

Mining (Amendment) Bill, 1914.

EXPLANATION.

THIS Bill is designed to remove certain anomalies that experience in administering the Act of 1906 has shown to exist. Provision is also made for further facilitating prospecting operations on both Crown and private lands.

Clause 1, short title.—Formal.

Clause 2, repeal.—With the exception of section 114, the section or subsections hereby repealed are subsequently re-enacted in amended form. Section 114 gives to any lessee who has employed double the required labour on his lease a statutory right to exemption from the performance of any labour conditions to the extent of one month for every period of six months during which double the required labour was employed. The maximum period of exemption is six months. The warden is required to hold an inquiry to satisfy himself that the lessee is entitled to the exemption, and he then issues a certificate to that effect. Very little advantage has been taken of this section, and it is not considered desirable in the mining interest that it be retained, as the rights of lessees are sufficiently protected by the provisions of section 113.

Clause 3.—This clause embraces all the proposed amendments of existing provisions, and is divided into paragraphs.

Paragraph (a).—All Crown lands leases (other than pastoral leases), homestead and irrigation farms, and suburban holdings, are made private lands for the purposes of the Act. At present they are Crown lands, exempted from occupation under miner's right but open to application for mining leases. The applicant is required to lodge a survey fee and one year's rent, and to pay such compensation for surface damage as may be assessed by the warden. The Crown Lands Consolidation Act, 1913, provides that these leases may be converted into conditional purchases, which are private lands for the purposes of the Mining Act. This provision, and the fact that the prospector may obtain an authority to enter without payment of survey fee, renders the amendment necessary in the mining interest. A definition is also given of "street, road, or highway" for the purpose of facilitating the grant of leases for tramways, races, &c., for mining purposes.

Paragraph (b).—This is an amendment consequential upon the preceding paragraph.

Paragraph (c).—This enables the Governor to exempt Crown lands from occupation under miner's right for residence, while allowing them to remain open for occupation for mining.

Paragraph (d).—While the holder of a business area may remove his improvements after ceasing to occupy the area on which they are erected, the holder of a residence area must remove his improvements before ceasing to occupy the land. This clause affords the residential occupier the same privileges as the business occupier.

Paragraph (e).—Crown lands reserved for public purposes or leased for other than pastoral purposes are exempted from occupation under miner's right. Alluvial auriferous land cannot be leased unless special difficulties exist owing to depth or wetness of the ground; therefore such reserved or leased lands cannot be mined at all for surface alluvial. Provision is now made to throw such lands open to application for lease.

Paragraph (f).—A lease applicant has the right to occupy and mine upon the land applied for pending grant or refusal of his application. Where roads or reserved lands are applied for, it is desirable that this right should not be exercised until conditions can be imposed to safeguard traffic on the roads, or protect the surface of reserves from unnecessary damage.

Paragraph (g).—No lease can at present be granted to mine for opal unless the Prospecting Board certifies that difficulties and cost would attend mining on the land applied for. Reserved or leased lands, exempted from occupation under miner's right, are therefore locked up against opal mining unless the difficulties referred to exist. It is therefore necessary to make provision for the grant of leases where the opal is obtainable by the individual miner. The area is limited to that which can be held under miner's right as a reward claim.

Paragraph (h) (i).—The system of leasing Crown lands for mining, subject to a royalty, was first introduced in 1884. Coal lands leased after 1st January, 1885, were subjected to a royalty of 6d. per ton on all coal won (Crown Lands Act of 1884, section 91). By the same Act it was provided (section 7) that “all grants of land should contain a reservation of all minerals,” and permits could be issued to the owners of such land, authorising them to remove minerals upon payment of royalty. The Gold and Mineral Dredging (Amending) Act, 1902, imposed a royalty of 1 per cent. on the gross output from all dredging leases. The Mining Act, 1906, extended the principle of royalty to the Crown to all leases of private lands, and at the present time the only mining titles under which royalty is not payable, are ordinary leases of Crown lands to mine for gold or minerals other than coal or shale, and claims held under miner’s right. It is now proposed to extend the principle to ordinary mining leases, and concurrently to reduce the annual rental from 5s. to the nominal amount of 1s. per acre. It is further proposed to allow an exemption amounting to £500 of the gross output before any royalty becomes payable, and the amount of rent paid may be deducted from the royalty payable. This clause is not made retrospective; but, by applying existing provisions, lessees may be allowed to surrender their leases, and apply afresh under the new conditions.

