



ANNO TRICESIMO

**ELIZABETHAE II REGINAE**

A.D. 1981

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**No. 71 of 1981****An Act to amend the Mining Act, 1971-1978.***[Assented to 5 November 1981]*

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

Short titles.

1. (1) This Act may be cited as the "Mining Act Amendment Act, 1981".
- (2) The Mining Act, 1971-1978, is in this Act referred to as "the principal Act".
- (3) The principal Act, as amended by this Act, may be cited as the "Mining Act, 1971-1981".

Commence-  
ment.

2. (1) This Act shall come into operation on a day to be fixed by proclamation.
- (2) The Governor may, in a proclamation for the purposes of subsection (1), suspend the operation of any specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Amendment of  
s. 4—  
Arrangement  
of Act.

3. Section 4 of the principal Act is amended—

- (a) by inserting after the item:

PART IX—ENTRY UPON LAND, COMPENSATION  
AND RESTORATION

the item:

PART IXA—ACCESS TO SUB-SURFACE STRATA.;

and

- (b) by striking out the item:

PART XI—ENCOURAGEMENT OF MINING

and substituting the items:

PART XI—ASSISTANCE TO MINING

PART XIA—CAVEATS.

## 4. Section 6 of the principal Act is amended—

Amendment of  
s. 6—  
Interpretation.

- (a) by inserting after the definition of “declared equipment” the following definitions:

“exempt land” means land that is exempt from mining operations under section 9:

“exploring” means operations of any kind in the course of—

- (a) exploring for minerals;

or

(b) establishing the extent of a mineral deposit, and includes prospecting; and “to explore” and “exploratory” have corresponding meanings;

- (b) by striking out the definition of “fossicking” and substituting the following definition:

“fossicking” means the gathering of minerals—

- (a) as a recreation;

and

(b) without any intention to sell the minerals or to utilize them for a commercial or industrial purpose,

but does not include the gathering of minerals by any means involving disturbance of land or water by machinery or explosives;

- (c) by inserting after the definition of “inspector” the following definition:

“machinery” means any device operated otherwise than by muscular force exerted by the operator;

- (d) by striking out from paragraph (a) of the definition of “minerals” the word “coal” and substituting the passage “coal, oil shale,”;

- (e) by inserting in the definition of “mining” and “mining operations” after the word “prospecting” the word “, exploring”;

- (f) by striking out the definition of “precious stones field” and substituting the following definition:

“precious stones field” means mineral lands declared by proclamation under this Act to be a precious stones field, but where those mineral lands have been divided into strata under this Act, the precious stones field consists only of the surface stratum;

- (g) by striking out the definition of “prospecting” and “to prospect” and substituting the following definition:

“prospecting” means operations of any kind in the course of exploring for minerals except such as involve the disturbance of land or water by machinery or explosives; and “to prospect” has a corresponding meaning;

(h) by inserting after the definition of "registrar" the following definitions:

"sub-surface stratum" means a stratum resulting from the division of mineral lands into strata under this Act, being a stratum that lies beneath a surface stratum:

"surface stratum" means a stratum resulting from the division of mineral lands into strata under this Act, being a stratum of which the upper surface is the surface of those lands;;

and

(i) by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsection:

(2) Where mineral lands are divided into strata under this Act, a reference to lands, or an area, shall, where appropriate, be construed as a reference to the surface stratum or a sub-surface stratum as the case may require.

Amendment of  
s. 7—  
Application of  
Act.

5. Section 7 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) This Act does not regulate quarrying or other mining operations relating to extractive minerals conducted by the Commissioner of Highways or a council, or require payment of a royalty in respect of extractive minerals recovered in the course of quarrying or other mining operations so conducted.

Amendment of  
s. 8—  
Declaration of  
mineral lands,  
precious stones  
fields, etc.

