



ANNO VICESIMO

**ELIZABETHAE II REGINAE**

A.D. 1971

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**No. 109 of 1971**

An Act to regulate and control mining operations ; to repeal the Mining Act, 1930-1962 ; to amend the Petroleum Act, 1940-1969 ; to amend the Crown Lands Act, 1929-1969 ; and for other purposes.

[Assented to 9th December, 1971]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

**PART I****PART I****PRELIMINARY**

1. This Act may be cited as the "Mining Act, 1971." Short title.
2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.
3. (1) The Acts referred to in the first Part of the Schedule to this Act are repealed. Amendment and repeal.
  - (2) The Crown Lands Act, 1929-1969, is amended as shown in the second Part of the Schedule to this Act, and as so amended, may be cited as the "Crown Lands Act, 1929-1971".
  - (3) The Petroleum Act, 1940-1969, is amended as shown in the second Part of the Schedule to this Act, and, as so amended, may be cited as the "Petroleum Act, 1940-1971".

**PART I**Arrangement  
of Act.**4. This Act is arranged as follows:—**

PART I—PRELIMINARY.

PART II—ADMINISTRATION.

PART III—RESERVATION OF MINERALS AND  
ROYALTY.

PART IV—PROSPECTING FOR MINERALS.

PART V—EXPLORATION LICENCE.

PART VI—MINING LEASES.

PART VII—PROSPECTING AND MINING FOR  
PRECIOUS STONES.

PART VIII—MISCELLANEOUS PURPOSES LICENCE.

PART IX—ENTRY UPON LAND, COMPENSATION  
AND RESTORATION.PART X—WARDEN'S COURT AND FORFEITURE OF  
MINING TENEMENTS.

PART XI—ENCOURAGEMENT OF MINING.

PART XII—MISCELLANEOUS.

Transitional  
provisions.

5. (1) Any lands declared to be mineral lands under the repealed Act shall, subject to this Act, be and continue to be mineral lands under this Act and any lands reserved from the operation of the repealed Act shall, subject to this Act, be and continue to be lands reserved from the operation of this Act.

(2) A gold lease, mineral lease, coal lease, or miscellaneous lease granted under the repealed Act and in force immediately before the commencement of this Act shall be deemed to be a mining lease granted under this Act and shall, subject to this Act, remain in force for the remainder of the period for which it was granted or last renewed.

(3) A special mining lease granted under the repealed Act and in force immediately before the commencement of this Act shall be deemed to be an exploration licence granted under this Act and shall, subject to this Act, remain in force for the remainder of the period for which it was granted or last renewed.

(4) A claim in existence under the repealed Act immediately before the commencement of this Act shall be deemed to be a claim under this Act and shall, subject to this Act, remain in existence for twelve months after the commencement of this Act and, notwithstanding any other provision of this Act, shall, during that period, confer a right to mine for and dispose of minerals from the land comprised in the claim.

(5) Where an authority to enter land was in force under the repealed Act immediately before the commencement of this Act, for a period of twelve months after the commencement of this Act no

claim shall be pegged out and no lease or licence shall be granted in respect of the land to which the authority relates except by or to the holder of the authority.

(6) Where a person lawfully entered upon land before the commencement of this Act for the purposes of conducting mining operations, he may, subject to this Act, continue those operations upon the land in all respects as if he had lawfully entered upon the land in pursuance of this Act.

(7) Where a person was, immediately before the commencement of this Act, lawfully conducting mining operations upon lands that constituted private lands under the provisions of the repealed Act, he may, by virtue of this subsection, continue those operations for a period of six months from the commencement of this Act.

(8) A business licence or an occupation licence granted under the repealed Act and in force immediately before the commencement of this Act shall be deemed to be a miscellaneous purposes licence under this Act, and shall, subject to this Act, remain in force for the remainder of the period for which it was granted or last renewed.

(9) A person who held a miner's right under the repealed Act immediately before the commencement of this Act shall for the remainder of the term for which the miner's right was issued be deemed to be the holder of a miner's right and a precious stones prospecting permit under this Act.

(10) A person holding office under the repealed Act immediately before the commencement of this Act shall be deemed to have been appointed to the corresponding office under this Act.

(11) A reference in any Act, regulation, rule, by-law, instrument or document to the repealed Act or any provision thereof shall, unless the contrary intention appears, be read and construed as a reference to this Act, or the corresponding provision (if any) of this Act.

**6. In this Act, unless the contrary intention appears—**

Interpretation.

“council” means a municipal or district council within the meaning of the Local Government Act, 1934-1970, and includes a body corporate that is by virtue of any Act deemed to be, or vested with the powers of, a municipal or district council:

“Crown lands” means lands that are Crown lands within the meaning of the Crown Lands Act, 1929-1969:

“declared equipment” means any equipment of a kind declared by regulation to be declared equipment for the purposes of this Act:

“extractive minerals” means sand, gravel, stone, shell, shale or clay but does not include fire clay, bentonite or kaolin:

“inspector” means a person for the time being holding or acting in the office of Inspector of Mines under this Act, and includes the Chief Inspector:

“mine” means any place in which mining operations are carried out:

“mineral lands” means any lands that are mineral lands in consequence of a declaration under this Act:

“minerals” means—

(a) any naturally occurring deposit of metal or metal-liferous ore, precious stones, or any other mineral (including sand, gravel, stone, shell, shale and clay);

(b) any metal, metalliferous substance, or mineral recoverable from the sea or a natural water supply;  
or

(c) any metal, metalliferous ore, or mineral, dumped or discarded in the course of mining operations, or operations incidental thereto,

but does not include—

(d) soil;

or

(e) petroleum or any other substance the recovery of which is governed by the Petroleum Act, 1940-1971:

“mining” or “mining operations” means all operations carried on in the course of prospecting or mining for minerals or quarrying and includes operations by means of which minerals are recovered from the sea or a natural water supply; “to mine” has a corresponding meaning:

“mining operator” means a person by, or on whose behalf, mining operations are carried out under this Act:

“mining tenement” means a claim, lease or licence (except a miscellaneous purposes licence) under this Act:

“precious stones field” means any mineral lands declared by proclamation to be a precious stones field pursuant to the provisions of this Act:

“owner” in relation to land means any person with an estate or interest in the land and includes the occupier:

“precious stones” means opal and any other minerals declared by regulation to be precious stones for the purposes of this Act:

“proprietor” in relation to a private mine means the person divested of his property in the minerals for the recovery of which the mine is operated or a person lawfully claiming under him:

“prospecting” or “to prospect” includes all operations conducted in the course of exploring for minerals:

“registrar” or “mining registrar” means a person for the time being, holding, or acting in, the office of Mining Registrar, or Deputy Mining Registrar, under this Act:

“the Director of Mines” or the “Director” means the person for the time being holding or acting in the office of Director of Mines under this Act:

“the Land and Valuation Court” means the Land and Valuation Court constituted under the Supreme Court Act, 1935, as amended:

“the repealed Act” means the Mining Act, 1930-1962, repealed by this Act:

“the warden’s court” means the warden’s court constituted under Part X of this Act:

“warden” means a person for the time being holding or acting in the office of warden under this Act.

7. Except as otherwise provided, this Act shall apply only in respect of mineral lands. Mineral lands.

8. (1) The Governor may, by proclamation—

Application  
of Act.

(a) declare any lands in the State, (including lands within any gulfs, bays, inlets and harbours of the State and within three nautical miles of the low water mark on the seashore) to be mineral lands;

(b) declare any mineral lands to be a precious stones field;  
or

(c) reserve from the operation of this Act, or any provisions thereof, any lands specified in the proclamation,

and the proclamation shall have effect according to its terms.

(2) The Governor may by subsequent proclamation vary or revoke any proclamation made pursuant to this section.

**PART I**

Exempt lands.