Further amendments are made in section 36 by (ii) correcting a discrepancy in the existing Act, which requires rent on mining purpose leases to be lodged with the applications. Such rents are fixed by the Minister in each case, in accordance with the circumstances, and are payable before issue of the leases; (iii) validating the present practice of dealing with amalgamated Crown land leases as one lease for the purpose of deducting rent paid from royalty payable; and (iv) validating acceptance of royalty at 3d. per ton on small coal won from land leased under repealed Acts, a rate charged since 1886, but never authorised by statute.

Paragraph (i).—Crown land, the subject of application for conditional purchase, conditional or settlement lease, not yet confirmed, stands in an anomalous position, as it is not private land until confirmation, but the confirmation dates back to the day of application. This results in delaying the grant of authority to enter applied for in respect of such land. Provision is therefore made in this interpretation clause and in paragraph (m) hereinafter referred to, constituting such lands private lands pending confirmation. If confirmed, the status of the land remains unaltered as “private land.” If confirmation is refused the applicant for authority to enter is given a preferential right to a lease of the subject land as Crown land.

Paragraph (j).—The Department is advised that the holder of a miner’s right desiring to enter on an area of private land extending over two adjoining portions held by different owners, must apply for two separate authorities. It is thought that this causes needless delay and expense to the applicant, and provision is made empowering the warden to grant one authority covering the whole area required, provided it does not exceed the maximum area which may be granted.

Paragraph (k).—This paragraph is intended to meet the demand for greater facility in gaining access to private lands. It empowers the warden or warden’s clerk to grant an interim authority to enter and to forthwith mark out the land required upon payment of a deposit not exceeding £1. This authority will enable the holder to prospect the land for one month pending the holding of an inquiry to assess rent and compensation. Such interim authority will be granted in respect of gold, and of other minerals, if the warden knows that the land is open to mining for all minerals, but will not be granted in respect of land held under any mining title or the subject of a prior application for authority to enter. The principal grounds of complaint which it is sought to remove are that the applicant for authority to enter is kept waiting until the warden (who may be at a distant part of his district) is available, and a date fixed for an inquiry to assess rent and compensation. Any period from fourteen days to two months may be lost in this way, and when eventually the prospector gains access to the land he may find that a few days’ prospecting is sufficient to prove the land to be valueless. The proposed interim permit can be granted under favourable circumstances in a few hours, provided there is no doubt as to the Crown ownership of the minerals; the deposit required is limited to 20s., but may be less at the discretion of the warden or the warden’s clerk, and the prospector will be enabled to test his area without delay.

Paragraph (l).—This provision is designed to make it quite clear that one lease may be granted in respect of adjoining lands held under two or more separate authorities to enter, provided that the maximum area allowable is not exceeded.

Paragraph (m).—The effect of this amendment is fully explained under paragraph (g), *ante*.

Paragraph (n).—This paragraph removes an existing anomaly, and places lessees under repealed Acts in the same position as lessees under the Act of 1906.

Paragraph (o).—In order to secure uniformity, the area of opal leases on private lands is reduced to the same as on Crown lands, viz., 150 feet square.

Paragraph (p).—Compensation for surface damage is assessed by the warden before issuing an authority to enter in respect of which a lease may be issued. It is considered unnecessary to again assess compensation in respect of the lease, and therefore it is proposed to amend the Act so as to give the Minister discretionary power to direct the warden to assess compensation where, for instance, the lessee has a larger surface area or requires to conduct more extensive surface operations under the lease.

Paragraphs (q) and (r).—It is proposed to validate the present practice of dealing with amalgamated leases of private land and dredging leases as one lease, for the purpose of deducting rent paid from royalty payable.

Paragraphs (s) and (t).—The existing Act requires lessees and claimholders to furnish returns for statistical and royalty purposes separately. The Coal Mines Regulation Act contains further provisions as to statistical returns, but no statutory provision exists enabling the department to collect statistical returns relative to mines of minerals not reserved to the Crown. It is therefore proposed to limit the provisions of the Mining Act to royalty returns, and provide for statistical returns in a Bill to amend the Mines Inspection Act.