6. Section 8 of the principal Act is amended—

(a) by striking out paragraph (ba) of subsection (1) and substituting the following paragraph:

(ba) divide mineral lands into a surface stratum and one or more sub-surface strata and fix the depth of the surface stratum and the depth of any sub-surface stratum below which lies any further sub-surface stratum resulting from the division;;

and

(b) by inserting after subsection (2) the following subsection:

(3) The depth of strata into which mineral lands are divided under this section may vary from place to place but where those mineral lands constitute a precious stones field, or part of a precious stones field, the depth of the surface stratum must be at least 50 metres.

Amendment of  
s. 9—  
Exempt lands.

7. Section 9 of the principal Act is amended by striking out subsection (3) and substituting the following subsections:

(3) Where—

(a) the owner of exempt land, by agreement with a person who seeks to carry out mining operations on the land, waives the exemption;

or

(b) the Land and Valuation Court, on the application of a person who seeks to carry out mining operations on exempt land, determines that the exemption should cease,

the land shall cease to be exempt land but the exemption shall revive upon completion of the mining operations in respect of which the agreement or determination was made or at such earlier time as may be stipulated in that agreement or determination.

(3a) An agreement or determination under subsection (3) may be made upon such terms and conditions as the parties, or the Court, thinks fit.

**8. Section 10a of the principal Act is amended—**

(a) by striking out from subsection (1) the passage “(other than prospecting)” and substituting the passage “(other than exploratory operations)”;

and

(b) by striking out from subsection (1) the passage “mining lease” and substituting the passage “mining lease or retention lease”.

Amendment of  
s. 10a—  
Special  
conditions  
attaching to  
mining of  
radio-active  
minerals.

**9. Section 17 of the principal Act is amended—**

(a) by striking out from subsection (4) the passage “the value of the minerals immediately upon recovery from the earth” and substituting the passage “the amount that could reasonably be expected to be realized upon sale of the minerals assuming that any processing that would normally be carried out by the mining operator were in fact carried out by him or at his expense and the minerals were delivered to a purchaser at the expense of the mining operator at the nearest port within the State.;

and

(b) by inserting after subsection (10) the following subsection:

(11) The Minister may, upon the application of a person liable to pay royalty, having regard to the effect that payment of royalty as required by this section would be likely to have on the viability or profitability of mining operations or related processing operations carried on by that person, waive payment of royalty, or reduce the rate at which royalty is payable, on minerals recovered in the course of those operations.

Amendment of  
s. 17—  
Royalty.

**10. Section 20 of the principal Act is amended by inserting after subsection (5) the following subsection:**

(6) A miner's right may, subject to this Act and in accordance with the regulations, be surrendered.

Amendment of  
s. 20—  
Issue, transfer,  
surrender, etc.,  
of miner's right.

**11. Section 22 of the principal Act is amended—**

(a) by inserting after subsection (1) the following subsections:

(1a) Subject to subsection (1b), where mineral lands are divided into strata, a mineral claim may be pegged out, in accordance with the regulations, in respect of lands within either the surface stratum or a sub-surface stratum.

(1b) A mineral claim shall not be pegged out in respect of lands within a sub-surface stratum except by a person who holds an exploration licence in respect of those lands.;

and

Amendment of  
s. 22—  
Rights  
attaching to  
miner's right.

(b) by striking out subsection (3) and substituting the following subsection:

(3) A miner's right shall not authorize the pegging out of a mineral claim in respect of lands within a precious stones field, but where a precious stones field consists of the surface stratum of lands that are divided into strata, this subsection does not prevent the pegging out on the precious stones field of a claim in respect of lands within a sub-surface stratum.

Amendment of  
s. 24—  
Registration  
of claim.

12. Section 24 of the principal Act is amended—

(a) by striking out from subsection (4) the passage "A mining registrar may" and substituting the passage "Subject to subsection (4a), a mining registrar may";

and

(b) by inserting after subsection (4) the following subsection:

(4a) A mining registrar shall not exercise his power under subsection (4) to refuse to register a claim if the claim relates solely to extractive minerals.