**9. (1) Subject to this section—****(a) land that is lawfully and genuinely used—**

- (i) as a yard, garden, cultivated field, plantation, orchard or vineyard;
- (ii) as an airfield;
- (iii) as the grounds of a church, chapel, school, hospital or institution;

**(b) land that constitutes any parklands or recreation grounds under the control of a council;****(c) any separate parcel of land of less than two thousand square metres within any city, town or township;**

or

**(d) land that is situate—**

- (i) within four hundred metres of any dwellinghouse;

or

- (ii) within one hundred and fifty metres of any factory, building, spring, well, reservoir or dam,

(not being, in either case, an improvement effected for the purpose of mining operations pursuant to this Act) the value of which is not less than two hundred dollars,

shall be exempt from mining operations in pursuance of this Act, and, unless the land ceases to be so exempt, no miner's right, precious stones prospecting permit, claim, lease or licence shall authorize prospecting or mining upon that land.

(2) Where any land is subject to a claim, lease or licence under this Act and that land would, but for this subsection, be land exempt from mining operations in pursuance of this Act by reason only of a fact or circumstance occurring or arising subsequent to the pegging out, or granting, of the claim, lease, or licence, that land shall not be exempt from operations in pursuance of this Act.

(3) Land that is exempt from mining operations conducted in pursuance of this Act under subsection (1) of this section shall cease to be so exempt upon payment of compensation, determined upon by agreement or, in default of agreement, upon the application of any interested party, by the Land and Valuation Court.

(4) This section does not affect any provision of the Pastoral Act, 1936-1970, prohibiting or restricting the conduct of mining operations on lands subject to that Act.

Mining in  
respect of  
public streets,  
roads and  
places.

**10. Subject to the appropriate regulations for preventing undue interference with public user, the rights conferred by this Act may be exercised in respect of any public road, reserve or place.**

## PART II

## PART II

## ADMINISTRATION

11. The Minister and the Director of Mines shall each be a corporation sole.

The Minister and the Director to be corporations sole.

12. (1) Subject to subsection (2) of this section the Minister may delegate to the Director of Mines any of his powers and functions (except this power of delegation) under this Act.

Delegation.

(2) A power or function shall not be delegated under subsection (1) of this section unless it is a power or function declared by regulation to be subject to delegation under this section.

(3) Any delegated powers and functions shall be exercised in accordance with the instrument of delegation.

(4) The delegation of any powers and functions under this section shall not prevent the Minister from acting personally in any matter.

13. (1) The Governor may, subject to the Public Service Act, 1967, as amended, appoint suitable persons to the offices contemplated by this Act, and may appoint such other officers and servants as he deems necessary or expedient for the due administration of this Act.

Appointment of officers.

(2) A person so appointed shall hold office subject to the provisions of the Public Service Act, 1967, as amended.

14. Any person employed in the administration of this Act or in the Department of Mines who uses any information derived by him in the course of, or by reason of, his employment for the purpose of personal gain shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars or imprisonment for two years.

Misuse of information.

15. (1) For the purpose of making any geological, geophysical or geochemical investigation or survey, the Minister or the Director of Mines, or any person authorized in writing by the Minister or the Director may—

Powers of Director.

(a) enter and remain upon any land with such assistants, vehicles and equipment as may be necessary or expedient for the purposes of the investigation or survey;

(b) conduct such an investigation or survey on the land;  
and

(c) take, and remove from the land, any geological specimens or samples.

(2) A person exercising any power under this section shall not unnecessarily impede or obstruct any lawful work or operations being carried out by the owner or occupier of the land.

PART II

(3) A person who interferes with or obstructs any person in the exercise of any power conferred by this section shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(4) The Minister may publish in such manner as he thinks fit the results of an investigation or survey under this section.

PART III

## PART III

## RESERVATION OF MINERALS AND ROYALTY

**Reservation of minerals.**

16. (1) Notwithstanding the provisions of any other Act or law, or of any land grant or other instrument, the property in all minerals is vested in the Crown.

(2) This section shall apply in respect of all mineral lands and in respect of all other lands (including reserved lands) in the State.

**Royalty.**

17. (1) Subject to this section, royalty shall be payable to the Minister on all minerals recovered from mineral lands and—

(a) sold or intended for sale;

or

(b) utilized or to be utilized for any commercial or industrial purpose.

(2) The amount of the royalty shall be two and one half per centum, or in the case of extractive minerals, five per centum, of the value of the minerals as assessed for the determination of royalty.

(3) The Minister shall assess the value of minerals for the determination of royalty.

(4) The assessed value shall be such as, in the opinion of the Minister, fairly represents the value of the minerals immediately upon recovery from the earth.

(5) The Minister shall cause a copy of his assessment of the value of any minerals to be served—

(a) upon the holder of the lease in respect of the mine from which the minerals were recovered;

or

(b) in the case of a private mine, upon the proprietor of the private mine.



(6) The person upon whom a copy of an assessment is served under subsection (5) of this section may within sixty days after the date of service appeal against the assessment to the Land and Valuation Court.

(7) Upon the hearing of any such appeal the Land and Valuation Court may vary the assessment of the Minister to such extent as it thinks fit.

(8) The Minister may, with the concurrence of the person liable to pay royalty determine that royalty shall be payable according to the weight or volume of minerals recovered and royalty shall thereupon be payable by that person in accordance with that determination.

(9) Royalty may be recovered by the Minister as a debt due to him in any court of competent jurisdiction.

(10) Royalty shall not be payable on precious stones.

18. The property in minerals shall pass to the person by whom the minerals are lawfully mined upon, and in consideration of, payment of royalty or if royalty is not payable in respect of the minerals, upon recovery of the minerals.

Passing of  
property in  
minerals.

19. (1) Where—

Private mine,  
etc.

(a) a person is divested of his property in any minerals under this Act;

(b) mining operations have been commenced before or after the commencement of this Act for the recovery of any of those minerals or for the purpose of ascertaining whether any of them may be profitably exploited;

and

(c) an application is made in writing to the Minister within three years after the commencement of this Act for a declaration under this section, and the application is supported by such plans and information as the Minister may require,

an area determined in accordance with this section shall subject to this section be declared by proclamation to be private mine and where such a declaration is made the mine shall, subject to this section, be exempt from the provisions of this Act.

(2) The Minister may reject an application under subsection (1) of this section where no mining operations have been conducted on the land subject to the application within a period in excess of twelve months before the date of the application, but otherwise no application shall be rejected on the ground of the discontinuance of mining operations.

(3) The Minister may reject an application under subsection (1) of this section where, in his opinion, the mining operations in the area to which the application relates have been insignificant, or have not been genuinely conducted for the recovery of minerals, or for the purpose of ascertaining whether a deposit of minerals that may be profitably exploited exists.

(4) The area to be declared a private mine under this section shall be the whole of the area, comprised in the application, in which the prospective proprietor of the mine held property in minerals immediately before the commencement of this Act, and which is reasonably required for exploitation of minerals.

(5) In the event of any difference between the Minister and the applicant for the declaration as to the area to be declared a private mine under this section, the applicant, or the Minister, may apply to the Land and Valuation Court for a determination of the difference.

(6) The Land and Valuation Court shall, upon the hearing of an application under subsection (5) of this section, determine the area to be declared a private mine in such manner as it considers just and reasonable.

(7) The Governor may, by proclamation, vary or revoke a declaration under subsection (1) of this section if he is of the opinion that the whole or any part of the private mine is not being effectively operated.

(8) A declaration under this section shall not be varied or revoked unless the warden's court has determined that proper ground exists for the proposed variation or revocation of the declaration under subsection (7) of this section.

(9) Royalty is, subject to and in accordance with the provisions of this Act, payable upon extractive minerals recovered from a private mine but is not payable upon any other minerals so recovered.

(10) The proprietor of a private mine who is liable to pay royalty upon extractive minerals may apply to the Land and Valuation Court for an order that any other person, named in the application, should indemnify him wholly or partly for the payment of that royalty.