Paragraph (u).—A number of dredging leases are frequently workable as one proposition. It is proposed to authorise amalgamation of such leases, although not actually adjoining, and to validate amalgamations already sanctioned.

Paragraph (v).—This provision is designed to protect geological surveyors against action for trespass when entering upon private land in the performance of their duties.

Paragraph (w).—It is proposed to make further provision for the conduct of investigations by the Sludge Abatement Board; empower the taking of evidence on oath, and enable the Board to prevent the discharge of polluted water into streams, although the total proportion of solids in the water does not exceed 800 grains to the gallon.

Paragraph (x).—This is a provision safeguarding the interests of miners who have erected their own dwellings on mining leases of Crown lands with the consent of the lessees, and desire to remove or sell the same at the termination of their employment.

Paragraph (y).—Where complaint is made to the warden that a tenement is not worked in accordance with the Act and Regulations, the warden may declare such tenement forfeited. The declaration is made in open court, and cases have occurred where the defendant has been enabled to distance the complainant in a race to take fresh possession of the tenement. Provision is therefore made empowering the warden to fix a future date for the declaration of forfeiture, and to give the complainant beforehand notice to enable him to take possession.

Clauses 4 to 7 inclusive deal with mining on private land which has been alienated without any reservation of minerals to the Crown, and which is not mined upon by or under the authority of the owner. The warden is authorised to grant authority to enter and prospect the land, or such of it as is not occupied bona fide for mining, or improved, or under cultivation. The holder of such an authority may apply for a lease, subject to the payment to the owner of rent and compensation for surface damage, to be assessed by the warden. A percentage of the net profits is also payable by the lessee to the Crown on behalf of the owner, who will receive such percentage (in addition to the rent and compensation) less a small charge for administration. In order that owners may be given time to develop their land, or allow others to do so, it is proposed to bring these provisions into force after the lapse of four years.

Clause 8. The Commonwealth Government having expressed a desire that local supplies of oil fuel may be available for the Australian Navy in time of war, provision is made for the application to leases already granted of conditions which have been made applicable by regulation to all shale or mineral oil leases to be granted in future.

Clauses 9 and 10 provide for the cancellation of section 7 permits after six months cessation of mining, and tenements and agreements to mine on private land if they have been continuously abandoned for upwards of three months. This provision is intended to take the place of the present system of obtaining the authority of the Attorney-General to take action on behalf of the Crown to clear away registered titles to abandoned tenements.

Clause 11 authorises the Governor to resume any private land required for the purpose of a mining village, subject to payment of compensation to be assessed by the warden or any other person the Minister may appoint.

[NOTE.—This provision was formerly contained in the Mining on Private Lands Act of 1894, repealed by the Mining Act, 1906. It was not re-enacted in that Act, as it was proposed to insert a similar provision in an amending Crown Lands Act. This intention, however, was not carried out.]

[DRAFT.]

No. , 1914.

A BILL

To amend the law relating to mining ; to amend the Mining Act, 1906, and the Crown Lands Consolidation Act, 1913 ; to make further provision for mining on private lands ; to deal with certain mining titles ; to provide for entry into certain lands ; to provide that employees may remove or sell certain buildings and improvements ; to provide for the resumption of land for mining villages ; and for other purposes.

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

1. This Act shall be construed with the Mining Act, 1906, hereinafter called the Principal Act, and may be cited as the "Mining (Amendment) Act, 1914." Short title.

PART I.

AMENDMENTS OF THE PRINCIPAL ACT.

Repeal.

2. Subsection four of section thirty-five, subsections one and two of section thirty-six, subsection two of section sixty-four, subsection three of section ninety-four, sections one hundred and fourteen and one hundred and fifteen, and subsections one and two of section one hundred and sixteen of the Principal Act are hereby repealed. 5

Amendment
of sections of
Principal Act.
Section 3.

3. The Principal Act is amended as follows:— 10

(a) In section three insert in paragraph (f) after “conditional purchase lease” the words “or application for any such lease, settlement lease, special lease for other than pastoral purposes, Crown lease not expressly limited to grazing, residential lease, homestead farm, suburban holding, irrigation farm, irrigation lease, lease under any Act hereby repealed” 15

In the same section, next after the definition of “small coal” insert:— 20

“Street, road, or highway,” includes any street, road, or lane, whether vested in His Majesty, or under the control of any municipal or shire council, or forming part of any subdivision of private land. 25

Section 14 (1).

