal;
or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- (b) to lodge with the Under Secretary within such time as may be specified in the instrument, security in such amount and in such form as may be specified in the instrument, for the performance of his obligations in respect of the payment of royalty,
and the registered holder of the coal lease shall comply with any such requirement.

SCHEDULE 4.

Sec. 4 (1).

AMENDMENTS TO PART VI OF THE COAL MINING ACT, 1973.

(1) Section 88 (4A)—

Omit “the date on which the notice is served.”, insert instead :—

and including the date—

(a) specified in the notice as the date of the amendment; or

(b) on which the notice is so served,
whichever is the later date.

(2) Section 90—

Omit “sections 91 and 92”, insert instead “section 91”.

(3) (a) Section 91 (9) (a)—

Omit “and”.

SCHEDULE

Coal Mining (Amendment).

 SCHEDULE 4—*continued.*

 AMENDMENTS TO PART VI OF THE COAL MINING ACT,
 1973—*continued.*

(b) Section 91 (9) (b)—

Omit “the lease.”, insert instead “the lease; and”.

(c) Section 91 (9) (c)—

After section 91 (9) (b), insert :—

 (c) a person applying under section 35 for the
 grant of a coal lease.

(4) Section 92—

Omit the section.

 SCHEDULE 5.

Sec. 4 (1).

 AMENDMENT TO PART VIII OF THE COAL MINING ACT,
 1973.

Section 100A—

After section 100, insert :—

 Directions
 to furnish
 names and
 addresses.

100A. (1) Where the warden considers that the owner or occupier of any land may be entitled to compensation under this Part in respect of an authorisation or a concession, he may, by instrument in writing served on the registered holder of the authorisation or concession, direct the holder to furnish him, in writing verified by statutory declaration under the hand of the holder or his agent, with the name and address of the owner or occupier of the land at the time, or within the period of time, specified in the instrument.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 5—*continued.*

AMENDMENT TO PART VIII OF THE COAL MINING ACT,
1973—*continued.*

(2) An instrument served under subsection (1) shall specify a date on or before which compliance with the direction contained in the instrument is required.

(3) For the purposes of sections 26 (1) (b) and 59 (2) (b), a direction given to a person by the warden under this section, requiring the person to furnish the warden with information on or before a specified date, is deemed to be a provision of this Act with which the person is required to comply.

SCHEDULE 6.

Sec. 4 (1).

AMENDMENTS TO PART IX OF THE COAL MINING ACT, 1973.

(1) Section 104 (2)—

After “accordance with”, insert “subsection (2A) and”.

(2) Section 104 (2A)—

After section 104 (2), insert :—

(2A) An application in respect of a transfer or an instrument referred to in subsection (2) shall be accompanied by the fee prescribed for the purposes of this subsection in respect of the transfer or instrument if it is lodged within the period of 90 days after

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART IX OF THE COAL MINING ACT,
1973—*continued.*

the date of its execution and an additional fee, if it is not so lodged, calculated at the rate of 100 per centum of the firstmentioned fee for each month or part thereof between the expiration of that period and the date of lodgment.

Sec. 4 (1).

SCHEDULE 7.

AMENDMENTS TO PART XI OF THE COAL MINING ACT, 1973.

(1) Section 115 (2A)—

Omit “the date on which notice is served.”, insert instead :—

and including the date—

(a) specified in the notice as the date of effect of the direction; or

(b) on which the notice is so served,

whichever is the later date.

(2) (a) Section 128 (1) (c)—

Omit “interest paid”, insert instead “moneys paid as interest”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 128 (2) (a)—

Omit “section 33 (8);”, insert instead “section 33 (8); and”.

(c) Section 128 (2) (b), (c)—

Omit the paragraphs, insert instead :—

- (b) to the Consolidated Revenue Fund, fees paid by tenderers for the grant of a coal lease in response to an invitation to tender under section 32 that are not refundable under section 33 (8).

(d) Section 128 (3), (4)—

Omit section 128 (3), insert instead :—

(3) Moneys referred to in subsection (1) that are not payable under subsection (2) shall, if those moneys have been paid to an account under subsection (1) in respect of a coal lease that relates to land in which the coal (if any)—

- (a) in the case of any part of those moneys that has been deposited under section 33 (2) (d)—was, at the time the lease was granted; or
- (b) in the case of any other part of those moneys—was, at the time at which it became payable,

SCHEDULE

Coal Mining (Amendment).

 SCHEDULE 7—*continued.*

 AMENDMENTS TO PART XI OF THE COAL MINING ACT,
 1973—*continued.*

exclusively owned by, or reserved to, one person,
 be paid—

(c) if that person is the Crown—to the
 Consolidated Revenue Fund; and

(d) if that person is not the Crown—to
 that person.