(11) The Court may, upon an application under subsection (10) of this section make such order for indemnity as it considers just and equitable having regard to the relative proportions in which the proprietor and the other person or persons, named in the application, derive profit from the operation of the mine.

(12) While a mine continues as a private mine under this Act, the property in any minerals recovered from the mine shall—

(a) in the case of all minerals except extractive minerals pass to the proprietor of the mine upon recovery of the minerals;

or

(b) in the case of extractive minerals pass to the proprietor of the mine upon, and in consideration of, payment of royalty,

and any contract, agreement, assignment, mortgage, charge or other instrument in operation immediately before the commencement of this Act and relating to proprietary rights in the minerals shall, subject to its terms, apply to the minerals so recovered upon the passing of property in those minerals in accordance with this subsection.

(13) Any interested party may, by application to the Land and Valuation Court, seek the determination of any question or dispute as to the effect or enforcement of a contract, agreement, assignment, mortgage, charge or other instrument affected by the provisions of subsection (12) of this section.

(14) The Court may, upon the hearing of an application under subsection (13) of this section make such orders as it considers necessary or expedient to give effect, consistently with the provisions of this Act, to the intendment of the contract, agreement, assignment, mortgage, charge or other instrument or to achieve a just settlement of any matters of dispute.

(15) Land comprised within a private mine shall not be subject to any mining tenement under this Act.

(16) An application for the declaration of a private mine may be made under subsection (1) of this section by the person divested of his property in the minerals in respect of which the declaration is sought, or a person who, immediately before the commencement of this Act, held any interest in those minerals in pursuance of any contract, agreement, assignment, mortgage, charge or other instrument.

(17) Where—

- (a) a person is divested of his property in any minerals under this Act;
  - (b) a mine is established at any time before or after the commencement of this Act for the recovery of the minerals;
- and
- (c) an application is made by the person so divested of his property in the minerals or a person lawfully claiming under him to the Minister for the payment of royalty under this section,

the Minister shall pay all royalty collected upon such of those minerals as are recovered after the date of the application to the person so divested of his property in the minerals or the person or persons claiming under him.

(18) An application shall not be made under subsection (17) of this section in respect of extractive minerals.

(19) The Minister may, subject to the rules of the Supreme Court, refer an application under subsection (17) of this section to the Land and Valuation Court.

(20) Where an application is so referred to the Land and Valuation Court, the Court shall determine whether the application is valid and, if so, to whom, and in what proportions, the royalty should be paid.

(21) Where the property in the minerals in any land was, immediately before the commencement of this Act, vested in a person who was then the proprietor of an estate in fee simple in the land, that person if he remains the proprietor of an estate in fee simple in the land or, if not, the person who is, for the time being, the successor in title to that person shall, subject to subsection (11) of this section, be the sole legitimate claimant to royalty under subsection (17) of this section.

(22) A person may by instrument in writing lodged with the Director of Mines divest himself of any actual or potential right to claim royalty under subsection (17) of this section, in favour of any other person named in the instrument and thereupon that person or a person claiming under him shall be the sole legitimate claimant to royalty under subsection (17) of this section.

(23) A right to claim royalty under subsection (17) of this section shall not be transferred otherwise than in accordance with this section.

(24) The Director of Mines shall maintain a register of the instruments lodged with him under subsection (22) of this section.

(25) The register and any such instrument shall, upon payment of the prescribed fee, be available for inspection by any member of the public.

(26) Where a person, upon application to the Land and Valuation Court, proves to the satisfaction of the Court that he was immediately before the commencement of this Act, in adverse possession of minerals, and that, on the balance of probabilities, he would, if this Act had not been enacted, have acquired an indefeasible title to the minerals, the court may order that the provisions of this section shall apply to that person in all respects as if he had been divested of property in those minerals by this Act, and thereupon the provisions of this section shall apply accordingly.

(27) The court may, in the course of proceedings under subsection (26) of this section make such orders as it thinks just to ensure, as far as reasonably practicable, that adequate notice of the application is received by persons who may have had, immediately before the commencement of this Act, a better enforceable right to the minerals than the applicant, and to ensure that the interests of any such persons are adequately protected.

## PART IV

## PART IV

## PROSPECTING FOR MINERALS

20. (1) A mining registrar may, upon receipt of an application in the prescribed form containing the prescribed particulars issue to any person a miner's right. Issue of miner's right.

(2) An application for a miner's right must be accompanied by the prescribed fee.

(3) A person shall not hold more than one miner's right.

21. A miner's right shall, subject to this Act, remain in operation for a term of one year from the date of issue, and may be renewed for successive periods of one year upon payment of the prescribed fee. Renewal of miner's right.

22. (1) A miner's right shall, subject to this Act, authorize the holder to prospect for minerals (except precious stones) and to peg out a mineral claim in conformity with the regulations. Rights attaching to miner's right.

(2) A miner's right shall not authorize the conduct of mining operations that involve disturbance of any land by machinery or explosives.

(3) A miner's right shall have no force or effect in relation to a precious stones field.

(4) Any number of claims may be pegged out by virtue of a single miner's right.

23. (1) The area of a mineral claim must not exceed the maximum permissible area stipulated by the regulations. Area of claim.

(2) The maximum permissible area of a mineral claim may vary according to the nature of the minerals in respect of which the claim is pegged out.

24. (1) Application for registration of a mineral claim must be lodged at the office of a mining registrar within thirty days after the day on which the claim is pegged out. Registration of claims.

(2) The warden's court may extend the time for lodgment of an application under this section.

(3) A mining registrar shall, subject to this Act and any order of the warden's court, register a mineral claim upon receipt of due application for registration of the claim in the prescribed form and accompanied by the prescribed particulars.

(4) A mining registrar may refuse to register a mineral claim if he is satisfied that before the claim was pegged out an application had been made and lodged with the Director of Mines under Part V

**PART IV**

of this Act, for a licence under that Part in respect of an area comprising the claim, or any portion thereof, and that the application has not been refused.

(5) If application for registration of a mineral claim is not made as required by this section, or if the mining registrar lawfully refuses to register the claim, the claim shall lapse.

**Rights  
conferred by  
ownership of  
mineral claim.**

**25. (1)** A mineral claim shall confer upon the owner of the claim an exclusive right, subject to the provisions of this Act, to conduct mining operations upon the area comprised in the claim and to apply for a mining lease in respect of that area.

(2) The owner of a mineral claim is not authorized under the provisions of this section to conduct operations involving the removal from the area of the claim of an amount of minerals, or soil and minerals, exceeding one tonne unless the owner of the land on which the claim is situated consents to the removal thereof, or, in the absence of such consent, the warden's court authorizes the removal thereof.

(3) The ownership of a mineral claim shall not confer any right—

(a) to sell or dispose of any minerals recovered in the course of mining operations;

or

(b) to utilize any such minerals for any commercial or industrial purpose.

(4) A mineral claim shall have no force or effect in relation to precious stones.

**Minerals claim  
not transferable  
etc.**

**26. (1)** A mineral claim shall not be transferable.

(2) Where an application has not been made for a lease in respect of land comprised in a mineral claim within twelve months after registration of the claim, the claim shall lapse.

**Land not to be  
re-pegged where  
claim lapses.**

**27.** Where a claim lapses under this Part, land that was previously comprised in the claim shall not be again pegged out as a claim by or on behalf of the person who previously held the claim without the approval of the warden's court.

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## PART V

## PART V

## EXPLORATION LICENCE

28. (1) Subject to this Act, the Minister may grant to any person an exploration licence authorizing him to prospect for minerals (other than precious stones and extractive minerals) within an area comprised in the licence.

Grant of  
exploration  
licence.

(2) The Minister shall, at least twenty-eight days before he grants an exploration licence under this Part, cause notice to be published in the *Gazette* specifying the area over which he proposes to grant the licence.