(b) In subsection one of section fourteen omit paragraph (b).

Section 14 (3).

(c) In subsection three of the same section omit “as aforesaid” and insert the words “for mining or mining purposes, or for residence under any miner’s right, or for business purposes under any business license.” 30

Section 16.

(d) In section sixteen, insert at the end of subsection three:— 35

“The holder of a residence area may erect any building or structure upon the land so occupied, and may remove the same during occupation,
or

- or at any time within one month or within such further time, not exceeding three months, as the warden may order and direct, after ceasing to occupy such residence area.”
- 5 (e) In subsection two of section twenty-three omit Section 23 (2). paragraphs (a), (c) and (d) of such subsection, and insert the following paragraphs in lieu thereof :—
- 10 (a) The surface of Crown land held as a tenement shall not be leased unless the holder consents to the leasing, in which case the tenement shall be deemed to be abandoned, and the title thereto shall be absolutely extinguished, whether
- 15 the application for a lease is granted or refused.
- (d) Mining leases of auriferous alluvial Crown land shall only be granted—
- 20 (a) if in the opinion of the Minister—
- (i) the land has been worked and abandoned ; or
- (ii) it is necessary that leases be granted, owing to the difficulties and cost attending the
- 25 construction of mine works upon or of mining such land ;
- or
- (b) if the land is exempted from occupation under miner’s right.
- 30 (f) In section twenty-eight add the following proviso Section 28. at the end of the section :—
- “ Provided that such rights as aforesaid shall not accrue to any applicant for a mining lease of any street, road, or highway, or any Crown
- 35 land reserved or dedicated for and in actual use for any public purpose.”
- (g) In section thirty-five insert the following Section 35. subsection in lieu of subsection four hereby repealed :—
- 40 (4) Except as hereinafter provided, the area of a lease for mining for opal shall not exceed one

one hundred and fifty feet square: Provided that a lease of any area not exceeding ten acres may be granted if the prospecting board certifies that a greater area than aforesaid is necessary by reason of the difficulties and cost attending the construction of mine works upon or of mining such land. 5

Section 36.

(h) In section thirty-six—

(i) Insert the following subsections in lieu of subsections one and two hereby repealed:— 10

(1) The annual rent for a gold-mining lease or a mineral lease granted under this Part, shall be one shilling per acre, or portion of an acre. 15

(2) (a) A royalty shall be paid of one per centum of the value of all gold and minerals (other than coal or shale) won from the land demised: Provided that the lessee shall not be required to pay royalty in any one year if the gross output does not exceed five hundred pounds in value during such year. 20

(b) A royalty shall be paid of sixpence per ton on all shale or large coal and threepence per ton on all small coal won from the land demised. 25

(ii) omit in subsection four the words “in all cases” and insert “in respect of a gold-mining lease or mineral lease”; 30

(iii) insert the following words at the end of subsection five:—“For the purposes of this subsection, leases amalgamated in accordance with the provisions of this Act, or any Act hereby repealed, shall be regarded as one lease.” 35

(iv) add the following subsection:—

(7) The provisions of this section relating to the royalty on coal or shale won from land demised shall apply, and shall be deemed to have applied to coal and shale 40

shale won from land included in a coal-mining lease or a lease to mine for coal or shale granted under any Act hereby repealed.

5 (i) In section forty-five, in the definition of "owner," Section 45. omit "and" after "possession," and insert at the end of the definition the words "conditional purchase lessee, settlement lessee, and applicant for a conditional purchase, conditional lease, conditional purchase lease, or settlement lease."

10 (j) In section fifty, insert the following words Section 50. at the end of subsection one:—"An authority to enter may be granted in respect of an area comprising lands held by two or more owners, provided that such lands are adjoining or separated only by a street, road, highway, or stream."