(4) Moneys referred to in subsection (1)
 that are not payable under subsection (2) shall,
 if those moneys have been paid to an account
 under subsection (1) in respect of a coal lease
 that relates to land in which the coal (if any)—

(a) in the case of any part of those moneys
 that has been deposited under section
 33 (2) (d)—was, at the time the
 lease was granted; or

(b) in the case of any other part of those
 moneys—was, at the time at which it
 became payable,

exclusively owned by, or reserved to, two or
 more persons, be apportioned among those per-
 sons in the proportions in which the Minister
 estimates that the coal (if any) was, or, if any
 coal has been extracted, would, but for the
 extraction of that coal, have been, owned by, or
 reserved to, those persons at the time referred to
 in paragraph (a) or (b), whichever is applicable,
 and the amounts so apportioned shall be paid—

(c) in the case of an amount apportioned
 to the Crown—to the Consolidated
 Revenue Fund; and

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

- (d) in any other case—to the person or persons to whom the amount or amounts is or are apportioned, as the case may require.

(3) Section 134A—

After section 134, insert :—

134A. Notwithstanding the provisions of any other Act, the taking, resumption or appropriation of land under any other Act after the commencement of this section does not affect—

Resumption,
etc., not
to affect
authorisation
to mine or
coal lease.

- (a) an authorisation to mine; or
- (b) a coal lease,
- or any rights thereunder granted pursuant to this Act.

 SCHEDULE 8.

Sec. 4 (1).

AMENDMENTS TO PART XII OF THE COAL MINING ACT,
1973.

(1) Section 135 (2) (e)—

After “leases”, insert “, or coal leases with mining purposes leases within the meaning of the Mining Act, 1973.”.

Coal Mining (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO PART XII OF THE COAL MINING ACT,
1973—*continued.*

(2) Section 135 (2) (11)—

After section 135 (2) (1), insert :—

- (11) the regulation of tourist activities carried on in a mining area under a permission granted under section 74A;

Sec. 4 (1).

SCHEDULE 9.

AMENDMENT TO THE FIRST SCHEDULE TO THE COAL MINING
ACT, 1973.

Paragraph 1 (1), definition of “agricultural land”—

Omit paragraph (c), insert instead :—

(c) land on which—

- (i) at the relevant date, shade, shelter or windbreak trees are growing; or
- (ii) at any time during the period of 10 years immediately preceding the relevant date, edible fruit or nut bearing trees, vines or any other perennial crop approved by the Director have or has been growing;
-

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 10.

Sec. 4 (1).

 AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL
 MINING ACT, 1973.

(1) Paragraph 7 (2)—

After “mine”, insert “or an authorisation granted under section 21A”.

(2) Paragraph 9 (2)—

Omit “A lease”, insert instead “Subject to this Act, a lease”.

(3) Paragraph 9A—

After paragraph 9, insert :—

9A. Where—

(a) by reason of this Schedule—

- (i) a lease within the meaning of paragraph 9 is deemed to be a coal lease granted under this Act; or
- (ii) an authority to prospect or an exploration license is deemed to be an exploration permit granted under this Act; and

(b) the coal lease or exploration permit includes a condition that could have been included—

- (i) in any case—under section 94; or

Certain conditions deemed to have been imposed under this Act.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 10—*continued.*

AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL
MINING ACT, 1973—*continued.*

(ii) in the case of a coal lease—under
section 95,

if the coal lease or permit, as the case may
be, had been granted under this Act,

the condition shall, for the purposes of section 96, be
deemed to have been so included.

Sec. 4 (2).

SCHEDULE 11.

AMENDMENT TO THE PUBLIC WORKS ACT, 1912.

Section 140A—

After “1973”, insert “, and the Coal Mining Act,
1973”.

Sec. 4 (3).

SCHEDULE 12.

AMENDMENT TO THE LOCAL GOVERNMENT ACT, 1919.

Section 531 (3)—

After “1973”, insert “, and the Coal Mining Act,
1973”.

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, 2 December, 1976.*

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 98, 1976.

An Act to amend the Coal Mining Act, 1973, so as to provide for the conduct of tourist activities in mining areas, to make further provision in relation to the payment of rent under coal leases, and in certain other respects; and to amend section 140A of the Public Works Act, 1912, and section 531 of the Local Government Act, 1919. [Assented to, 17th December, 1976.]

BE

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

T. J. CAHILL,
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, 1976".

Commence-
ment. **2.** (1) This section and sections 1 and 3 shall commence on the date of assent to this Act.

(2) Section 4 shall, in its application to a provision of Schedules 1–12, commence or be deemed to have commenced on the day on which that provision commences or is deemed to have commenced, as the case may require.

(3) Section 5 and Schedules 3 (10) (c), 7 (2) and 10 (3) shall be deemed to have commenced on 29th March, 1974.

(4) The several provisions of Schedules 1–12, except Schedules 3 (10) (c), 7 (2) and 10 (3), 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.

Schedules. **3.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO PART I OF THE
COAL MINING ACT, 1973.

SCHEDULE 2.—AMENDMENTS TO PART III OF THE
COAL MINING ACT, 1973.

