

Mining (Amendment) Bill, 1923.

EXPLANATORY NOTE.

THE object of this Bill is to make certain amendments in the Mining Act, 1906, which have been found to be necessary in connection with the operation of the Act. The amendments relate chiefly to the provisions of the Principal Act which govern mining on private lands.

Clause 2 effects a verbal amendment in section 51 of the Principal Act necessitated by the insertion of a section in the Principal Act by the Mining (Amendment) Act, 1918.

Clause 3 provides for the addition of a new subsection to section 51. That section provides that certain moneys shall be payable to the owner within a prescribed time; the new subsection is intended to provide for those cases in which payment to the owner himself cannot be effected.

Clause 4 provides for the omission of section 67A of the Principal Act which relates to tailings left on private lands and the substitution of a new section drafted on the lines of section 44 of the Act, which deals with the ownership of tailings and ore left on Crown lands.

Clause 5 amends section 69 of the Principal Act and is designed to extend the powers of an owner of private lands with respect to certain leases and agreements—

- (a) by removing the restriction contained in subsection five; and
- (b) by providing for the registration of tribute agreements.

Clause 6 provides an amendment found necessary to facilitate the administration of the Department in issuing titles to mine privately-owned minerals.

Clause 7 provides for the payment of a fixed rental to the owner of the minerals in respect of the whole area included in a lease of lands held without reservation of minerals. At present, rent is paid only to the owner of the land in respect of that portion of the surface which is actually occupied.

Clause 8 repeals section 70C and inserts a new section in its stead. The clause is self-explanatory; it relates to mining on private lands, and provides for the payment of royalty to the owner instead of, as formerly, a percentage of gross profits.

The existing position with respect to coal and shale is unaltered.

The principle embodied in this clause has already been applied in respect of minerals reserved to the Crown on private lands. See section 82 (1) of the Principal Act.

Clause 9 repeals section 70E of the Principal Act and inserts a new section in its stead. The object of the clause is to remedy defects in the wording of the existing section, and to give effect to the intention of the Legislature in passing the Mining (Amendment) Act, 1919, by which section 70E was inserted in the Principal Act.

Clause 10 provides for the extension of the time within which royalty returns may be furnished after the close of the year.

Clauses 11 is self-explanatory.

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1923.

A BILL

To amend the Mining Act, 1906, and certain other Acts; and for purposes connected therewith.

[MR. J. C. L. FITZPATRICK;— , 1923.]

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 may be cited as the "Mining (Amendment) Act, 1923," and shall be read and construed with the Mining Act, 1906, and the Acts amending the same. The Mining Act, 1906, as so amended is hereinafter referred to as "the Principal Act."

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Amendment of s. 51 of Principal Act. 1906, No. 49. *Ibid.*

2. The Principal Act is amended by omitting from subsection one of section fifty-one the words "such authority" and inserting in lieu thereof the words "an authority under section fifty of this Act."

3. The Principal Act is further amended in section 5 fifty-one by adding the following new subsection after subsection four :—

Further period may be fixed for payment of rent.

(5) If within fourteen days after the expiration of the period allowed for payment of any rent under the last two preceding subsections the applicant 10. can satisfy the warden that he is unable to find the owner, or that the owner has refused to accept payment, or that for any other reason which to the warden seems good and sufficient he has been unable to effect payment, the warden may fix a 15 further period within which payment may be accepted by the warden's clerk on behalf of the owner. Such payment, if made to the warden's clerk within the time so fixed, shall have the same effect as if paid to the owner within the period 20 allowed therefor as aforesaid.

Any moneys so paid to the warden's clerk shall be paid to the person entitled thereto upon the order of the warden.

Amendment of Principal Act, s. 67A. Tailings, &c., left after determination of lease, &c.

4. Section 67A of the Principal Act is omitted and 25 the following section is inserted in lieu thereof :—

67A. (1) Any lessee of private lands under this Act, or any Act hereby repealed, whose occupancy is by any means determined may, within thirty days after such determination, apply to the Minister 30 for leave to enter the land and treat or remove any tailings, ore, minerals, or stone left thereon by him. The Minister may grant such leave upon payment to the owner of a sum to be fixed by the Minister, who may also fix a time within which such treat- 35 ment or removal is to be completed.

Any application for an authority to enter, or for a lease of any land upon which such tailings, ore, minerals, or stone have been so left, shall be subject to the right of the Minister to grant such leave, 40 and to the right of the person to whom such leave is

is

5 is granted, to act in accordance therewith; and any authority to enter or lease granted may contain a reservation of such tailings, ore, minerals, or stone, and of the right of any person to whom leave may be or has been granted, to treat or remove the same.

(2) The form and mode of application for, and the conditions of such leave, shall be as prescribed.

10 (3) If such leave is not applied for within the said thirty days, or such treatment or removal is not completed within the time fixed, such tailings, ore, mineral, or stone left upon such land and remaining thereon shall be and be deemed to be part of the said land.

15 **5.** The Principal Act is further amended— Amendment of Principal Act, s. 69.

(a) by adding at the end of subsection one of section sixty-nine the following words:—"The owner of any private land applied for or occupied under this Part may with the like concurrence enter into a like lease or agreement with the applicant or occupier of the land under this Part."

