

## No. XI.

An Act to amend and extend the Mining on Private Lands Act of 1894, and to amend the Mining Act, 1874, and the Mining Act of 1889; and for other purposes in connection therewith. [10<sup>th</sup> December, 1896.]

Mining  
Laws Amendment.

**W**HEREAS it is expedient to amend and extend the provisions of the Mining on Private Lands Act of 1894, and to amend the provisions of the Mining Act, 1874, and of the Mining Act of 1889: Be it therefore 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 "Mining Laws Amendment Act of 1896." Short title.

2. Notwithstanding anything to the contrary contained in the Mining on Private Lands Act of 1894— Privileges under authority to enter.

- (a) under an authority to enter under section eight of the said Act, the area of land which may be entered upon may be such as shall appear to the warden suitable, having regard to the class of deposit to be sought for, but shall in no case exceed the area of land prescribed in section twenty-six thereof having regard to the class of the deposit to be sought for, and shall not include any land exempt from leasing under section eleven of the said Act, nor any land occupied for mining purposes under the said Act or this Act, and the boundaries of such area shall be defined by the warden;
- (b) an authority to enter may, subject to the payment to the owner quarterly in advance of rent at a rate per acre per annum to be fixed by the warden from the date of occupation by the holder of such authority, be granted by the warden for any period not exceeding twelve months, and the period named in any authority may from time to time be extended by the warden on the same terms even beyond the twelve months, if it shall be made to appear to the warden that the period or extended period named in the authority is insufficient to enable the holder to complete the prospecting of the area defined as aforesaid;
- (c) the holder of such authority shall have a right of ingress, egress, and regress into, over, and upon the area defined as aforesaid, and the warden may define the limits within which such rights of ingress, egress, and regress shall be exercised, and shall, where necessary, cause to be marked by blazed trees or pegs a right-of-way from any area or areas occupied under such authority to the nearest practicable road;
- (d) before the holder of such authority may commence mining operations upon the area defined as aforesaid the warden shall hold an inquiry, of which due notice shall be given to the owner and occupier (if any) or their respective local agents, provided such agents are registered as such with the nearest mining registrar, as well as to the holder of the authority, and shall thereupon assess the amount of money to be deposited with the warden by the holder of the authority towards

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towards covering the damage to the surface of such land and to any improvements thereon likely to be caused by mining operations being conducted thereon; and thereupon the holder of the authority upon depositing the amount so assessed as aforesaid and paying to the owner three months rent in advance at the rate aforesaid, may construct any mine works or conduct any mining operations that may be necessary for thoroughly prospecting for any lead, lode, vein, or other auriferous or metalliferous deposit as provided by this Act within the limits of the area as defined by the warden: Provided that the warden may make such stipulations and conditions with respect to such operations as shall appear to him necessary and expedient, and shall have power to enforce the same in all cases and deal with the deposit in the manner prescribed by regulations under this Act. In the event of assessment having been made as herein provided in respect of any land and improvements, no further assessment in respect of such land and improvements shall be necessary in terms of sections sixteen and seventeen of the Act fifty-seventh Victoria number thirty-two;

- (e) if prospecting operations under such authority be not commenced within fourteen days from the date of the notification of the assessment or be suspended without the written permission of the warden, or if the rent of the land occupied thereunder be not paid within one month after it falls due, or if the holder of the authority has failed to observe any of the stipulations or conditions imposed by the warden, such authority may be cancelled by the warden; if such holder continue in occupation of the area after being notified in writing of the cancellation of the authority he shall be deemed a trespasser;
- (f) any holder of an authority to enter who has deposited as aforesaid a sum of money to cover the damage as aforesaid, and paid all rents due thereon to date may, at any time during the currency of such authority, apply in terms of the said Mining on Private Lands Act of 1894, to lease the area defined as aforesaid or any part thereof;
- (g) if during the progress of his prospecting operations the holder of the authority finds it necessary to construct works not contemplated when the warden assessed the sum to be deposited as aforesaid, he shall notify the warden that he intends to construct other works, and the warden shall thereupon assess the additional damage if any, and require the holder of the authority to make such further deposit as may in his opinion be necessary;
- (h) any holder of an authority to enter who has deposited the amount assessed to cover the damage as aforesaid, and has paid all rents due thereon to date, may employ as many men as he requires to carry on the prospecting work, and shall employ as many men as shall, in the opinion of the warden, be necessary to carry on the prospecting works efficiently; but in no case shall he, without the consent of the warden, employ less than one man in respect of every five acres, or fractional part of five acres, held under such authority;
- (i) a holder of such authority who has made the deposit as aforesaid, and has made application to lease the land shall, in virtue of such authority, while he pays rent as aforesaid, be at liberty to carry on mining operations upon the land until the lease shall have been granted or refused;