SCHEDULE 3.—AMENDMENTS TO PART IV OF THE
COAL MINING ACT, 1973.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 4.—AMENDMENTS TO PART VI OF THE COAL MINING ACT, 1973.

SCHEDULE 5.—AMENDMENT TO PART VIII OF THE COAL MINING ACT, 1973.

SCHEDULE 6.—AMENDMENTS TO PART IX OF THE COAL MINING ACT, 1973.

SCHEDULE 7.—AMENDMENTS TO PART XI OF THE COAL MINING ACT, 1973.

SCHEDULE 8.—AMENDMENTS TO PART XII OF THE COAL MINING ACT, 1973.

SCHEDULE 9.—AMENDMENT TO THE FIRST SCHEDULE TO THE COAL MINING ACT, 1973.

SCHEDULE 10.—AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL MINING ACT, 1973.

SCHEDULE 11.—AMENDMENT TO THE PUBLIC WORKS ACT, 1912.

SCHEDULE 12.—AMENDMENT TO THE LOCAL GOVERNMENT ACT, 1919.

4. (1) The Coal Mining Act, 1973, is amended in the manner set forth in Schedules 1–10. Amendment of Act No. 81, 1973.

(2) The Public Works Act, 1912, is amended in the manner set forth in Schedule 11. Amendment of Act No. 45, 1912.

(3) The Local Government Act, 1919, is amended in the manner set forth in Schedule 12. Amendment of Act No. 41, 1919.

5. (1) Any moneys that— Disposal of certain moneys.
(a) have been, or are, received in connection with a lease granted before 29th March, 1974, under section 83AM or 83AO of the Mining Act, 1906; and

(b)

Coal Mining (Amendment).

- (b) would have been, or would be, payable in accordance with section 83AP of that Act if the Coal Mining Act, 1973, had not been enacted,

shall be paid in accordance with section 83AP of the Mining Act, 1906, as if—

- (c) the Coal Mining Act, 1973, had not been enacted; and
- (d) section 83AP (3) of the Mining Act, 1906, had not been enacted but subsections (3) and (4) appearing in Schedule 7 (2) (d) had been enacted instead of that subsection.

(2) In subsection (1), a reference to subsections (3) and (4) appearing in Schedule 7 (2) (d) is a reference to those subsections as amended—

- (a) by omitting the words “coal lease”, wherever occurring, and by inserting instead the word “lease”;
- (b) by omitting the matter “section 33 (2) (d)”, wherever occurring, and by inserting instead the matter “section 83AK (1) (d) or (e)”.

(3) For the purposes of subsection (1), section 83AP (2) (a), (b) and (c) of the Mining Act, 1906, shall be deemed not to have been enacted and the following paragraphs shall be deemed to have been enacted instead :—

- (a) to unsuccessful tenderers in response to an invitation under section 83AJ of this Act, the fees and deposits refundable to them under section 83AK of this Act; and
- (b) to the Consolidated Revenue Fund, fees paid by tenderers in response to an invitation under section 83AJ of this Act that are not refundable under section 83AK of this Act.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 1.

Sec. 4 (1).

AMENDMENTS TO PART I OF THE COAL MINING ACT, 1973.

(1) (a) Section 2—

From the matter relating to Division 5 of Part IV, omit "74", insert instead "74B".

(b) Section 2—

From the matter relating to Part VI, omit "92", insert instead "91".

(c) Section 2—

From the matter relating to Part XI, omit "134", insert instead "134A".

(2) (a) Section 6 (1), definition of "authorisation"—

Omit "or 21", insert instead ", 21 or 21A".

(b) Section 6 (1), definition of "copy"—

After the definition of "conditions", insert :—

"copy", in relation to a notice published in a newspaper pursuant to this Act, means so much of the newspaper as contains—

- (a) the notice; and
- (b) the name and date of the newspaper;

(c) Section 6 (1), definition of "date of publication"—

After the definition of "Crown lease for pastoral purposes", insert :—

"date of publication", in relation to a notice published in a newspaper pursuant to this Act, means the date of the newspaper in which the notice is published;

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO PART I OF THE COAL MINING ACT,
1973—*continued.*

(3) Section 9 (2)—

Omit “document by certified mail”, insert instead :—

document—

- (a) by certified mail, in a case where the person serving the document is not the Minister, the warden or a person employed in the Department; or
- (b) by certified mail or any other form of post, in any other case,

Sec. 4 (1).

SCHEDULE 2.

AMENDMENTS TO PART III OF THE COAL MINING ACT, 1973.

(1) Section 21A—

After section 21, insert :—

21A. (1) An application may be made to the Minister for the grant of an authorisation—

- (a) to drill a bore hole; or
- (b) to carry out investigative work of a prescribed kind,

SCHEDULE

Grant of
authori-
sation
to drill
bore hole,
etc.

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

or both, by—

- (c) an applicant or a tenderer for the grant of a coal lease—over either or both of the following :—
 - (i) the land the subject of his application or tender for a coal lease;
 - (ii) the land overlying the land the subject of his application or tender for a coal lease;
- (d) the registered holder of a coal lease—over the land overlying the land the subject of that coal lease; or
- (e) the owner of a mine—over the land overlying the colliery holding of the mine.