25 (b) by omitting subsection five of the same section *Ibid.* and inserting the following subsection in lieu thereof:—

(5) No tribute agreement in respect of any land included in any such lease or agreement shall have any force or validity unless and until it is registered as prescribed. Tribute agreement to be registered.

30 **6.** Section 70A of the Principal Act is amended— Amendment of Principal Act, s. 70A.

- (a) in subsection one—
 - 35 (i) by omitting the word "minerals" where firstly occurring and by inserting in lieu thereof the words "any minerals specified in the authority;"
 - (ii) by inserting after the words "reservation of" the word "such;"
 - 40 (iii) by omitting the words "or with a reservation of gold or gold and silver only."

(b)

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(b) in subsection three by omitting the words "gold or other than silver if silver is," and by inserting in lieu thereof the word "minerals."

Amendment of Principal Act, s. 70B.

7. Section 70B of the Principal Act is amended by inserting the following new subsection after subsection three:— 5

Additional rental.

(4) In addition to the rent payable to the owner of the land in respect of the portion of the surface leased, a yearly rental of two shillings per acre in respect of the whole area included in the lease shall be reserved to the owner of the minerals, and shall be payable half-yearly in advance. 10

Amendment of Principal Act, s. 70c.

8. Section 70c of the Principal Act is omitted, and the following section is inserted in lieu thereof:—

Royalty payable.

70c. (1) The holder of any authority, and the lessee of any lease granted after the commencement of the Mining (Amendment) Act, 1923, under the preceding sections of this Division, shall at the times and in the manner prescribed pay to the Minister on behalf of the owner of the minerals included in such authority or lease a royalty of— 20

(a) one and one-eighth per centum of the gross value of all minerals won from the land (other than minerals reserved to the Crown, but not including coal or shale); and 25

(b) sixpence per ton of all coal or shale won from the land.

(2) The Minister shall at the time and in the manner prescribed pay to the owner of the minerals all the sums paid as aforesaid less— 30

(i) an amount equal to one-ninth of the sum paid under paragraph (a) of the last preceding subsection; and

(ii) one-sixth of the sum paid under paragraph (b) of the last preceding subsection, 35

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 carried to the Consolidated Revenue Fund.

(3)

(3) Such holder or lessee shall also pay to the Crown in respect of any minerals reserved to the Crown won from the land a royalty of one per centum of the gross value of such minerals.

5 (4) Such royalty shall be payable to the Crown at the times and in the manner prescribed, and may be recovered from the holder of the authority or the lessee as a Crown debt.

10 (5) The holder of the authority or the lessee may deduct from the total sum payable in any one year by way of royalty to the Minister on behalf of the owner of the minerals a sum equal to the amount paid by him to such owner as rent for that year.

15 For the purposes of this subsection leases amalgamated under the provisions of this Act shall be regarded as separate leases unless the owners of the minerals are identical.

20 **9.** Section 70E of the Principal Act is omitted, and the following section is inserted in lieu thereof:—

Amendment of Principal Act, s. 70E.

25 70E. No authority to enter and no lease under this Division applied for subsequent to the coming into operation of the Mining (Amendment) Act, 1923, shall be granted (except to or with the consent of the owner of the colliery herein referred to) to prospect or mine upon any land included in or added to any colliery holding, a plan of which showing the freehold and leasehold lands held by the owner of the colliery and comprising the colliery holding has been furnished to the Under Secretary for Mines prior to the making of the application for such authority to enter or lease:

Protection of land in certain colliery holdings.

35 Provided that, except with the approval of the Minister, this section shall not apply to an abandoned colliery holding in respect of which the requirements of section thirty-seven and of subsection one of section thirty-nine of the Coal Mines Regulation Act, 1912, have been complied with.

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Amendment of Principal Act, s. 115.

10. Section one hundred and fifteen of the Principal Act is amended by omitting the word "fourteen" wherever therein appearing and inserting in lieu thereof the words "twenty-eight."

Ibid. s. 178.

11. The Principal Act is further amended by 5 omitting section one hundred and seventy-eight and inserting the following section in lieu thereof:—

Service of notices.

178. (1) All notices required by this Act to be served upon the owner or occupier of any private land or land not Crown land shall, except where 10 otherwise in this Act provided, be sufficiently served—

- (a) if served personally on the owner or occupier; or on his local agent, provided the said agent is registered as such as 15 prescribed; or
- (b) if sent by post in a registered letter addressed to the owner or occupier by name at his usual place of abode, and if that letter is not returned through the post office undelivered, 20 and such service shall be deemed to be made at the time when the registered letter would in the ordinary course be delivered.

(2) If, in the case of a notice directed to be served on the owner of any private land— 25

- (a) such owner is absent from New South Wales and his usual place of abode cannot after diligent inquiry be ascertained, and his local agent cannot, after the like inquiry, be found; or 30
- (b) neither such owner or his local agent can after diligent inquiry be found, and the usual place of abode of such owner cannot, after the like inquiry, be ascertained—

such notice shall be sufficiently served if served upon 35 the occupier of the land as provided in the last preceding subsection, or if there be no such occupier, if affixed upon some conspicuous part of the land.