15 (k) Insert the following section next after section New section 50A. fifty:—

20 50A. (1) Upon receipt of any application for authority to enter and search for gold upon any private lands, or for authority to enter and search for any mineral other than gold upon
25 lands which within his knowledge are open to mining under this Part for all minerals, the warden or warden's clerk may, at the request of the applicant, issue in the prescribed form an interim authority to enter such lands,
30 upon payment by the applicant of such sum, not exceeding one pound, as the warden or warden's clerk may consider necessary to cover rent and compensation for surface damage.

35 (2) Upon payment of such sum the warden or warden's clerk shall forthwith, in the presence of the applicant, mark out, or cause to be marked out by the warden's bailiff, the area required by the applicant.

40 (3) Such interim authority shall be for such period, not exceeding one month, as the warden or warden's clerk may think necessary, pending the holding of the inquiry prescribed by section fifty-one of this Act. (4)

(4) Such interim authority shall entitle the holder to enter upon the land therein described during the period therein named, and do all such acts and things as may be necessary for prospecting the said land, but shall not entitle the holder to apply for a lease of the subject land. 5

(5) An interim authority to enter shall not be granted in respect of land the subject of any title under this Part, or of a pending application for authority to enter, lodged by any person other than the applicant for such interim authority. The warden's decision as to whether the area applied for is or is not the subject of any pending application shall be final. 15

Section 57.

(l) In section fifty-seven, insert the following proviso after subsection one :—

Provided that the holder of two or more authorities to enter upon adjoining lands may apply for a lease of the whole or any part of the lands included in such authorities, not exceeding the extent prescribed by section sixty-three. 20

(m) Insert the following section next after section fifty-seven :— 25

Section 57A.

57A. (1) Where application for authority to enter has been lodged, or authority to enter under this Part has been granted in respect of land the subject of an application for conditional purchase, conditional lease, conditional purchase lease, or settlement lease, and any such last-mentioned application is refused, the applicant for or holder of such authority to enter shall be deemed to be in possession of the subject land, and to be entitled to apply for a lease of such land as Crown land :— 30 35

(a) Where an authority to enter has not been granted, within one month after the date of refusal as aforesaid. 40

(b) Where an authority to enter has been granted, at any time during the currency of such authority: Provided

5 Provided that no extension of any such author-
 ity shall be granted by the warden, and any rent
 payable under such authority after the date of
 refusal shall be paid to the warden's clerk on
 behalf of the Crown.

 (2) If the applicant for or holder of an
 authority to enter as aforesaid fails to apply for
 a lease within the time prescribed his title
 shall lapse.

10 (n) In subsection one of section sixty, after " Act " Section 60.
 insert the words " or any Act hereby repealed "

 (o) In section sixty-three, omit all words after Section 63.
 " twenty-five acres " to the end of the first
 15 paragraph, and insert the words " to mine for
 opal shall not exceed one hundred and fifty
 feet square, and to mine for any mineral other
 than gold or opal shall not exceed eighty
 acres."

 (p) In section sixty-four, insert the following Section 64.
 20 in lieu of subsection two hereby repealed:—

 (2) The Minister may direct the warden to
 assess compensation to be paid by the applicant
 to the owner or occupier in addition to the
 compensation already paid in respect of the
 25 authority to enter.

 (q) In subsection four of section eighty-two, Section 82.
 insert the following words at the end of
 the subsection:—" For the purposes of this
 subsection, leases of private lands amalgamated
 30 in accordance with the provisions of this Act
 or any Act hereby repealed shall be regarded as
 one lease; but where a lease of Crown lands is
 amalgamated with a lease of private lands, the
 lessee shall not be entitled to deduct the rent
 35 paid in respect of such lease of Crown lands
 from the royalty payable in respect of the gold
 or mineral won from such private lands."

 (r) In subsection one of section eighty-six, omit
 40 the words " (not being land held under or by
 virtue of any Act relating to mining) " and
 insert the following words at the end of the
 subsection

subsection :—“ Provided that Crown land occupied as a tenement or claimed by virtue of any miner’s right or business license shall not be so leased unless the tenement holder or claimant consents to the leasing, in which case 5 the title thereto shall be absolutely extinguished, whether the application for lease is granted or refused.”

Section 98 (2).

- (s) In subsection two of section ninety-eight, insert the following words at the end of the 10 subsection :—“ For the purposes of this subsection, dredging leases amalgamated in accordance with the provisions of this Act shall be regarded as one lease: Provided that the lessee shall not be entitled to deduct the rent 15 paid in respect of any dredging lease granted under any Act hereby repealed from the royalty payable in respect of such amalgamated leases.”