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- (j) notwithstanding anything to the contrary in the Mining on Private Lands Act of 1894 the holder of such authority shall have the right to erect a temporary residence upon the area defined as aforesaid, provided that he has paid rent as hereinbefore provided: Provided also that the area upon which the right to erect such residence shall extend shall not exceed a quarter of an acre.

3. Upon the discovery, in land included within the provisions of the Mining on Private Lands Act of 1894, of gold in such quantity as the Minister shall consider payable, the Governor may with the consent of the owner, either at law or in equity, resume for mining purposes so much of such land as he may consider necessary. Every such resumption shall be notified in the *Gazette* and some newspaper published or circulating in the district, and shall take effect at such date as may be specified for that purpose in the notification, and such land shall thereupon become Crown land within the meaning of the Mining Act, 1874, or any Act amending the same, and shall be reserved from sale or lease until such reservation be revoked by the Governor; and copies of such notifications, together with the reasons for the resumption therein notified, shall be laid upon the tables of both Houses of Parliament forthwith if Parliament be sitting, and if not then within eight days after the commencement of the next session: Provided that where the discovery has been made by the holder of an authority to enter, he shall be deemed to be the first applicant for a prospecting claim or for a gold-mining lease under the provisions of the Mining Act, 1874, and the regulations thereunder. And the date of publication of such notification in the *Gazette* shall be reckoned as the date of possession by such holder for the purpose of making an application for such prospecting claim or lease: Provided further that save in the case of the person making the discovery as aforesaid, all land resumed under this section shall be exempt from leasing, except such as may be deemed by the Minister specially suitable to be leased by reason of its great depth or wetness, or on account of the costly appliances required for its development: Provided further that such power of resumption shall not apply to any land occupied under any lease or agreement for mining purposes under the provisions of this or any other Act: Provided always that such consent as aforesaid shall be by deed, and should the property be under mortgage shall be given by both the owner and any mortgagee.

4. When any private land shall be resumed as aforesaid, the Minister may direct the warden to assess the market value of such land (exclusive of any increase in the value of such land by reason of the discovery of gold therein) and the improvements thereon, reasonable allowance being made for any damage that may be caused by severance; and if there be any person other than the owner having interest in such land, the compensation may be apportioned amongst them in the prescribed manner in proportion to their respective interests; and if the Minister, or owner, or other person interested in the land be not satisfied with the sum assessed, or the apportionment made by the warden, he may proceed either in the Supreme Court or in the District Court, within the jurisdiction of which the land or any part thereof is situated, to determine the amount to which such owner, or other person as aforesaid may be entitled.

5. The Governor, in the name and on behalf of Her Majesty, shall have power to grant to any holder of a miner's right a lease for gold-mining purposes, or to any holder of a mineral license a lease for the purpose of mining for silver, lead, tin, or antimony, of any private

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land which is enclosed and under cultivation within the meaning of section twelve of the Mining on Private Lands Act of 1894, but—

(a) such lease shall not include the surface, and shall commence at such depth below the surface as the Governor shall after full inquiry deem to be sufficient to prevent damage to the surface, and the holder of any such lease shall within the area demised have power to construct mine works under such land, and to remove therefrom gold, silver, lead, tin, or antimony, or any of them, as the case may be, but he shall be liable to pay compensation to the owner for any damage which may be done to the surface by reason of such mine works. The amount of such compensation shall be determined in the manner prescribed in sections sixteen, seventeen, and twenty of the Mining on Private Lands Act of 1894;

(b) the area of any such lease shall not exceed the extent prescribed in section twenty-six of the Mining on Private Lands Act of 1894 for gold, silver, lead, tin, or antimony.