(3) The area in respect of which an exploration licence is granted shall not exceed two thousand five hundred square kilometres unless, in the opinion of the Minister, circumstances exist that justify the grant of a licence in respect of a greater area.

(4) A licence granted under this section shall authorize the licensee, subject to the provisions of this Act and the conditions of the licence, to carry out such operations in prospecting for minerals as may be authorized by the licence.

(5) No claim (other than a precious stones claim or a claim in respect of extractive minerals) shall be pegged out and no lease shall be granted over land comprised in the licence otherwise than by or to the licensee except with the consent of the licensee.

(6) An exploration licence may be granted to the Director of Mines, and in obtaining and holding such a licence the Director shall be exempt from the provisions of sections 29, 31 and 32 of this Act.

29. (1) An application for an exploration licence shall be in writing and shall be lodged with the Director of Mines.

Application for  
exploration  
licence.

(2) The applicant shall forward with an application for an exploration licence:—

- (a) the prescribed application fee;
- (b) a map on which are delineated the boundaries of the area in respect of which the licence is sought;
- (c) a proposed scheme of exploration of the area in respect of which the licence is sought, with a statement of the proposed expenditure thereon;

(d) a statement of the technical and financial resources available to the applicant;

and

(e) a statement of the nature of the minerals for which the applicant proposes to explore.

(3) An applicant shall, at the request of the Minister, furnish such further information in relation to his application, or such evidence in support of his application, as the Minister may require.

Incidents of  
licence.

30. (1) An exploration licence shall—

(a) describe or delineate the lands in respect of which it is granted;

(b) be subject to such conditions as may be prescribed and to such additional conditions as the Minister thinks fit and specifies in the licence;

and

(c) remain in force, subject to this Act, for such period (being a period of not more than two years) specified in the licence.

(2) The Minister shall in determining the conditions subject to which a licence is to be granted under this Part give proper consideration to the protection of—

(a) the natural beauty of the area in respect of which the licence is to be granted;

(b) the flora and fauna for which that area, or any portion thereof, is a natural environment or habitat;

(c) any geological or physiographical features of the area that are of special interest;

and

(d) any buildings or other objects of architectural or historical interest,

and the conditions must be such as, in the opinion of the Minister, afford adequate protection against detriment resulting from the conduct of mining operations in pursuance of the licence.



(3) It shall be a condition of an exploration licence that the Minister may at any time require the holder of the licence to pay to any person an amount of compensation, stipulated by the Minister, to which that person is, in the opinion of the Minister, entitled in consequence of the conduct of mining operations in pursuance of the licence.

31. (1) The holder of an exploration licence shall pay to the Minister annually and in advance such fee as may be prescribed. Fee.

(2) The Minister may reduce, remit or refund a fee under this section if, in his opinion, it is necessary or expedient so to do.

32. (1) The holder of an exploration licence shall keep complete and detailed records of the surveys and other operations conducted in pursuance of the licence and shall, at the request of the Director of Mines, produce the records for the inspection of the Director or an inspector. Licensee to keep geological records.

Penalty: Two hundred dollars.

(2) The holder of an exploration licence shall furnish the Director of Mines with such information relating to the surveys and other operations conducted by him in pursuance of the licence and such geological samples obtained by him in the course of those operations as the Director may require.

Penalty: Two hundred dollars.

## PART V

Cancellation,  
suspension,  
etc. of  
licence.

33. (1) Where the holder of an exploration licence has contravened or failed to comply with any provision of this Act or any condition of the licence the Minister may suspend the licence (whereupon the licence shall, during the period of suspension, be of no force or effect) or cancel the licence.

(2) Where a licence is cancelled or suspended under subsection (1) of this section, the licensee may, within twenty-eight days after the cancellation or suspension, appeal to the Land and Valuation Court and the Court may, if it is satisfied that there is no proper ground for the cancellation or suspension, declare that cancellation or suspension void.

(3) The Minister may by instrument in writing, subject to such terms and conditions as he thinks fit, exempt the holder of a licence wholly or in part from compliance with a condition of a licence or may, with the consent of the holder of the licence, vary any such condition.

(4) Where in the opinion of the Minister any land comprised in an exploration licence is required for a public purpose, the Minister may, by notice published in the *Gazette*, excise that land from the total area comprised in the licence and thereafter the licence shall not be of any force or effect in relation to that land.

(5) Where the Minister exercises his powers under subsection (4) of this section, the holder of the licence may apply to the Land and Valuation Court for an order that the Minister compensate him for the moneys expended by him in prospecting for minerals in the area excised from the total area comprised in the licence, and the Land and Valuation Court, upon the hearing of any such application, may determine what amount would fairly compensate the holder of the licence for such expenditure and order that the amount so determined be paid by the Minister to the holder of the licence.

(6) The Minister shall pay any amount that he is ordered to pay under subsection (5) of this section out of moneys provided by Parliament.

(7) The holder of an exploration licence may, with the consent of the Minister, surrender any land comprised in the licence and thereupon the licence shall not be of any force or effect in relation to that land.

(8) Where a licence has been issued for a period of less than two years, the Minister may extend the term of the licence to a period not exceeding two years.

## PART VI

## PART VI

## MINING LEASES

34. (1) The Minister may grant to the holder of a registered mineral claim a mining lease of lands comprised in the claim. Grant of mineral lease.

(2) The Minister shall, at least twenty-eight days before he grants a mining lease under this Part, cause notice to be published in the *Gazette* specifying the area over which he proposes to grant the lease.

(3) Mining leases shall be of prescribed classes and subject to prescribed terms and conditions appropriate to each class.

(4) A mining lease shall, in addition to such terms and conditions as may be prescribed, be subject to such additional terms and conditions (if any) as the Minister may think fit and specifies in the lease.

(5) The maximum permissible area of a mining lease may vary according to the class of the mining lease and the nature of the minerals in respect of which the lease is granted.

(6) The Minister shall in determining the terms and conditions subject to which a lease is to be granted under this Part give proper consideration to the protection of—

- (a) the natural beauty of the area in respect of which the lease is to be granted;
  - (b) the flora and fauna for which that area, or any portion thereof, is a natural environment or habitat;
  - (c) any geological or physiographical features of the area that are of special interest;
- and
- (d) any buildings or other objects of architectural or historical interest,

and the terms and conditions must be such as, in the opinion of the Minister, afford adequate protection against detriment resulting from the conduct of mining operations in pursuance of the lease.

(7) It shall be a condition of a mining lease that the Minister may at any time require the holder of the lease to pay to any person an amount of compensation, stipulated by the Minister, to which that person is, in the opinion of the Minister, entitled in consequence of the conduct of mining operations in pursuance of the lease.

**PART VI****Application for  
mineral lease.**

35. (1) An application for a mining lease must be in the prescribed form and accompanied by the prescribed fee.

(2) The Minister may require the applicant to furnish him with such information and surveys as the Minister thinks fit.

**Approval of  
application.**

36. (1) Where a person has applied for a mining lease and has been notified in writing by or on behalf of the Minister that the Minister has approved the application, the applicant shall be liable for the payment of rent and any other sum payable by the holder of a mining lease of the kind for which approval has been granted and shall be deemed to be the holder of such a lease comprising the land in respect of which the lease is sought as from the date of the written notification.

(2) Where written notification that the Minister has approved an application for a lease is given under subsection (1) of this section, the term of the lease shall commence from the date of the written notification.

**Nature of  
lease.**

37. (1) A mining lease must describe or delineate the land in respect of which it is granted with as much particularity as is reasonably practicable.

(2) A mining lease is not required to be registered under Part IX of the Real Property Act, 1886, as amended.

(3) The Director of Mines shall keep or cause to be kept a register of mining leases.

(4) The register of mining leases shall be available for inspection by any person upon payment of the prescribed fee.