New section 115.

- (t) Insert the following section in lieu of section 20 one hundred and fifteen hereby repealed :—

115. (1) Every holder of a lease, or other title to mine, subject to the payment of any sum by way of royalty to the Crown, granted under this Act, or any Act hereby repealed, 25 shall, during the first fourteen days of the month of January in each year, furnish to the Minister a full and proper return, verified by statutory declaration, showing the quantity and value of gold or minerals including coal and 30 shale won from the land held under lease, or other title to mine during the preceding year ending the thirty-first of December.

(2) Every such return shall be in the form prescribed, and if the holder of such 35 lease or other title to mine is a public company such return shall be furnished by the manager or person acting in the management, or by the secretary of the company.

(3) Any such holder or any such 40 manager, person, or secretary who fails to furnish

furnish such return within the prescribed time or in the prescribed form shall be liable to a penalty not exceeding *fifty* pounds, and to a further penalty not exceeding *five* pounds for every day after the expiration of the said fourteen days during which he fails to furnish such return.

- (u) Insert the following subsection in lieu of sub-sections one and two of section one hundred and sixteen hereby repealed :—

116. (1) If the Minister is not satisfied with any return furnished in accordance with the last preceding section, he may require the person furnishing the same to furnish further particulars of the gold or minerals won, or may, whether any return has been furnished or not, appoint any officer of his department or other person to make all necessary inquiries in relation to such gold or minerals. The officer or person so appointed may make all such inquiries, and may require such holder, or his clerk, or the manager, secretary, or clerk of any such company to produce for his inspection at the office of such holder or company any books, accounts, documents, writings, papers, or instruments in his possession or under his control that such officer or person may consider necessary to enable him to ascertain the quantity of gold or minerals won, and may make copies of any entries or matters contained in such books, accounts, documents, writings, papers, or instruments, and upon completion of such inquiries shall report thereon to the Minister.

- (v) In subsection one of section one hundred and eighteen, omit "adjoining" before the word "dredging" and insert at the end of the subsection "any amalgamation of dredging leases not adjoining which have been authorised by the Minister before the commencement of the Mining (Amendment) Act, 1914, shall be and be deemed to have been duly authorised."

(w)

Section 120.

(w) Insert the following subsection after subsection three of section one hundred and twenty :—

(4) Any geological surveyor may enter any private lands in the performance of his duties.

New section 122A.

(x) Insert the following section next after section one hundred and twenty-two :— 5

122A. (1) The Sludge Abatement Board, for the purpose of conducting any investigation under the authority of this Act, shall have the same powers and authority to summon witnesses and receive evidence as are conferred upon commissioners by letters patent by the Royal Commissioners Evidence Act, 1901 ; and all the provisions of the last-mentioned Act shall apply to witnesses so summoned, and evidence so received and given, as completely and effectually as if such witnesses had been summoned, and such evidence had been received or given by virtue or under the authority of the Act lastly hereinbefore cited. 20

(2) The Minister, upon the recommendation of the Sludge Abatement Board, may, by notice in writing under his hand, require any person carrying on any sluicing, dredging, or other mining operations to erect such works or take such steps as the board may deem necessary to prevent the discharge of water from the place where any such sluicing, dredging, or other mining operations are being carried on into any river, stream, water-course, lake, or reservoir, notwithstanding that the water so discharged does not contain solid matter in the total proportion of more than eight hundred grains to one gallon. 30

(3) Every such notice shall specify the works to be erected or the steps to be taken by such person, and shall state a time within which the required action is to be completed. 35

(4) When notice is given to two or more neighbouring persons, the Minister may, 40
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on the recommendation of the board, determine what proportions of the cost of the works shall be borne by such persons respectively.

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(5) Where by reason of the carrying on of any sluicing, dredging, or other mining operations in the bed of any river, stream, watercourse, lake, or reservoir, the water of such river, stream, watercourse, lake, or reservoir becomes charged with any poisonous or noxious matter, or any earthy or other insoluble mineral substance, so as, in the opinion of the board, to pollute or tend to pollute such water, notwithstanding that such water does not contain solid matter in the total proportion of more than eight hundred grains to one gallon, the Minister, on the recommendation of the board, may, as hereinbefore prescribed, require the persons carrying on such sluicing, dredging, or other mining operations, to take such steps as the board may deem necessary to prevent or reduce such pollution.