Amendment of  
s. 25—  
Rights  
conferred by  
ownership of  
mineral claim.

13. Section 25 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) A mineral claim shall confer on the owner of the claim an exclusive right, subject to the provisions of this Act—

(a) to prospect for minerals in the lands comprised in the claim;

(b) to carry out such other exploratory operations on or in respect of the lands comprised in the claim as are approved in writing by the Director;

and

(c) to apply for a mining lease or a retention lease in respect of the whole or part of the lands comprised in the claim.

Amendment of  
s. 26—  
Mineral claim  
not  
transferable,  
etc.

14. Section 26 of the principal Act is amended—

(a) by striking out from subsection (2) the word "lease" and substituting the passage "mining lease or a retention lease";

(b) by striking out from subsection (3) the word "lease" and substituting the passage "mining lease or a retention lease";

and

(c) by inserting after subsection (3) the following subsection:

(4) A mineral claim may, subject to this Act and in accordance with the regulations, be surrendered.

Amendment of  
s. 27—  
Land not to  
be re-pegged  
where claim  
lapses, etc.

15. Section 27 of the principal Act is amended—

(a) by striking out the passage "or is abandoned" and substituting the passage "or is surrendered";

and

(b) by striking out the word "abandonment" and substituting the word "surrender".

16. Section 28 of the principal Act is amended by striking out subsections (1), (2), (3) and (4) and substituting the following subsections:

Amendment of  
s. 28—  
Grant of  
exploration  
licence.

(1) Subject to this Act, the Minister may grant an exploration licence to any person.

(2) An exploration licence shall authorize the licensee to carry out exploratory operations of a kind described in the licence in respect of lands described, or referred to, in the licence.

(3) An exploration licence shall not be granted in respect of precious stones or extractive minerals.

(4) The area of the lands in respect of which an exploration licence is granted shall not exceed 2 500 square kilometres unless in the opinion of the Minister circumstances exist that justify the grant of a licence in respect of a greater area.

(5) The Minister shall, at least twenty-eight days before he grants an exploration licence, cause notice to be published in the *Gazette* describing the lands in respect of which he proposes to grant the licence and, where the licence is to be granted in respect of a particular stratum, specifying that stratum.

17. Section 29 of the principal Act is amended—

Amendment of  
s. 29—  
Application  
for  
exploration  
licence.

(a) by striking out from paragraph (b) of subsection (2) the passage "the area" and substituting the passage "the lands";

and

(b) by striking out paragraph (c) of subsection (2) and substituting the following paragraph:

(c) a statement outlining the exploratory operations that the applicant proposes to carry out in pursuance of the licence showing the estimated expenditure to be incurred in carrying out those operations;.

18. Section 30 of the principal Act is amended—

Amendment of  
s. 30—  
Incidents of  
licence.

(a) by inserting the word "and" between paragraphs (a) and (b) of subsection (1);

(b) by striking out paragraph (c) and the word "and" immediately preceding that paragraph;

(c) by striking out paragraphs (a), (b), (c) and (d) of subsection (2) and substituting the following paragraphs:

(a) the natural beauty of any locality or place that may be affected by the conduct of operations in pursuance of the licence;

(b) flora and fauna that may be endangered or disturbed by those operations;

(c) buildings of architectural or historical interest, and features and objects of scientific or historical interest, that may be affected by those operations;.

and

- (d) by striking out from subsection (3) the passage “in consequence of the conduct of mining operations in pursuance of the licence” and substituting the passage “in consequence of loss or damage suffered by him as a result of operations conducted in pursuance of the licence”.

Insertion of  
new s. 30a.

19. The following section is inserted after section 30 of the principal Act:

Term of  
licence, etc.

30a. (1) An exploration licence shall be granted for an initial term, not exceeding two years, and that term may be extended at the discretion of the Minister from time to time but not so that the licence would remain in force for a total period exceeding five years.