(2) An application under this section shall—

- (a) be lodged with the Under Secretary;
- (b) contain such particulars as may be prescribed; and
- (c) where the consent of a person is required by reason of subsection (3) to the grant of the authorisation for which the application is made—be accompanied by that consent in the form required by subsection (4).

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(3) An authorisation shall not be granted under this section over—

(a) land being—

- (i) freehold or leasehold land held by the owner of a mine within the colliery holding of the mine; or
- (ii) any other land within a colliery holding of a mine in which the owner of the mine has the right to mine for coal or to carry out mining purposes in connection with mining for coal,

without the consent of the owner of that mine;

- (b) land the subject of a coal lease, without the consent of the registered holder of that coal lease;
- (c) land the subject of an application for a coal lease, without the consent of the applicant for the coal lease;
- (d) land the subject of an authority or a claim, within the meaning of the Mining Act, 1973, without the consent of the registered holder of the authority or claim, as the case may be;
- (e) land within a catchment area within the meaning of the Metropolitan Water, Sewerage, and Drainage Act, 1924, without the consent of The Metropolitan Water Sewerage and Drainage Board; or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(f) land within a catchment area within the meaning of the Hunter District Water, Sewerage and Drainage Act, 1938, without the consent of The Hunter District Water Board.

(4) A consent for the purposes of subsection (3) shall be given by instrument in writing and the conditions, if any, subject to which that consent is given shall be set out in the instrument of consent.

(5) Where the consent of a person is required by reason of subsection (3) to the grant of an authorisation and the consent is given subject to a condition, the authorisation shall not be granted unless it is granted in accordance with the condition.

(6) On application made under this section the Minister may—

- (a) subject to this Act, on such conditions, if any, as he may determine, grant to the applicant an authorisation to drill a bore hole or to carry out prescribed investigative work specified in the authorisation in or on the land over which the authorisation is granted; or
- (b) refuse the application.

(7) In this section, "owner"—

- (a) in relation to a mine that is not an open cut working within the meaning of the Coal Mines Regulation Act, 1912, has the meaning assigned thereto in section 3 (1) of that Act; and

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(b) in relation to a mine that is an open cut working within the meaning of the Coal Mines Regulation Act, 1912, has the meaning assigned thereto in Regulation 3 (2) of the Eighth Schedule to that Act.

(2) (a) Section 23 (2)—

After “authorisation” where firstly occurring, insert “(not being an authorisation under section 21A)”.

(b) Section 23 (5)—

After “authorisation”, insert “(not being an authorisation under section 21A)”.

(3) (a) Section 24 (1) (a)—

Omit “or an orchard.”.

(b) Section 24 (2)—

Omit “orchard.”.

(4) (a) Section 25 (1)—

After “mine”, insert “or an authorisation under section 21A”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 25 (2A), (2B)—

After section 25 (2), insert :—

(2A) An authorisation under section 21A, while it remains in force, confers on the registered holder of the authorisation, subject to this Act and the conditions on which it was granted, the right—

- (a) to drill a bore hole or to carry out prescribed investigative work in or on the land over which the authorisation was granted; and
- (b) to remove and test any sample obtained as a result of the drilling of the bore hole or the carrying out of the prescribed investigative work.

(2B) The registered holder of an authorisation under section 21A may exercise a right conferred on him by subsection (2A) for purposes only connected with the location and recovery of coal in the land that is the subject of—

- (a) the application or tender for a coal lease; or
 - (b) the coal lease or colliery holding,
- in respect of which he applied for the authorisation.

(c) Section 25 (6)—

After “land” where firstly occurring, insert “or to carry out any drilling or other work in accordance with an authorisation granted under section 21A”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 2—continued.
**AMENDMENTS TO PART III OF THE COAL MINING ACT,
1973—continued.**
(d) Section 25 (8)—

After "authorisation" where firstly occurring, insert "(not being an authorisation granted under section 21A)".

Sec. 4 (1).
SCHEDULE 3.
**AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973.**
(1) Section 30 (4)—

Before "publication", insert "date of".

(2) (a) Section 31 (1) (a)—

Omit the paragraph.

(b) Section 31 (1) (b)—

Omit "the block" wherever occurring, insert instead "any block".

(3) Section 34 (4)—

Omit ", 89 (3) and (5) and 92 (1) and (7)", insert instead "and 89 (3) and (5)".

(4) (a) Section 41 (1)—

After "made", insert "under section 30".

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 41 (1A), (1B)—

After section 41 (1), insert :—

(1A) On application made, otherwise than under section 30, for the grant of one, or more than one, coal lease the Governor may—

- (a) subject to this Act, on such conditions as he may determine, grant to the applicant one, or more than one, coal lease; or

- (b) refuse the application.

(1B) Without affecting the generality of subsection (1A), the Governor may, under subsection (1A), grant one coal lease in respect of more than one application.