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(6) Any person who neglects or fails to comply with the requirements of any notice given under this section within the time therein stated shall be guilty of an offence, and shall be liable to a penalty not exceeding *twenty-five* pounds, and to a further penalty not exceeding *five* pounds for every day after the expiry of such time during which he shall fail to comply with the requirements of such notice.

(y) Insert the following section next after section one hundred and twenty-five :—

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125A. The lessee of any lease of Crown land granted under this Act or any Act hereby repealed shall permit any employee who has erected or purchased any building or other improvement on the said land to remove such building or improvement at any time during his employment or within one month after the determination of such employment, or to sell such building or improvement to any other person employed on or about the said land.

(z)

Section 145.

(z) Insert the following subsection after subsection five of section one hundred and forty-five :—

(6) In any proceedings before a warden's court for a declaration of forfeiture of any tenement, the court may order that forfeiture shall take effect on a date to be fixed by the court, of which notice in writing shall be given to the complainant alone. 5

PART II.

MINING ON PRIVATE LAND HELD WITHOUT RESERVATION OF MINERALS. 10

Grant of authority to enter.

4. (1) Except as hereinafter provided, it shall be lawful, on and after the first day of January, one thousand nine hundred and , for the warden to grant to any holder of a miner's right authority to enter and search for minerals in and upon any private lands alienated or in process of alienation without any reservation of minerals to the Crown or with a reservation of gold or gold and silver only. 15

(2) Application for any such authority to enter shall be made, and such authority may be granted by the warden subject to assessment and payment of rent and compensation in the manner prescribed by the Principal Act and the regulations thereunder in the case of authorities to enter applied for or granted under that Act. 20 25

(3) Every such authority shall confer the like rights and privileges and entail the like obligations and penalties as are respectively prescribed by the Principal Act in relation to authorities to enter granted under that Act, save only that the holder shall not be required to pay any royalty to the Crown in respect of any minerals (other than gold, or other than silver, if silver is reserved to the Crown) won from the land included in such authority to enter. 30 35

5. (1) Any holder of any such authority to enter who desires to obtain a lease of the land defined in such authority, or any part thereof, may make application for such lease, in the manner prescribed by section 5 fifty-seven of the Principal Act.

Application for lease.

(2) Leases may be granted by the Governor in the name and on behalf of His Majesty, and the provisions of the Principal Act relating to the grant or refusal of applications for leases of private lands shall apply to 10 applications made under this section.

(3) The provisions of the Principal Act, Parts IV and VI, in relation to the term, rent, area, dimensions, form, and conditions of leases of private lands and the rights and duties of lessees shall apply to leases granted 15 under this Part.

6. (1) The holder of any authority, and the lessee of any lease granted under the preceding sections of this Part, shall at the times and in the manner prescribed pay to the Minister on behalf of the owner of the land 20 included in such authority or lease a sum equal to per centum of the net annual profits of working the mines or winning the minerals (other than gold or silver as aforesaid) in and from the said land.

Percentage of profits payable.

(2) The Minister shall at the time and in the 25 manner prescribed pay to the owner of the said land all the sums paid as aforesaid less an amount equal to per centum, which he is hereby authorised to deduct from such sums; and the amounts so deducted shall be paid by the Minister into the Treasury and 30 carried to the Consolidated Revenue Fund.

(3) Such holder or lessee shall also pay to the Crown in respect of any gold or any silver reserved to the Crown won from the said land a royalty of one per centum of the gross value of such gold and silver; such 35 royalty shall be paid at the times and in the manner prescribed by section eighty-two of the Principal Act.

7. (1) No authority to enter, and no lease under this Part shall be granted in respect of any land in or upon which bona fide mining operations are being carried on 40 by or with the concurrence of the owner at the time when the application is made, or in or upon which such mining

Protection of land upon which mining operations are being carried on.

mining operations have been carried on at any time within years prior to the date of such application: Provided that in the event of any dispute arising as to whether bona fide mining operations are being or have been carried on as aforesaid, or as to the area protected 5 by this section, the question shall be determined by the Minister after inquiry and report by the warden.