(2) The Minister may, upon extending the term of an exploration licence, or with the consent of the licensee at any other time alter an exploration licence in either or both of the following ways:

- (a) by adding to, varying or revoking the conditions of the licence, or any of those conditions;
- (b) by reducing the area of the lands in respect of which the licence operates.

Amendment of  
s. 33—  
Cancellation,  
suspension,  
etc., of  
licence.

20. Section 33 of the principal Act is amended—

- (a) by striking out subsection (3);
- and
- (b) by striking out subsection (8).

Amendment of  
34—  
Grant of  
Mining lease.

21. Section 34 of the principal Act is amended—

- (a) by striking out from subsection (1) the passage “lands comprised in the claim” and substituting the passage “the whole or part of the lands comprised in the claim”;

(b) by inserting after subsection (1) the following subsections:

(1a) Where the registered mineral claim relates to a particular stratum, the lease shall, if granted, relate to the same stratum.

(1b) A mining lease shall not be granted in respect of lands within a sub-surface stratum except upon the authority of a resolution passed by both Houses of Parliament.;

(c) by striking out subsection (2) and substituting the following subsection:

(2) The Minister shall, at least twenty-eight days before he grants a mining lease, cause notice to be published in the *Gazette* describing the lands in respect of which he proposes to grant the lease and, where the lease is to be granted in respect of a particular stratum, specifying that stratum.;

(d) by striking out subsection (5) and substituting the following subsection:

(5) The maximum permissible area of the lands in respect of which a mining lease may be granted shall be as prescribed.;

and

(e) by striking out paragraphs (a), (b), (c) and (d) of subsection (6) and substituting the following paragraphs:

- (a) the natural beauty of any locality or place that may be affected by the conduct of operations in pursuance of the lease;
- (b) flora and fauna that may be endangered or disturbed by those operations;
- (c) buildings of architectural or historical interest, and objects and features of scientific or historical interest, that may be affected by those operations,.

22. Section 35 of the principal Act is amended—

Amendment of  
s. 35—  
Application  
for lease.

(a) by striking out subsection (1) and substituting the following subsection:

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

(a) a statement of—

- (i) the mining operations that the applicant proposes to carry out in pursuance of the lease;
- (ii) the measures that the applicant proposes to take to remedy damage to land that may result from the proposed mining operations;

and

(iii) such other information as is prescribed

and

(b) the prescribed fee.;

and

(b) by inserting after subsection (2) the following subsection:

(3) The Minister shall not grant a mining lease unless he is satisfied that there is a reasonable prospect that the lands in respect of which the lease is sought could be effectively and efficiently mined.

23. The following section is inserted after section 35 of the principal Act:

Insertion of  
new s. 35a.

35a. (1) The Minister shall, within fourteen days after receiving an application for a mining lease, send a copy of the application to the owner of the land to which the application relates and invite him to submit written representations on the application to the Minister within a time fixed in the invitation.

Representations  
in relation  
to grant  
of lease.

(2) Where application is made for a mining lease in respect of lands within the area of a council, the Minister shall within fourteen days after receiving the application send a copy of the application to the council and invite it to submit written representations on the application to the Minister within a time fixed in the invitation.



(3) In determining whether to grant or refuse an application for a mining lease and, if so, the terms and conditions on which it should be granted, the Minister shall have regard to any representations made in response to an invitation under this section.

Amendment of  
s. 38—  
Term and  
renewal of  
mining lease.

24. Section 38 of the principal Act is amended by striking out from subsection (2) the passage "The holder of a mining lease" and substituting the passage "Subject to the terms and conditions of a mining lease, the holder of the lease".

Amendment of  
s. 39—  
Rights  
conferred  
by lease.

25. Section 39 of the principal Act is amended by striking out from paragraph (a) the passage "upon the area comprised in the lease" and substituting the passage "for the recovery of minerals from the lands comprised in the lease".

Repeal of  
s. 41.

26. Section 41 of the principal Act is repealed.

Amendment of  
s. 41a—  
Grant of  
retention  
leases.

