

MINING (AMENDMENT) ACT.

Act No. 68, 1924.

George V. No. 63. An Act to amend the Mining Act, 1906, and certain other Acts; and for purposes connected therewith. [Assented to, 23rd December, 1924.]

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:—

Short title

1. This Act may be cited as the "Mining (Amendment) Act, 1924," 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."

Amendment of s. 33 of Act No. 49, 1906.

2. Section thirty-eight of the Principal Act is amended by omitting subsection three, and by inserting in lieu thereof the following subsection:—

Terms of renewal.

(3) The renewal shall be subject to such rents, royalties, and other covenants and conditions as the Governor may prescribe.

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

3. 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."

Ibid.

4. The Principal Act is further amended in section 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 can

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 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 allowed therefor as aforesaid.

George V,
No. 68.

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

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

Amendment
of Principal
Act, s. 67A.

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 (1) Any lessee of private lands under this Act, or any Act hereby repealed, whose occupancy is by any means determined may, within thirty days after such determination, apply to the Minister for leave to enter the land and treat or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 the treatment or removal is to be completed.

Tailings, &c.,
left after
determina-
tion of lease,
&c.

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, and to the right of the person to whom the leave 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 the leave, shall be as prescribed.

(3)

George V,
No. 68.

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

Amendment
of Principal
Act, s. 69.

6. The Principal Act is further amended—

(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”;

Ibid.

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

Tribute
agreement to
be registered.

(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.

Amendment
of Principal
Act, s. 70A.

7. (1) Section 70A of the Principal Act is amended—

(a) by omitting from subsection one all words following the words “authority to enter” and by inserting in lieu thereof the words “in and upon any private lands and search for any minerals which at the date upon which the authority is granted are not reserved to the Crown”;

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

(2) This section shall not come into operation until the expiration of three months from the date of the passing of this Act.

Amendment
of Principal
Act, s. 70B.

8. Section 70B of the Principal Act as inserted by section four of the Mining (Amendment) Act, 1918, is amended by inserting the following new subsection after subsection three:—

Additional
rental.

(4) In addition to the rent payable in respect of the portion of the surface leased, a yearly rental
of

of two shillings and sixpence per acre in respect of the whole area included in a lease to mine for coal or shale shall be reserved to the owner of the minerals, and shall be payable half-yearly in advance.

George V,
No. 68.

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

Amendment
of Principal
Act, s. 70c.

70c. (1) The holder of any authority, and the lessee of any lease granted after the commencement of the Mining (Amendment) Act, 1924, 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 the authority or lease a sum equal to—

Royalty
payable.

- (a) one and one-eighth per centum of the gross value of all minerals (other than coal, shale, and minerals reserved to the Crown) won from the land; and
- (b) sixpence per ton of all coal or shale won from the land where such coal or shale is not reserved to the Crown.

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

- (i) one-ninth of the amount 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,

which he is hereby authorised to deduct from such sum; and the amounts so deducted shall be paid by the Minister into the Treasury and carried to the Consolidated Revenue Fund.

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

Provided that the provisions of subsection four of section eighty-two of this Act shall not apply in respect of the royalty payable to the Crown under this subsection.

(4)

George V,
No. 68.

(4) The holder of the authority or the lessee may deduct from the sum payable under subsection one of this section in any one year to the Minister on behalf of the owner of the minerals a sum equal to the amount paid by him to such owner as rent for that year.

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.

Amendment
of Principal
Act, s. 70E.

Protection of
land in
certain
colliery
holdings.

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

70E. (1) No authority to enter and no lease under this Division applied for subsequent to the coming into operation of the Mining (Amendment) Act, 1924, 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 the authority to enter or lease.

(2) This section shall not extend 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 unless the Minister, in any particular case, otherwise directs.

Amendment
of Principal
Act, s. 82.

11. Section eighty-two of the Principal Act is amended—

- (a) by inserting in subsection one after the word "minerals" where firstly occurring the words "reserved to the Crown";
- (b) by inserting in subsection two after the word "shale" the words "reserved to the Crown."

12.

12. 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."

George V,
No. 68.
Amendment
of Principal
Act, s. 115.

13. Section one hundred and eighteen of the Principal Act is amended by inserting the following subsections next after subsection one :—

Amendment.
Ibid. s. 118.

(1A) Leases granted under this Act or any Act thereby repealed, situate within a colliery holding, a plan of which has been lodged under section 70E of this Act, may be amalgamated provided that such leases are not more than one mile apart.

(1B) In this section "lease" includes and shall be deemed always to have included a lease or an agreement registered under section sixty-nine of this Act or any section replaced by that section.

14. The Principal Act is further amended by inserting the following section next after section one hundred and eighteen :—

Amendment
of Principal
Act.
New section.

118A. (1) Any lessee under a lease granted in pursuance of this Act or of any Act thereby repealed, or any person entitled to mine under an agreement entered into under the provisions of section sixty-nine of this Act, or of any section replaced thereby, or the holders of leases amalgamated under this Act, may apply to the Minister for a permit to carry out the labour conditions required to be observed on or in connection with the land comprised in such lease or agreement or amalgamated leases upon adjoining land.

Performance
of labour
conditions on
adjoining
land.

(2) If the Minister is satisfied, after inquiry and report by the warden, that—

(a) bona fide mining operations on such adjoining land are being carried on for a mineral not reserved to the Crown, either by the owner of such land or with the concurrence of the owner; and

(b) the person carrying on such mining operations on the adjoining land consents to the grant of a permit; and

(c)

George V,
No. 68.

- (c) mining operations on such adjoining land, and upon the land comprised in the lease or agreement or amalgamated leases, can be more effectively carried out as one mine,

he may upon payment of the prescribed fee grant the permit subject to such terms and conditions indorsed thereon as he may think fit, or as may be prescribed.

(3) The performance upon such adjoining land, in accordance with the terms and conditions of the permit, of the labour conditions required on or in connection with the land comprised in the lease, agreement, or amalgamated leases, shall be a sufficient compliance with such conditions.

(4) The Minister may, after obtaining a report from the warden, cancel any such permit.

(5) Lands shall be deemed to be adjoining for the purposes of this section if they have a common boundary or are only separated by a road or stream.

Amendment
of Principal
Act, s. 178.

15. The Principal Act is further amended by 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 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 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; and such service shall be deemed to be made at the time when the registered letter would in the ordinary course be delivered.

(2)

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

George V,
No. 68.

(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

(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 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.