**Term of  
mining lease.**

38. (1) A mining lease may be granted for such term, not exceeding twenty-one years, as may be determined by the Minister and specified in the lease.

(2) The holder of a mining lease shall, if he has complied with the provisions of this Act, and the terms and conditions of the lease, be entitled, at the expiration of the term of the lease, to the renewal of the lease for a further term.

(3) Where a person who is entitled to the renewal of a mining lease under this section makes due application in the prescribed form for the renewal of the lease within three months before the date of its expiry, the Minister shall renew the lease for a term, not exceeding twenty-one years, determined by the Minister.

PART VI

39. A mining lease shall—

(a) confer an exclusive right upon the holder of the lease to conduct mining operations subject to the provisions of this Act and the terms and conditions of the lease upon the area comprised in the lease;

and

(b) authorize the holder of the lease to sell or dispose of minerals recovered in the course of mining operations conducted in pursuance of the lease or to utilize any such minerals for any commercial or industrial purpose.

Rights conferred by lease.

40. (1) A mining lease shall provide for the payment, by way of rental, of such sum as may be prescribed. Rental.

(2) Where a mining lease has been granted in respect of freehold land, the amount paid to the Minister by way of rental under the lease shall, after the deduction of one-twentieth of that amount, be paid to the person who holds an estate of fee simple in the land.

41. (1) The Minister may grant a mining lease—

(a) over a greater area than that stipulated as the maximum permissible area by the regulations;

and

(b) subject to such special conditions as the Governor thinks fit,

in any case in which the Minister is satisfied that the conduct of mining operations upon the land to be comprised in the lease would be attended by abnormal difficulties justifying the grant of such a lease.

(2) The area of any such lease shall not, in any case, exceed two hundred and fifty hectares.

Grant of lease upon special terms and conditions where mining operations would be attended by abnormal difficulties.

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PART VII

PART VII

PROSPECTING AND MINING FOR PRECIOUS STONES

42. (1) A mining registrar may, upon receipt of an application in the prescribed form containing the prescribed particulars issue to any person a precious stones prospecting permit.

Issue of precious stones prospecting permit.

(2) An application for a precious stones prospecting permit must be accompanied by the prescribed fee.

(3) A person shall not hold more than one precious stones prospecting permit.

**PART VII****Term of permit.**

**43.** A precious stones prospecting permit shall, subject to this Act, remain in operation for a term of one year from the date of issue and may be renewed for successive periods of one year upon payment of the prescribed fee.

**Rights of holder of permit.**

**44.** (1) A precious stones prospecting permit shall, subject to this Act, authorize the holder to prospect for precious stones and to peg out a precious stones claim.

(2) A precious stones prospecting permit shall not authorize the conduct of mining operations that involve disturbance of any land by machinery or explosives.

(3) Subject to subsection (4) of this section, a person shall not be entitled to be the holder simultaneously of more than one precious stones claim.

(4) A person who holds a precious stones prospecting permit may, on behalf of himself and not more than three other persons each of whom holds a precious stones prospecting permit, peg out a number of adjoining precious stones claims not exceeding the number of persons on behalf of whom the claims are pegged out and those persons shall have equal rights of property in the claims and in any precious stones recovered therefrom.

(5) Any claims pegged out under subsection (4) of this section may, subject to the regulations, be mined as if they together constituted a single claim.

**Area of claim.**

**45.** (1) The area of a precious stones claim shall not exceed the maximum permissible area.

(2) The maximum permissible area of a precious stones claim shall be as prescribed.

**Registration of claim.**

**46.** (1) Application for registration of a precious stones claim must be lodged at the office of a mining registrar within thirty days after the day on which the claim is pegged out.

(2) The warden's court may extend the time for lodgment of an application under this section.

(3) A mining registrar shall, subject to this Act and any order of the warden's court, register a precious stones claim upon receipt of due application for the registration of the claim in the prescribed form and accompanied by the prescribed particulars.

(4) If application for registration of a precious stones claim is not made as required by this section, or if the mining registrar lawfully refuses registration of the claim, the claim shall lapse.

(5) Where due application is made for the registration of a valid precious stones claim, the claim shall be deemed to have been registered as from the time of lodgment of the application at the office of the registrar.

(6) The registration of a precious stones claim must be renewed annually on or before the expiration of twelve months from the day on which the claim was registered or the registration of the claim was last renewed.

(7) A mining registrar shall renew the registration of a precious stones claim upon receipt of due application for renewal in the prescribed form.

(8) If the registration of a precious stones claim is not renewed as required by this section, the claim shall lapse.

(9) Where a claim lapses under this section, land that was previously comprised in the claim shall not be again pegged out by or on behalf of the person who previously held the claim without the approval of the warden's court.

47. A precious stones claim shall confer an exclusive right upon the owner of the claim—

Rights conferred by claim.

(a) to conduct mining operations, subject to the provisions of this Act, for the recovery of precious stones within the area comprised in the claim;

and

(b) to sell or dispose of precious stones recovered in the course of such operations or to utilize any such precious stones for any commercial or industrial purpose.

48. A person shall not be entitled to prospect or mine upon a precious stones field except upon a precious stones claim that has been duly pegged out.

Prospecting and mining on an opal field.

49. Where a claim has been pegged out upon a precious stones field, a person shall not deposit or allow to be deposited soil, overburden or other material from his claim outside the boundaries of his claim, or extend an open cut beyond the boundaries of his claim, without the permission of a warden or inspector.

Disposal of waste.

Penalty: Two hundred dollars.

50. A precious stones claim shall not be pegged out upon freehold land (otherwise than by the owner of the land) unless the owner consents in writing thereto.

Precious stones claim shall not be pegged out upon freehold land.

51. No lease or licence shall be granted under this Act in respect of lands comprising, or comprised in, a precious stones field.

Lease or licence not to be granted in opal field.

PART VIII

## PART VIII

## MISCELLANEOUS PURPOSES LICENCE

Grant of  
licence.

52. (1) The Minister may grant to any person a miscellaneous purposes licence under this Part in respect of mineral lands.

(2) A licence may be granted for any of the following purposes:—

- (a) for the carrying on of any business that may conduce to the effective conduct of mining operations or provide amenities for persons engaged in the conduct of mining operations;
  - (b) for establishing and operating plant for treatment of ore recovered in the course of mining operations;
  - (c) for drainage from a mine;
  - (d) for the disposal of overburden or any waste product produced in the course of mining operations;
- or
- (e) for any other purpose ancillary to the conduct of mining operations.

(3) A miscellaneous purpose licence may be granted upon such terms and conditions as may be determined upon by the Minister and specified in the licence.

(4) The Minister shall in determining the terms and conditions subject to which a licence is to be granted under this Part give proper consideration to the protection of—

- (a) the natural beauty of the area in respect of which the licence is to be granted;
  - (b) the flora and fauna for which that area, or any portion thereof, is a natural environment or habitat;
  - (c) any geological or physiographical features of the area that are of special interest;
- and
- (d) any buildings or other objects of architectural or historical interest,

and the terms and conditions must be such as, in the opinion of the Minister, afford adequate protection against detriment resulting from the conduct of any operations in pursuance of the licence.

Application  
for licence.

53. (1) An application for a miscellaneous purposes licence must be in the prescribed form and accompanied by the prescribed fee.

(2) A copy of the application must be served upon the owner of the land in respect of which the licence is sought, or in the case of Crown Lands, upon the Minister of Lands.



(3) Objections to the grant of a miscellaneous purposes licence may be made in writing to the Minister by or on behalf of the owner of the land in respect of which the licence is sought, or in the case of Crown lands, by or on behalf of the Minister of Lands.

(4) A miscellaneous purposes licence shall not be granted in respect of Crown lands except upon terms and conditions approved by the Minister of Lands.

(5) In this section "Crown lands" includes lands in respect of which a licence may be granted under Part XIV of the Crown Lands Act, 1929-1971.