(2) The provisions of sections forty-seven and forty-eight of the Principal Act shall apply to applica- 10 tions for authority to enter or lease under this Part.

PART III.

PROVISIONS RELATING TO MINING TITLES.

Special condi-
tions in shale
leases.

8. Every lease, or authority, to mine for shale granted under the provisions of the Principal Act or any Act thereby repealed, and in force at the commence- 15 ment of this Act, shall be subject to the following special conditions:—

(a) That if in the opinion of the Minister the shale in such mine, or its products, or any portion thereof, will at any time during the 20 said term be required for the use of His Majesty's Australian Navy, the said Secretary for Mines shall have the right of pre-emption for such use as aforesaid of all shale, or the products thereof, won from the said land, at a 25 price to be agreed upon between the Minister and the lessee, or, in case of dispute, to be fixed by arbitration.

(b) That in time of war the Minister, on behalf of the Crown, may assume control of the said 30 land, and all plant and machinery erected thereon.

Cancellation
of permits.

9. Where any holder of a permit to mine for or remove minerals, granted under the provisions of section seven of the Crown Lands Act of 1884, has ceased for 35 a continuous period of six months to carry on mining operations

operations on the land the subject of such permit, the Minister may, upon being satisfied that mining operations have ceased as aforesaid, recommend the cancellation of, and the Governor may cancel, such permit.

- 5 **10.** (1) If it is proved to the satisfaction of the warden that any land the subject of any registered title under a miner's right or business license has been abandoned by the registered holder for a continuous period of three months, the warden may, on proceedings being
10 taken by a mining registrar or warden's bailiff as prescribed, cancel such registered title and direct the mining registrar to make an entry to that effect in the register relating to such title, and such title shall thereupon cease and determine.
- 15 (2) If upon inspection of any land held or claimed to be held by virtue of any agreement registered or purporting to have been registered in terms of section thirty-three of the Mining on Private Lands Act of 1894, it appears that mining operations on such land have
20 ceased to be carried on for a continuous period of three months, the warden may, on proceedings being taken by a mining registrar or warden's bailiff as prescribed, declare the registration of such agreement to be cancelled, and may direct the mining registrar to make an
25 entry in the register to that effect, and such agreement shall thereupon become void and determined.

Cancellation of abandoned tenements.

Cancellation of certain agreements.

PART IV.

RESUMPTION OF PRIVATE LAND FOR MINING VILLAGES.

- 30 **11.** (1) Whenever, in the opinion of the Governor, any land is required for the purpose of a mining village, and no Crown land suitable for the purpose is available within a reasonable distance of the centre of mining operations, the Governor may, by notification in the Gazette, resume any private lands which he may
35 deem necessary for such purpose, and such resumption may

Resumption or surrender of land for mining villages.

may be of the land without any limitation as to depth, or of the surface and the land to any specified depth below the surface.

(2) Upon publication of such notification in the Gazette, such private lands shall vest in His Majesty, 5 freed and discharged from all estates, interests, and trusts, affecting the same, and shall become Crown lands within the meaning of the Crown Lands Consolidation Act, 1913, and the Principal Act, and may be disposed of under any such Act, but shall be reserved from sale or 10 lease and exempted from occupation under any miner's right or business license until the Governor, by notification in the Gazette, revokes such reservation or exemption.

(3) Upon publication of such notification the 15 owner of such land shall be entitled to compensation for the loss of his interest therein; and in the event of there being a tenant or rightful occupier of such land other than the owner, such tenant or occupier shall be entitled to compensation for the loss of his interest 20 therein.

(4) The Minister may direct the Warden or other person to assess the market value of such land and any improvements thereon at the date of resumption, reasonable allowance being made for any damage that 25 may be caused by severance; and if there is any person other than the owner having interest in such land, the value of such interest shall also be assessed, and such assessed value shall be paid to the persons entitled thereto respectively. 30

(5) It shall be lawful, if the owner so desires, for the Governor to accept a surrender of such private lands, and to grant to the owner by way of exchange any area of Crown lands of equal value, and the provisions of the Crown Lands Consolidation Act, 1913, 35 relative to surrender and exchange of lands shall apply to any such surrender or exchange.