27. Section 41a of the principal Act is amended—

(a) by striking out from subsection (1) the passage "lands comprised in the claim" and substituting the passage "the whole or part of the lands comprised in the claim";

(b) by inserting after subsection (1) the following subsection:

(1a) Where the registered mineral claim relates to a particular stratum, the lease shall, if granted, relate to the same stratum.;

and

(c) by striking out paragraphs (a), (b), (c) and (d) of subsection (5) and substituting the following paragraphs:

(a) the natural beauty of any locality or place that may be affected by the conduct of operations in pursuance of the lease;

(b) flora and fauna that may be endangered or disturbed by those operations;

(c) buildings of architectural or historical interest and objects and features of scientific or historical interest, that may be affected by those operations.;

Repeal of  
s. 41d and  
substitution  
of new section.

28. Section 41d of the principal Act is repealed and the following section is substituted:

Term and  
renewal of  
retention  
lease.

41d. (1) A retention lease shall be granted for a term, not exceeding five years, specified in the lease.

(2) The holder of a retention lease may, not later than three months before the expiration of the term of the lease, apply, in the prescribed manner and form, to the Minister for the renewal of the lease.

(3) If the applicant has complied with this Act and with the terms and conditions to which the lease is subject, the Minister may renew the lease for a further term, not exceeding five years, on such terms and conditions as he thinks fit.

**29.** Section 41f of the principal Act is repealed and the following section is substituted:

Repeal of s. 41f and substitution of new section.

**41f.** A retention lease shall—

Rights conferred by lease.

(a) confer an exclusive right upon the holder of the lease to prospect for minerals in the lands comprised in the lease;

(b) confer on the holder of the lease such other rights to conduct mining operations in respect of the lands comprised in the lease as may be stipulated in the lease;

and

(c) confer on the holder of the lease an exclusive right to apply for a mining lease in respect of the lands comprised in the lease.

**30.** Section 42 of the principal Act is amended—

Amendment of s. 42—

(a) by inserting in subsection (1) after the passage “any person” the passage “(not being a body corporate)”;

Issue of precious stones prospecting permit.

and

(b) by inserting after subsection (5) the following subsection:

(6) A precious stones prospecting permit may, subject to this Act and in accordance with the regulations, be surrendered.

**31.** Section 43 of the principal Act is amended—

Amendment of s. 43—

(a) by striking out from subsection (2) the passage “A mining registrar” and substituting the passage “Subject to subsection (3), a mining registrar”;

Term of and renewal of permit.

(b) by striking out from subsection (2) the passage “a precious stones permit” and substituting the passage “a precious stones prospecting permit”;

and

(c) by inserting after subsection (2) the following subsection:

(3) A precious stones prospecting permit issued to a body corporate before the commencement of the Mining Act Amendment Act, 1981, shall not be renewed.

**32.** Section 44 of the principal Act is amended—

Amendment of s. 44—

(a) by inserting after subsection (2) the following subsection:

Rights of holder of permit.

(2a) Notice of the pegging of a precious stones claim must be given in accordance with the regulations and if such notice is not given the claim shall lapse.;

and

(b) by inserting after subsection (6) the following subsection:

(7) A precious stones claim is not transferable.

Amendment of  
s. 46—  
Registration  
of claim.

**33. Section 46 of the principal Act is amended—**

(a) by striking out from subsection (1) the word “thirty” and substituting the word “fourteen”;

and

(b) by inserting after subsection (1) the following subsection:

(2) The office at which an application under subsection (1) is to be lodged shall be determined in accordance with the regulations.

Amendment of  
s. 47—  
Rights  
conferred by  
claim.

**34. Section 47 of the principal Act is amended by striking out from paragraph (a) the passage “within the area comprised in the claim” and substituting the passage “from the lands comprised in the claim”.**

Repeal of  
s. 48.

**35. Section 48 of the principal Act is repealed.**

Amendment of  
s. 51—  
Lease or  
licence not  
to be granted  
in respect of  
precious  
stones field.