(c) Section 41 (5)—

Omit “41 (1) (a)”, insert instead “41 (1) (a), 41 (1A) (a)”.

(5) Section 42 (4)—

Omit “as from the date on which the instrument is so served.”, insert instead :—

from and including the date—

- (a) specified in the instrument as the date of the alteration or amendment; or

- (b) on which the instrument is so served,

whichever is the later date.

SCHEDULE

Coal Mining (Amendment).

 SCHEDULE 3—*continued.*

 AMENDMENTS TO PART IV OF THE COAL MINING ACT,
 1973—*continued.*

(6) Section 53 (8)—

After section 53 (7), insert :—

(8) The Minister may renew an exploration permit and the Governor may renew a coal lease notwithstanding that the applicant has not in every respect complied with the requirements of the regulations or the regulations under the Mining Act, 1906.

(7) Section 56 (3)—

Omit “the date on which the notice is served.”, insert instead :—

the date—

(a) specified in the notice as the date of the amendment; or

(b) on which the notice is so served,

whichever is the later date.

(8) Section 57 (a)—

Omit the paragraph, insert instead :—

(a) if section 56 applies, from and including the date—

(i) on which an instrument in writing is served on the registered holder of the concession pursuant to section 54 (1);
or

(ii) specified in the instrument in writing so served as the date of renewal of the concession,

whichever is the later date; or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(9) Section 60A (2)—

Omit “as from the date on which the instrument is served.”, insert instead :—

from and including the date—

(a) specified in the instrument as the date of the amendment; or

(b) on which the instrument is so served,

whichever is the later date.

(10) (a) Section 62 (1) (a)—

Omit “or an orchard,”.

(b) Section 62 (2)—

Omit “orchard,”.

(c) Section 62 (8) (b)—

Omit “34”, insert instead “32”.

(11) Section 68 (1)—

Omit “, 91 (4) and 92 (4)”, insert instead “and 91 (4)”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*
 AMENDMENTS TO PART IV OF THE COAL MINING ACT,
 1973—*continued.*

(12) Section 70 (4A)—

Omit “as from the date on which the instrument is served.”, insert instead :—

from and including the date—

(a) specified in the instrument as the date of effect of the order; or

(b) on which the instrument is so served,

whichever is the later date.

(13) Sections 74A, 74B—

After section 74, insert :—

Tourist
activities.

74A. (1) In this section, “tourist activity” means an activity related to tourism and specified or described in an instrument referred to in subsection (2).

(2) Subject to subsections (5) and (6), the Minister may, by instrument in writing, grant the registered holder of a coal lease a permission to carry on a tourist activity in his mining area and may, by the same instrument, attach such conditions to the permission as the Minister thinks fit.

(3) Where the registered holder of a coal lease carries on a tourist activity in accordance with a permission granted under subsection (2), the carrying on of that activity while the permission is in force does not—

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- (a) constitute a failure to comply with any condition of the holder's lease relating to the exclusive purposes for which his area may be used; or
- (b) give rise to a ground on which the lease may be cancelled under section 59 (4).

(4) If any condition attached to a permission under subsection (2) is breached, the Minister may revoke the permission by causing a written notice of revocation of the permission to be served on the registered holder of the coal lease in respect of which the permission was granted and the revocation has effect from and including the date—

- (a) specified in the notice as the date of the revocation; or
- (b) on which the notice is so served,

whichever is the later date.

(5) The Minister shall not, under subsection (2), grant a permission to carry on a tourist activity on the surface of any land that is within a national park, a historic site, a nature reserve, an Aboriginal area, a protected archaeological area or an Aboriginal place within the meaning of the National Parks and Wildlife Act, 1974.

(6) The Minister shall not, under subsection (2), grant a permission to carry on a tourist activity on the surface of any land that is—

- (a) private land—without the consent, given by instrument in writing, of every owner and occupier of the land;

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- (b) Crown land held under a Crown lease for pastoral purposes or a special lease for pastoral purposes—without the consent, given by instrument in writing, of every occupier of the land;
- (c) within a catchment area within the meaning of the Metropolitan Water, Sewerage, and Drainage Act, 1924—without the consent, given by instrument in writing, of The Metropolitan Water Sewerage and Drainage Board; or
- (d) within a wildlife district, a wildlife refuge or a game reserve within the meaning of the National Parks and Wildlife Act, 1974—without the consent, given by instrument in writing, of the Director of National Parks and Wildlife.

(7) Where, in accordance with this section, the Minister has granted to a registered holder a permission to carry on a tourist activity in a mining area, neither the holder nor any other person shall be entitled to make or prosecute any claim for damages or take any other proceedings against the Crown, the Government of New South Wales or the Minister arising out of any injury or loss suffered or incurred by any person who enters the mining area pursuant to the permission.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

74B. (1) Where the Minister is of the opinion that a Government Department or a statutory authority within the meaning of section 87 would be materially affected if a permission were to be granted under section 74A (2), he shall cause to be served on that Department or authority a notice—

Notice of application for permission to be sent to Government Departments.