Meaning of efficient mining.

6. The number of men to be employed on any lease, special or ordinary, granted under the Mining on Private Lands Act of 1894, except those referred to in sections thirty-seven and thirty-eight of the said Act, shall be—

(a) for gold-mining the regular employment of not less than one man to every five acres or less contained in the leasehold;

(b) for mining for minerals other than gold the employment of not less than one man to every ten acres or less contained in the leasehold: Provided always that the Governor may by regulation modify the number of men to be so employed.

Lands conditionally leased not to be private lands unless so declared by the Governor.

7. Lands which have been or shall hereafter be conditionally leased under any Land Act shall be deemed private lands within the meaning of the Mining on Private Lands Act of 1894 or this Act, if the Governor shall by proclamation declare such lands to be such private lands as aforesaid, provided always that such proclamation shall take effect from the date mentioned therein.

Power to increase area of leases.

8. Notwithstanding anything to the contrary in the Mining on Private Lands Act of 1894, upon the special recommendation of the Minister the Governor may grant a lease of any private land exceeding in extent the limits prescribed in the Mining on Private Lands Act of 1894, but the Minister shall not make such special recommendation in any case unless the prospecting board and the warden shall certify that by reason of the difficulties and cost attending the construction of mine works upon and of mining such land it is necessary that an area in excess of the limit prescribed as aforesaid be granted.

Owner or lessee may remove "associated minerals."

9. Notwithstanding anything to the contrary contained in the Mining on Private Lands Act of 1894, the owner or lessee of any private land in which the minerals have not been reserved to the Crown containing a deposit of any mineral other than coal, to which the said Act does not apply, may, without any authority to enter or any lease under the said Act or this Act, mine for, win, and remove such mineral, notwithstanding that there may be associated with such mineral any mineral (hereinafter called "associated mineral") to which the said Act does apply, where the value of any associated mineral does not exceed fifty per centum of the value of the mineral in this section first mentioned: Provided that the owner aforesaid may grant to any person, by lease or otherwise, the right to mine for, win, and remove such mineral and any associated mineral as aforesaid from his private land, and no prospecting license shall be granted in respect of any land upon which such mining operations have been commenced: Provided further that the foregoing provisions shall

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extend to protect from prospecting license or authority only the lode *bonâ fide* worked on such land by the owner or lessee, and land covering the same to the width of two hundred and twenty yards along the course of the said lode.

10. The Governor may exercise for the purposes of this Act the powers conferred on him by section forty-three of the Mining on Private Lands Act of 1894. Governor may exercise powers conferred under sec. 43 of Act 57 Vic. No. 32.

11. The owner of any private land other than alluvial not applied for or occupied for mining purposes under the provisions of fifty-seventh Victoria number thirty-two or this Act shall be at liberty, with the concurrence of the Minister, to enter into any lease or agreement in writing with any holder of a miner's right or mineral license for such term or terms of years or lesser period or periods as may be agreed on between the parties, and may by such lease or agreement give such holder power to take possession of such land for mining purposes. Owner of private land may enter into lease.

The area of such lease shall not exceed the extent prescribed in section twenty-six in the Mining on Private Lands Act of 1894, and such lease or agreement shall be subject to the performance by the lessee or the holder of a miner's right or mineral license so entering into such agreement with such owner as aforesaid of the labour conditions contained in this Act: Provided that every such agreement shall within fourteen days thereafter be registered with the mining registrar for the district in which such land is situated. Area of lease.