**36. Section 51 of the principal Act is amended by striking out subsections (2) and (3).**

Amendment of  
s. 52—  
Grant of  
licence.

**37. Section 52 of the principal Act is amended by striking out paragraphs (a), (b), (c) and (d) of subsection (4) and substituting the following paragraphs:**

(a) the natural beauty of any locality or place that may be affected by the conduct of operations in pursuance of the licence;

(b) flora and fauna that may be endangered or disturbed by those operations;

(c) buildings of architectural or historical interest, and objects and features of scientific or historical interest, that may be affected by those operations,.

Amendment of  
s. 57—  
Entry upon  
land.

**38. Section 57 of the principal Act is amended by inserting after the passage “authorized to prospect” the word “, explore”.**

Amendment of  
s. 58—  
Notice of  
entry.

**39. Section 58 of the principal Act is amended—**

(a) by inserting in subsection (1) after the passage “for the purposes of prospecting” the word “, exploring”;

(b) by striking out from subsection (3) the passage “six months” and substituting the passage “three months”;

(c) by striking out subsection (4) and substituting the following subsection:

(4) The court shall cause a copy of a notice of objection under subsection (3) to be sent to the mining operator.;

(d) by inserting in paragraph (a) of subsection (5) after the passage “should not be entered or used” the passage “by the mining operator”;

and

- (e) by inserting in paragraph (b) of subsection (5) after the passage “operations effectively conducted” the passage “by the mining operator”.

**40.** The following section is inserted after section 58 of the principal Act: Insertion of new s. 58a.

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

(2) Where a mining operator enters land and purports to peg a claim without having given notice as required by this section, the claim is invalid.

(3) This section applies to all land except—

- (a) freehold land;
- (b) land held of the Crown pursuant to a perpetual lease or an agreement to purchase;
- (c) land comprised in a precious stones field.

**41.** Section 59 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “A mining operator” and substituting the passage “Subject to this section, a mining operator”;

(b) by striking out paragraph (b) of subsection (1) and substituting the following paragraph:

(b) upon land comprised in a registered precious stones claim or registered access claim within a precious stones field;;

(c) by inserting after subsection (1a) the following subsection:

(1b) A mining operator shall not use declared equipment in the course of mining operations upon land comprised in a registered precious stones claim or registered access claim within a precious stones field unless he has first served on the Director—

(a) notice, in the prescribed form, of his intention to use that equipment;

and

(b) prescribed particulars of the equipment and where it will be used.

Penalty: One thousand dollars.;

(d) by inserting in subsection (2) after the passage “upon land” the passage “(not being land comprised in a mining lease)”;

and

(e) by striking out from subsection (8) the passage “Subsections (1a)” and substituting the passage “Subsections (2)”.

Amendment of s. 59—  
Use of declared equipment.

Amendment of  
s. 60—  
Restoration  
of land.

**42. Section 60 of the principal Act is amended—**

(a) by striking out from subsection (1) the passage “Where a mining operator” and substituting the passage “Subject to the terms and conditions of any relevant lease, licence or authorization granted under this Act, where a mining operator”;

and

(b) by striking out subsection (5).

Amendment of  
s. 62—  
Bond and  
security.

**43. Section 62 of the principal Act is amended—**

(a) by striking out from subsection (1) the passage “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” and substituting the passage—

that—

(a) any civil or statutory liability likely to be incurred by that person in the course of carrying out mining operations;

and

(b) the present and future obligations of that person in relation to the rehabilitation of land disturbed by mining operations,

will be satisfied.;

and

(b) by striking out subsection (3) and substituting the following subsection:

(3) If the holder of a mining tenement fails to comply with a requirement under this section within three months of the making of the requirement, the Minister may, by notice in writing—

(a) prohibit mining operations in the area of the mining tenement;

or

(b) cancel the mining tenement.

Insertion of  
new Part IXA.