- (a) stating that an application for the permission has been lodged;
- (b) containing a description or a plan of the mining area in respect of which the permission is sought; and
- (c) stating that objections to the granting of the permission, or proposals for the attaching to the permission of any condition, may be made to the Minister within the period specified in the notice.

(2) A Government Department or a statutory authority served with a notice pursuant to subsection (1) may, within the period specified in the notice, by instrument in writing lodged with the Under Secretary—

- (a) object to the granting of the permission; or
- (b) propose that the conditions specified in the instrument be included in the permission, if granted.

(3) In deciding whether or not to grant a permission under section 74A (2) the Minister shall take into account any objection or proposal made under subsection (2).

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(14) (a) Section 75 (1), (1A)—

Omit section 75 (1), insert instead :—

(1) Subject to subsections (4), (6) and (7), where the area of land subject to a coal lease includes the surface of any Crown lands, the lease shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of that surface.

(1A) Subject to subsections (2), (4), (6) and (7), where the area of land subject to a coal lease includes the surface of any private lands, the lease shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of that surface.

(b) Section 75 (2)—

Omit “specified in subsection (1) (b)”, insert instead “referred to in subsection (1A)”.

(c) Section 75 (3)–(3B)—

Omit section 75 (3), insert instead :—

(3) Subject to subsections (4), (6) and (7), in addition to any rent that may be reserved under subsection (1), (1A) or (2), or in substitution therefor under this section, a coal lease

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

granted wholly or partly in respect of land any coal in which is reserved to, or owned by, the Crown shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of the area of the land—

- (a) any coal in which is reserved to, or owned by, the Crown; and
- (b) that is subject to the lease.

(3A) Subject to subsections (3B), (4), (6) and (7), in addition to any rent that may be reserved under subsection (1), (1A), (2) or (3), or in substitution therefor under this section, a coal lease granted wholly or partly in respect of land any coal in which is not reserved to, or owned by, the Crown shall be deemed to reserve annual amounts of rent, each amount of which shall be calculated, at the rate of rent prescribed for the purposes of this subsection at the time the amount is required to be paid, for each hectare, or portion of a hectare, of the area of the land—

- (a) any coal in which is not reserved to, or owned by, the Crown; and
- (b) that is subject to the lease.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(3B) Where—

- (a) an agreement in writing between the applicant for the grant of a coal lease and the owner of any coal—
- (i) not reserved to, or owned by, the Crown; and
 - (ii) to which the application for the grant of the lease relates,
- is lodged with the Under Secretary; and
- (b) the agreement provides that rent at a rate other than that referred to in subsection (3A) shall be payable—
- (i) by reason of the fact that any coal in the land is owned by that owner; and
 - (ii) in respect of part or all of the area of land that is the subject of the application,

the rent reserved in favour of that owner by the lease in respect of the area of land any coal in which is owned by that owner shall be that specified in the agreement.

(d) Section 75 (8)—

Omit “Rent referred”, insert instead “Subject to subsections (9) and (10), rent referred”.

(e) Section 75 (8) (b)—

Omit “and”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(f) Section 75 (8) (c)—

Omit “the coal,” insert instead “the coal ; and”.

(g) Section 75 (8) (d)—

After section 75 (8) (c), insert :—

- (d) in the case of rent in respect of coal reserved to, or owned by, the Crown, to the Crown,

(h) Section 75 (8)—

Omit “prescribed”, insert instead “set forth in the coal lease for the payment of the rent”.

(i) Section 75 (9)–(11)—

After section 75 (8), insert :—

(9) Where a coal lease that has effect at the commencement of this subsection—

- (a) has a term that extends for not less than 12 months after that commencement; and
- (b) does not set forth the times and manner for the payment of annual amounts of rent reserved by the lease by reason of subsection (3) or (3A),

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

the annual amounts so reserved shall—

- (c) in the case of rent in respect of coal reserved to, or owned by, the Crown, be paid at the office of the Department in Sydney; and
- (d) in every case, be paid annually in advance.

(10) The first of the annual amounts of rent reserved by a coal lease and referred to in subsection (9) shall be paid on or before the first day—

- (a) that is an anniversary of the first day on which the lease had effect; and
- (b) that occurs after the commencement of this subsection.

(11) No rent is payable under this section by The Electricity Commission of New South Wales in respect of the surface of any land vested in that Commission or any land containing coal vested in that Commission where the surface or coal, as the case may be, is subject to a coal lease granted after 30th June, 1970, to that Commission.

(15) Section 75A—

After section 75, insert :—

75A. (1) Subject to subsection (2)—

- (a) any provision in—
 - (i) a coal lease; or

Variation
of liability
for rent
in respect
of certain
coal
leases.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- (ii) an instrument (other than a regulation made under this Act) made, issued or given under or for the purposes of the Mining Act, 1906, or this Act,

in force or having effect on the date of commencement of this section, shall, in so far as it relates to an amount of rent that becomes payable on or after that date in respect of a coal lease, be deemed, on and from that date, not to have any force or effect; and

- (b) rent that becomes payable on or after that date under the coal lease is payable in accordance with section 75.