54. The owner of any land in respect of which a miscellaneous purposes licence is granted shall be entitled to such compensation as may be mutually agreed upon by the owner and the licensee or as may, in the event of a dispute, be determined, upon the application of any interested person by the Land and Valuation Court.

Compensation  
in respect of  
grant of  
licence.

55. (1) A miscellaneous purposes licence may be granted for such term, not exceeding twenty-one years as may be determined upon by the Minister and specified in the licence.

Term of  
licence.

(2) The holder of a miscellaneous purposes licence shall, if he has complied with the provisions of this Act and the terms and conditions of the licence, be entitled, at the expiration of the term of the licence, to the renewal of the licence for a further term.

(3) Where a person who is entitled to the renewal of a miscellaneous purposes licence under this section makes due application for the renewal of the licence within three months before the date of its expiry, the Minister shall renew the licence for a term, not exceeding twenty-one years, determined by the Minister.

56. The Minister may suspend or cancel a miscellaneous purposes licence if the licensee contravenes or fails to comply with any term or condition of the licence or any provision of this Act.

Suspension and  
cancellation  
of licence.

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## PART IX

## PART IX

### ENTRY UPON LAND, COMPENSATION AND RESTORATION

57. Subject to this Part, a person who is duly authorized to prospect or mine for minerals under this Act, shall be entitled to enter upon any mineral land (except exempt land) for the purpose of exercising the rights conferred on him under this Act.

Entry upon  
lands.

**PART IX**Notice of  
entry.

58. (1) A mining operator must, at least twenty-one days before first entering upon any land to which this section applies for the purposes of prospecting or mining, serve personally or by post upon the owner of the land written notice, in the prescribed form, of his intention to enter upon the land describing the operations that he proposes to carry out upon the land.

(2) The form in which notice is given under subsection (1) of this section must contain a statement of the owner's rights of objection and compensation under this Act.

(3) The owner may at any time within six months after the service of a notice under subsection (1) of this section, by notice in writing lodged with the warden's court object—

(a) to entry upon his land by the mining operator;

or

(b) to the use, or the unconditional use, of his land, or any portion thereof, for the purpose of mining operations.

(4) A copy of a notice of objection under subsection (3) of this section must within seven days after lodgment with the warden's court be served upon the mining operator.

(5) Subject to subsection (6) of this section, the warden's court may upon the hearing of an objection under this section—

(a) determine that the land to which the objection relates, or any part thereof, should not be entered or used for the purpose of mining operations;

or

(b) determine upon what conditions the land may be entered and operations effectively conducted with least detriment to the interests of the owner and least injury to the land.

(6) In any proceedings under this section, the objector must establish that the conduct of mining operations upon the land would be likely to result in substantial hardship.

(7) If a mining operator contravenes or fails to comply with a determination, or any condition contained in a determination under this section, he shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

(8) The land to which this section applies is—

(a) freehold land;

and

(b) land held pursuant to a perpetual lease under the Crown Lands Act, 1929-1971.

59. (1) A mining operator shall not use declared equipment in the course of mining operations except upon a registered claim or upon land subject to a lease or licence granted under this Act. Use of declared equipment.

Penalty: One thousand dollars.

(2) A mining operator shall at least twenty-one days before he uses declared equipment upon land serve personally or by post upon the owner of the land written notice, in the prescribed form, of his intention to use declared equipment in the course of mining operations on the land.

(3) The owner may at any time within three months after the service of a notice under subsection (2) of this section by notice in writing lodged with the warden's court, object to the use, or the unconditional use, of declared equipment upon his land.

(4) A copy of a notice of objection under subsection (3) of this section must within seven days after lodgment with the warden's court be served upon the mining operator.

(5) Subject to subsection (6) of this section, the warden's court may upon the hearing of an objection under this section—

(a) determine that declared equipment should not be used in the course of mining operations upon the land to which the objection relates or any part thereof;

or

(b) determine upon what conditions declared equipment may be used upon the land with least detriment to the interests of the owner and least injury to the land.

(6) In any proceedings under this section, the objector must establish that the use of declared equipment upon the land would be likely to result in severe or unjustified hardship.

(7) If a mining operator—

(a) uses declared equipment upon land without prior service of a notice as required by subsection (2) of this section;

or

(b) fails to comply with a determination, or any condition contained in a determination under this section,

he shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

(8) This section shall not apply in respect of a precious stones field.

**PART IX**  
Restoration  
of land.

60. (1) Where a mining operator uses declared equipment in the course of mining operations, an inspector may direct him in writing to restore the ground disturbed by those operations to a condition that is, in the opinion of the inspector, satisfactory.

(2) A mining operator shall comply with any direction under subsection (1) of this section.

Penalty: Five hundred dollars.

(3) The warden's court may order that no further claim shall be pegged out by a person named in the order until he has complied with a direction under subsection (1) of this section.

(4) Where an order has been made under subsection (3) of this section, the person named in the order shall not be entitled to peg out any claim until he has complied with the direction or the order has been revoked.

(5) The powers conferred upon an inspector under this section are not exercisable in respect of land subject to a developmental programme under the regulations made pursuant to the Mines and Works Inspection Act, 1920-1970.

Compensation.

61. (1) The owner of any land upon which mining operations are carried out in pursuance of this Act shall be entitled to receive compensation for any financial loss hardship and inconvenience suffered by him in consequence of mining operations.

(2) In determining the compensation payable under this section, the following matters shall be considered:

(a) any damage caused to the land by the mining operator;

(b) any loss of productivity or profits as a result of the mining operations;

and

(c) any other relevant matters.

(3) The amount of the compensation shall be an amount determined by agreement between the owner and the mining operator, or in default of agreement an amount determined, upon application by an interested party, by the Land and Valuation Court.

(4) The Land and Valuation Court, in determining compensation under this section, shall take into consideration any works that the mining operator has carried out, or undertakes to carry out, to rehabilitate the land.

(5) Upon the hearing of an application for compensation under this section, the Land and Valuation Court may order a mining operator to carry out such works to rehabilitate the land as the Court thinks fit.

62. (1) The Minister may by notice in writing served upon the holder of a mining tenement require him to enter into a bond in such sum, and subject to such terms and conditions as ensure, in the opinion of the Minister, that any civil or statutory liability likely to be incurred by that person in the course of mining operations conducted under this Act will be satisfied. Bond.

(2) The Minister may require the holder of the mining tenement to give such security for the satisfaction of the bond as the Minister thinks fit.

(3) If the holder of a mining tenement fails to comply with a requirement under this section, the Minister may by instrument in writing, prohibit mining operations in the area of the mining tenement.

(4) If a person conducts mining operations in contravention of a prohibition under subsection (3) of this section, he shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

(5) Where the Minister holds or is entitled to any moneys under a bond entered into by a mining operator, the Minister may, in his discretion, expend any portion of those moneys in compensating any person who has suffered, or is likely to suffer, financial loss as a result of mining operations carried out by that mining operator, or in rehabilitating any land disturbed by any such operations.

(6) No action shall lie against the Minister in respect of the expenditure of moneys under this section.

63. (1) The Minister shall establish a fund entitled the "Extractive Areas Rehabilitation Fund".

Extractive  
Areas  
Rehabilitation  
Fund.

(2) The Minister shall pay into the fund all amounts received or recovered by him by way of royalty upon extractive minerals.

(3) The Minister may expend any portion of the fund for any of the following purposes:—

- (a) the rehabilitation of any land disturbed by mining operations for the recovery of extractive minerals;
- (b) the implementation of measures designed to prevent, or limit, damage to, or impairment of, any aspect of the environment by mining operations for the recovery of extractive minerals;

and

PART IX

- (c) the promotion of research into methods of mining engineering and practice by which environmental damage or impairment resulting from mining operations for the recovery of extractive minerals may be reduced.