(2) Subsection (1) does not apply to or in respect of—

- (a) a provision of any agreement referred to in section 75 (2), or rent reserved in accordance with that subsection; or
- (b) a provision of a consent entitling a person to mine for coal given under section 28, 57 (5) or 83AU of the Mining Act, 1906, or rent payable under a condition of any such consent.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

(16) Section 77 (5A)—

Omit “as from the date on which the notice is served.”,
insert instead :—

from and including the date—

(a) specified in the notice as the date of effect of
the notice; or

(b) on which the notice is so served,

whichever is the later date.

(17) Section 77B—

After section 77A, insert :—

Trust fund,
etc.

77B. The Minister may cause to be served on the
registered holder of a coal lease an instrument in
writing requiring him—

(a) to establish a trust fund, in such manner as
the Minister in that instrument directs, and
to pay into that trust fund from time to time
in accordance with the directions in that
instrument, such proportion of moneys
accruing from the sale of coal as is specified
in that instrument and which will, in the
opinion of the Minister, be sufficient to meet
the royalty payable in respect of that coal;
or

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE COAL MINING ACT,
1973—*continued.*

- (b) to lodge with the Under Secretary within such time as may be specified in the instrument, security in such amount and in such form as may be specified in the instrument, for the performance of his obligations in respect of the payment of royalty,
- and the registered holder of the coal lease shall comply with any such requirement.

SCHEDULE 4.

Sec. 4 (1).

AMENDMENTS TO PART VI OF THE COAL MINING ACT, 1973.

(1) Section 88 (4A)—

Omit “the date on which the notice is served.”, insert instead :—

and including the date—

- (a) specified in the notice as the date of the amendment; or
- (b) on which the notice is so served,
- whichever is the later date.

(2) Section 90—

Omit “sections 91 and 92”, insert instead “section 91”.

(3) (a) Section 91 (9) (a)—

Omit “and”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART VI OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 91 (9) (b)—

Omit “the lease.”, insert instead “the lease; and”.

(c) Section 91 (9) (c)—

After section 91 (9) (b), insert :—

- (c) a person applying under section 35 for the grant of a coal lease.

(4) Section 92—

Omit the section.

Sec. 4 (1).

SCHEDULE 5.

AMENDMENT TO PART VIII OF THE COAL MINING ACT,
1973.

Section 100A—

After section 100, insert :—

Directions
to furnish
names and
addresses.

100A. (1) Where the warden considers that the owner or occupier of any land may be entitled to compensation under this Part in respect of an authorisation or a concession, he may, by instrument in writing served on the registered holder of the authorisation or concession, direct the holder to furnish him, in writing verified by statutory declaration under the hand of the holder or his agent, with the name and address of the owner or occupier of the land at the time, or within the period of time, specified in the instrument.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 5—*continued.*

AMENDMENT TO PART VIII OF THE COAL MINING ACT,
1973—*continued.*

(2) An instrument served under subsection (1) shall specify a date on or before which compliance with the direction contained in the instrument is required.

(3) For the purposes of sections 26 (1) (b) and 59 (2) (b), a direction given to a person by the warden under this section, requiring the person to furnish the warden with information on or before a specified date, is deemed to be a provision of this Act with which the person is required to comply.

SCHEDULE 6.

Sec. 4 (1).

AMENDMENTS TO PART IX OF THE COAL MINING ACT, 1973.

(1) Section 104 (2)—

After “accordance with”, insert “subsection (2A) and”.

(2) Section 104 (2A)—

After section 104 (2), insert :—

(2A) An application in respect of a transfer or an instrument referred to in subsection (2) shall be accompanied by the fee prescribed for the purposes of this subsection in respect of the transfer or instrument if it is lodged within the period of 90 days after

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART IX OF THE COAL MINING ACT,
1973—*continued.*

the date of its execution and an additional fee, if it is not so lodged, calculated at the rate of 100 per centum of the firstmentioned fee for each month or part thereof between the expiration of that period and the date of lodgment.

Sec. 4 (1).

SCHEDULE 7.

AMENDMENTS TO PART XI OF THE COAL MINING ACT, 1973.

(1) Section 115 (2A)—

Omit “the date on which notice is served.”, insert instead :—

and including the date—

(a) specified in the notice as the date of effect of the direction; or

(b) on which the notice is so served,

whichever is the later date.

(2) (a) Section 128 (1) (c)—

Omit “interest paid”, insert instead “moneys paid as interest”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

(b) Section 128 (2) (a)—

Omit “section 33 (8);”, insert instead “section 33 (8); and”.

(c) Section 128 (2) (b), (c)—

Omit the paragraphs, insert instead :—

- (b) to the Consolidated Revenue Fund, fees paid by tenderers for the grant of a coal lease in response to an invitation to tender under section 32 that are not refundable under section 33 (8).