PART X

## PART X

## WARDEN'S COURT AND FORFEITURE OF MINING TENEMENTS

Establishment  
of warden's  
court.

**64.** (1) There shall be a court entitled the "Warden's Court".

(2) The jurisdiction of the warden's court shall be exercisable by any warden.

(3) The warden's court may sit at such times and places as may be determined by a warden exercising the jurisdiction of the court and the jurisdiction of the warden's court may be exercised by a warden notwithstanding that any other warden is simultaneously exercising the jurisdiction of the court in any other matter.

Powers, etc.  
of court.

**65.** (1) In any matters within the jurisdiction of the warden's court, the court shall have the powers and authorities of a court of summary jurisdiction under the Justices Act, 1921, as amended.

(2) The warden's court shall have power to issue injunctions.

(3) An appeal shall lie against any judgment or order of the warden's court to the Land and Valuation Court.

(4) Subject to any rules of the Supreme Court, the practice and procedure relating to an appeal from a judgment or order of the warden's court shall conform as nearly as practicable to the practice and procedure appropriate to an appeal under the Justices Act, 1921, as amended.

Rules of  
warden's  
court.

**66.** (1) The Governor may make rules respecting the practice and procedure of the warden's court.

(2) The rules may provide for the enforcement of judgments and orders of the warden's court and, in particular, may provide that appropriate provisions of the Justices Act, 1921-1969, and of the Local and District Criminal Courts Act, 1926-1969, shall apply with such modifications as may be necessary or desirable, and specified in the rules, in respect of judgments and orders of the warden's court.

## PART X

67. (1) The warden's court shall have jurisdiction to determine all suits concerning any right claimed in, under or in relation to any mining tenement or purported mining tenement or any miner's right or precious stones prospecting permit.

Jurisdiction to hear disputes relating to mining tenements.

(2) The warden's court shall have jurisdiction in any matter in which it is invested with jurisdiction by regulation.

68. (1) The warden's court may upon the application of the Director of Mines make an order cancelling a miner's right or a precious stones prospecting permit and prohibiting the person by whom the miner's right or precious stones prospecting permit was held from holding or obtaining a miner's right or precious stones prospecting permit for a period specified in the order, or until the further order of the warden's court.

Cancellation of miner's right or precious stones prospecting permit.

(2) An order shall not be made under subsection (1) of this section unless the warden's court is satisfied that the holder of the miner's right or precious stones prospecting permit has contravened or failed to comply with the provisions of this Act or of any other Act regulating mining operations and the matter is of sufficient gravity to justify the making of the order.

69. (1) The warden's court may upon application by any interested person make an order for the forfeiture of any mineral claim or precious stones claim.

Forfeiture of claim.

(2) An order shall not be made under subsection (1) of this section unless the court is satisfied that the requirements of this Act in relation to the claim have not been complied with in a material respect and that the matter is of sufficient gravity to justify the forfeiture of the claim.

(3) Where an order for the forfeiture of a claim is made under this section, the person upon whose application the order was made shall have for a period of fourteen days after the date of the order, a preferential right to peg out a claim of the same class as the forfeited claim upon the land comprised in the forfeited claim.

(4) For the purposes of this section, an "interested person" means where the forfeiture of a mineral claim is sought, the holder of a miner's right or, where the forfeiture of a precious stones claim is sought, the holder of a precious stones prospecting permit.

70. (1) The warden's court may, upon application by any interested person, adjudge that a lease under this Act is liable to forfeiture and recommend to the Minister that the lease be forfeited.

Forfeiture of leases.

**PART X**

(2) A recommendation shall not be made under subsection (1) of this section unless the court is satisfied that the requirements of this Act in relation to the lease have not been complied with in a material particular and that the matter is of sufficient gravity to justify the forfeiture of the lease.

(3) Where the warden's court has recommended the forfeiture of a lease under this section, the Minister may by notice published in the *Gazette* forfeit the lease and thereupon the person upon whose application the warden's court recommended forfeiture of the lease shall upon compliance with such of the requirements appropriate to an applicant for such a lease as the Minister thinks fit to impose be entitled to a lease over the land in respect of which the forfeited lease was granted.

(4) A right to a lease arising upon forfeiture under subsection (3) of this section shall lapse unless the person upon whose application the warden's court recommended forfeiture of the lease, makes due application for the lease within fourteen days of the forfeiture.

(5) For the purposes of this section an "interested person" means the holder of a miner's right.

**PART XI****PART XI****ENCOURAGEMENT OF MINING**

Minister may assist in conduct of mining operations.

71. (1) The Minister may assist in the conduct of mining operations by the loan of mining equipment or of moneys to be expended in advancing mining operations.

(2) Assistance may be provided upon such terms and conditions as may be determined by the Minister but any moneys advanced under subsection (1) of this section shall become a debt due to the Crown to be repaid in such manner as the Minister may direct.

Research and investigation.

72. The Minister may—

- (a) conduct research and investigation into problems relating to mining operations or the treatment of ores recovered in the course of mining operations;
- (b) stipulate and recover charges for any such research or investigation conducted at the request of any person;
- and
- (c) pay the cost of any such research or investigation out of moneys provided by Parliament for the purpose.

Acquisition of mining equipment.

73. The Minister may, out of moneys provided by Parliament, acquire mining equipment for the purposes of this Part.



## PART XII

PART XII

## MISCELLANEOUS

74. A person who—

(a) prospects or mines upon mineral lands;

or

(b) sells or disposes of minerals recovered by him in the course of mining operations upon mineral lands or utilizes any such minerals for a commercial or industrial purpose,

without being duly authorized by or under this Act shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars or imprisonment for two years.

Penalty for  
illegal mining,  
etc.

75. (1) No claim or lease shall be pegged out or granted after the commencement of this Act in respect of extractive minerals upon freehold land except—

Provision  
relating to  
certain  
minerals.

(a) by or to the person who owns an estate of fee simple in the land, or where mineral rights in the land were, immediately before the commencement of this Act separately vested in some other person, that person;

(b) by or to a person who held rights in respect of the land under the repealed Act immediately before the commencement of this Act, and whose rights are preserved (with or without modification) pursuant to the provisions of this Act;

or

(c) in the case of a lease, to a person who held a claim in respect of such minerals under the repealed Act immediately before the commencement of this Act.

(2) No mining tenement shall be required under this Act for the recovery of extractive minerals by any person for his own personal requirements.

76. (1) The holder of a mining tenement (except a precious stones claim) must furnish the Director of Mines in the months of January and July in each year with a return in the prescribed form containing the prescribed information in relation to the conduct of mining operations and the minerals recovered in the course of such operations during the period of six months last preceding the commencement of the month in which the return must be furnished.

Returns.

(2) A person who fails to comply with this section or who furnishes a return that is false or misleading in any material particular shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

## PART XII

(3) The Director upon application by the holder of a mining tenement or of his own motion may extend the time within which a return must be furnished under this section.

Records and samples to be kept.

77. (1) The holder of a mining tenement (except a precious stones claim) shall keep such records and such geological samples as may be prescribed or as the Director of Mines may by notice served upon the holder of the mining tenement require.

(2) The holder of a mining tenement shall make any records and geological samples kept under subsection (1) of this section available for inspection at the request of the Director of Mines or any person acting under his written authority.

Penalty: Five hundred dollars.

Provision as to infants.

78. (1) No person under the age of sixteen years shall be competent to hold a miner's right, precious stones prospecting permit or mining tenement.

(2) The obligations imposed by or under this Act shall be binding on a minor of or above the age of sixteen years who holds a miner's right, precious stones prospecting permit or mining tenement.

Minister may remit obligations of lease or licence.

79. Where the Minister is satisfied that circumstances exist that justify him in so doing he may exempt the holder of a lease or licence under this Act from the obligation to comply with any condition of the lease or licence.

Conditions under which land may be subject to more than one tenement.

80. (1) Subject to subsection (2) of this section, land shall not be simultaneously subject to more than one mining tenement under this Act.

(2) Where land is subject to a mining tenement, a further claim or lease may, with the consent of the holder of that mining tenement, or the approval of the warden's court, be pegged out or granted in respect of any portion of the land comprised in the prior tenement, and the rights conferred by the respective tenements shall then be modified according to the agreement of the parties, or the order of the warden's court, as the case may require.

(3) The warden's court shall not approve the pegging of a claim or the granting of a lease under subsection (2) of this section unless it is satisfied that the rights of the holder of the prior tenement would not be materially diminished by the granting of such an approval.

This Act not to affect Pastoral Act or Local Government Act.

81. This Act does not derogate from any provision of the Pastoral Act, 1936-1970, or the Local Government Act, 1934-1971 relating to the conduct of mining operations.

82. The Minister may, upon receipt of an application in the prescribed form by the holder of a lease or licence under this Act, consent to the surrender of the lease or licence.

Surrender of  
lease or  
licence.

83. (1) Subject to subsection (2) of this section, a lease or licence under this Act or any interest therein shall not be assigned, transferred, sublet, or made the subject of any trust or other dealing, whether directly or indirectly, without the consent in writing of the Minister, and any such transaction entered into without such consent shall be void.

Dealing with  
licences.

(2) A lease or licence or an interest therein may be charged without the consent of the Minister, but any assignment or transfer of the licence or interest for the purpose of enforcing the charge shall not be made except with the consent of the Minister, and if made without his consent, shall be void.

(3) The Minister may, before consenting to a transaction subject to the provisions of this section, require the parties to the transaction to furnish him with such information in relation thereto as he may require.

(4) An application for the consent of the Minister under this section shall be accompanied by the prescribed fee.

84. Where the Minister is satisfied upon application by the holder of a lease or licence under this Act that the copy of the lease or licence to the possession of which that person is entitled has been lost or destroyed, he may issue, at the expense of the applicant, a duplicate copy of the lease or licence.

Duplicate.

85. A lease or licence shall be liable to forfeiture if any sum payable to the Minister by the holder of the lease or licence is not paid within three months after the day on which it fell due.

Non-payment  
of moneys  
due to Crown.

86. (1) The owner of any machinery or other goods upon the area of a lease or claim that has been forfeited or surrendered, may at any time within the period of three months after the date of the forfeiture or surrender, enter and remove the machinery or other goods from that area.

Removal of  
machinery, etc.

(2) The Chief Inspector may cause any machinery or other goods that have been abandoned in the area of a lease or claim that has been forfeited or surrendered to be sold.

(3) The proceeds from any sale under subsection (2) of this section shall be paid to the Treasurer who shall upon the receipt of due application by the person by whom the machinery or other goods were abandoned, pay those moneys to that person.

(4) If any moneys derived from the sale of machinery or other goods under this section are not claimed within two years of the date of the sale, they shall be forfeited to the Crown.

Obligations  
in respect of  
take-over of  
corporations.

87. (1) A corporation shall not, without the consent of the Minister, enter into any contract or agreement by virtue of which any other corporation that holds a lease or licence under this Act becomes a subsidiary of that corporation within the meaning of section 6 of the Companies Act, 1962-1970.

(2) A corporation that holds a lease or licence under this Act shall not, without the consent of the Minister, enter into any contract or agreement by virtue of which it becomes a subsidiary of another corporation within the meaning of section 6 of the Companies Act, 1962-1970.

(3) Any such contract or agreement entered into without the consent of the Minister shall be void and of no effect.

(4) A corporation that is a subsidiary of any other corporation within the meaning of section 6 of the Companies Act, 1962-1970, shall, in applying for a lease or licence under this Act, lodge with its application a written notice of the fact addressed to the Director and shall supply him with such information in relation to the corporation of which it is a subsidiary as the Director may require.

Penalty: Two hundred dollars.

Obstruction,  
etc., of  
officers  
exercising  
powers under  
this Act.

88. Any person shall not wilfully obstruct or impede any officer appointed under this Act in the execution of his duty.

Penalty: Five hundred dollars or imprisonment for six months

Obstruction,  
etc., of person  
authorized to  
mine under  
this Act.

89. A person shall not, without lawful excuse obstruct or hinder the holder of a miner's right, a precious stones prospecting permit, or a mining tenement under this Act in the reasonable exercise of rights conferred on him under this Act.

Penalty: Two hundred dollars.

Evidentiary  
provision.

90. (1) In any proceedings for an offence against this Act, an allegation in the complaint that any lands referred to therein are mineral lands or lands exempt from operations in pursuance of this Act shall be deemed to be proved in the absence of evidence to the contrary.

(2) In any proceedings a document purporting to be a miner's right, precious stones prospecting permit, lease or licence under this Act shall be accepted as such in the absence of evidence to the contrary.

91. Proceedings in respect of offences under this Act shall be disposed of summarily. Proceedings.

92. The Governor may make such regulations as are contemplated by this Act, or as he deems necessary or expedient for the purposes of this Act, and without limiting the generality of the foregoing, those regulations may— Regulations.

- (a) regulate and control the issue of miner's rights, precious stones prospecting permits, leases and licences under this Act;
- (b) provide for the maintenance and inspection of registers;
- (c) regulate, restrict or prohibit operations of any kind upon mining tenements or mining tenements relating to land within an area specified in the regulations;
- (d) declare equipment of any kind to be declared equipment for the purposes of this Act;
- (e) prescribing any matters in relation to the nature or size of any kind of mining tenement the incidents attaching thereto and the obligations entailed by ownership thereof;
- (f) require that a mining tenement be worked with proper diligence in conformity with the requirements of the regulations as to the number of men and the nature of the machinery to be employed in working the mining tenement and such other matters as may be required in the regulations;
- (g) provide for the amalgamation, in accordance with the regulations, of two or more mining tenements, or the conditions affecting two or more mining tenements, so that the mining tenements may be worked as if they together constituted a single mining tenement;
- (h) provide for and control the drainage of mines and the disposal of waste products from mines;
- (i) provide for the protection of land upon which mining operations are conducted and require the restoration, to the satisfaction of an inspector, of land disturbed by mining operations;
- (j) require that machinery and structures used in the course of mining operations should conform to standards of safety stipulated in the regulations;

PART XII

- (k) restrict or prohibit mining operations that may cause nuisance or inconvenience to persons in the vicinity of the mining operations;
  - (l) restrict or prohibit mining operations that may result in the pollution of any water course or water supply or any natural amenities;
  - (m) regulate the expenditure of moneys from the Extractive Areas Rehabilitation Fund;
  - (n) prescribe and regulate the performance of the duties of inspectors, mining registrars and other officers appointed under this Act;
  - (o) prescribe and provide for the payment of any fee for the purposes of this Act;
  - (p) prescribe any form for the purposes of this Act;
- and
- (q) prescribe a penalty, recoverable summarily, not exceeding one thousand dollars for breach of, or non-compliance with, any regulation.
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**THE SCHEDULE****PART I**

Mining Act, 1930.  
Mining Act Amendment Act, 1941.  
Mining Act Amendment Act, 1945.  
Mining Act Amendment Act, 1946.  
Mining Act Amendment Act, 1950.  
Mining Act Amendment Act, 1951.  
Mining Act Amendment Act, 1953.  
Mining Act Amendment Act, 1955.  
Mining Act Amendment Act, 1958.  
Mining Act Amendment Act, 1962.

**PART II**

Crown Lands Act, 1929-1969 ..... By striking out sections 7a, 8 and 56  
Petroleum Act, 1940-1969 ..... By striking out section 2 and the Schedule

**In the name and on behalf of Her Majesty, I hereby assent  
to this Bill.**

**M. L. OLIPHANT, Governor**