(d) Section 128 (3), (4)—

Omit section 128 (3), insert instead :—

(3) Moneys referred to in subsection (1) that are not payable under subsection (2) shall, if those moneys have been paid to an account under subsection (1) in respect of a coal lease that relates to land in which the coal (if any)—

- (a) in the case of any part of those moneys that has been deposited under section 33 (2) (d)—was, at the time the lease was granted; or
- (b) in the case of any other part of those moneys—was, at the time at which it became payable,

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

exclusively owned by, or reserved to, one person,
be paid—

- (c) if that person is the Crown—to the Consolidated Revenue Fund; and
- (d) if that person is not the Crown—to that person.

(4) Moneys referred to in subsection (1) that are not payable under subsection (2) shall, if those moneys have been paid to an account under subsection (1) in respect of a coal lease that relates to land in which the coal (if any)—

- (a) in the case of any part of those moneys that has been deposited under section 33 (2) (d)—was, at the time the lease was granted; or
- (b) in the case of any other part of those moneys—was, at the time at which it became payable,

exclusively owned by, or reserved to, two or more persons, be apportioned among those persons in the proportions in which the Minister estimates that the coal (if any) was, or, if any coal has been extracted, would, but for the extraction of that coal, have been, owned by, or reserved to, those persons at the time referred to in paragraph (a) or (b), whichever is applicable, and the amounts so apportioned shall be paid—

- (c) in the case of an amount apportioned to the Crown—to the Consolidated Revenue Fund; and

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART XI OF THE COAL MINING ACT,
1973—*continued.*

- (d) in any other case—to the person or persons to whom the amount or amounts is or are apportioned, as the case may require.

(3) Section 134A—

After section 134, insert :—

134A. Notwithstanding the provisions of any other Act, the taking, resumption or appropriation of land under any other Act after the commencement of this section does not affect—

Resumption,
etc., not
to affect
authorisation
to mine or
coal lease.

- (a) an authorisation to mine; or
- (b) a coal lease,
- or any rights thereunder granted pursuant to this Act.

SCHEDULE 8.

Sec. 4 (1).

AMENDMENTS TO PART XII OF THE COAL MINING ACT,
1973.

(1) Section 135 (2) (e)—

After “leases”, insert “, or coal leases with mining purposes leases within the meaning of the Mining Act, 1973.”.

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO PART XII OF THE COAL MINING ACT,
1973—*continued.*

(2) Section 135 (2) (11)—

After section 135 (2) (1), insert :—

- (11) the regulation of tourist activities carried on in a mining area under a permission granted under section 74A;

Sec. 4 (1).

SCHEDULE 9.

AMENDMENT TO THE FIRST SCHEDULE TO THE COAL MINING
ACT, 1973.

Paragraph 1 (1), definition of “agricultural land”—

Omit paragraph (c), insert instead :—

(c) land on which—

- (i) at the relevant date, shade, shelter or windbreak trees are growing; or
- (ii) at any time during the period of 10 years immediately preceding the relevant date, edible fruit or nut bearing trees, vines or any other perennial crop approved by the Director have or has been growing;

SCHEDULE

Coal Mining (Amendment).

SCHEDULE 10.

Sec. 4 (1).

AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL
MINING ACT, 1973.

(1) Paragraph 7 (2)—

After “mine”, insert “or an authorisation granted under section 21A”.

(2) Paragraph 9 (2)—

Omit “A lease”, insert instead “Subject to this Act, a lease”.

(3) Paragraph 9A—

After paragraph 9, insert :—

9A. Where—

(a) by reason of this Schedule—

- (i) a lease within the meaning of paragraph 9 is deemed to be a coal lease granted under this Act; or
- (ii) an authority to prospect or an exploration license is deemed to be an exploration permit granted under this Act; and

(b) the coal lease or exploration permit includes a condition that could have been included—

- (i) in any case—under section 94; or

Certain conditions deemed to have been imposed under this Act.

SCHEDULE

Coal Mining (Amendment).

 SCHEDULE 10—*continued.*

 AMENDMENTS TO THE SECOND SCHEDULE TO THE COAL
 MINING ACT, 1973—*continued.*

(ii) in the case of a coal lease—under
 section 95,

if the coal lease or permit, as the case may
 be, had been granted under this Act,

the condition shall, for the purposes of section 96, be
 deemed to have been so included.

 Sec. 4 (2).

SCHEDULE 11.

AMENDMENT TO THE PUBLIC WORKS ACT, 1912.

Section 140A—

After “1973”, insert “, and the Coal Mining Act,
 1973”.

 Sec. 4 (3).

SCHEDULE 12.

AMENDMENT TO THE LOCAL GOVERNMENT ACT, 1919.

Section 531 (3)—

After “1973”, insert “, and the Coal Mining Act,
 1973”.

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

A. R. CUTLER,
 Governor.

*Government House,
 Sydney, 17th December, 1976.*