**44. The following Part is inserted after section 63 of the principal Act:**

**PART IXA**

**ACCESS TO SUB-SURFACE STRATA**

Pegging  
out of  
access claim.

63a. (1) A person who holds a mining tenement in respect of a sub-surface stratum may peg out an access claim, in accordance with the regulations, on land above the land comprised in the tenement.

(2) The dimensions of an access claim must conform with the requirements of the regulations.

(3) No more than four access claims may be held at the same time in respect of the same mining tenement.

63b. (1) Subject to subsection (2), a person is not entitled to peg out an access claim on or above land held under a mining tenement by some other person unless that other person has consented to the pegging out of the access claim or the warden's court has, in pursuance of subsection (2), authorized the pegging out of the claim.

Access claim may be pegged by agreement or by authority of the warden's court over land comprised in mining tenement.

(2) Where a person desiring to peg out an access claim satisfies the warden's court that there is proper cause for the court to authorize the pegging out of the claim notwithstanding absence of the consent of the holder of a mining tenement, the court may, on such conditions as it thinks just, authorize the pegging out of the access claim.

63c. (1) Application for registration of an access claim—

Registration of access claim.

(a) must be in the prescribed form;

(b) must be lodged at the office of a mining registrar within fourteen days after the day on which the claim is pegged out;

and

(c) must be accompanied by the prescribed particulars.

(2) The mining registrar shall, upon receipt of due application for registration of an access claim that has been lawfully pegged out register the claim.

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

63d. (1) An access claim shall confer on the owner of the claim an exclusive right, subject to the provisions of this Act, to conduct mining operations of the kind authorized by the mining tenement to which the claim relates from the lands comprised in the claim.

Rights conferred by access claim.

(2) The rights conferred by an access claim are exclusive of the rights of any other person to conduct mining operations on, or in respect of, the lands comprised in the claim.

63e. (1) Subject to this section, an access claim shall remain in force for an initial term of twelve months and may, upon application being made to a mining registrar in accordance with the regulations, be renewed from time to time for a further term of twelve months.

Term, etc., of access claim.

(2) An access claim shall lapse if for any reason the mining tenement to which it relates ceases to be in force.

(3) The holder of an access claim may, subject to this Act, surrender the claim at any time.

45. Section 65 of the principal Act is amended by inserting after subsection (3) the following subsections:

Amendment of s. 65—  
Powers, etc., of warden's court.

(3a) The Director or the registrar may appeal against a judgment or order of the warden's court whether or not he was a party to the proceedings in which the judgment or order was given or made.

(3b) An appeal against a judgment or order of the warden's court must be instituted within one month after publication of the judgment or order, but the Land and Valuation Court may, for proper cause, extend the period for instituting an appeal.

Amendment of  
s. 66—  
Rules of  
warden's  
court.

46. Section 66 of the principal Act is amended by inserting after subsection (1) the following subsection:

(1a) The rules may prescribe and provide for the payment of fees in respect of the lodging of documents in the court, or the issuing of documents by the court.

Amendment of  
s. 68—  
Cancellation of  
miner's right or  
precious stones  
prospecting  
permit.

47. Section 68 of the principal Act is amended by striking out from paragraph (a) of subsection (1) the word "of" and substituting the word "or".

Amendment of  
s. 69—  
Forfeiture of  
claim.

48. Section 69 of the principal Act is amended by inserting after subsection (3) the following subsection:

(3a) After an application has been made under this section the mineral claim or precious stones claim to which the application relates shall not be surrendered until the application has been determined.

Amendment of  
s. 70—  
Forfeiture of  
leases.

49. Section 70 of the principal Act is amended by inserting after subsection (4) the following subsection:

(4a) After an application has been made under this section the lease to which the application relates shall not be transferred or surrendered until the application has been determined.

Amendment of  
heading.

50. The heading appearing immediately after section 70 of the principal Act is repealed and the following heading is substituted:

## PART XI ASSISTANCE TO MINING

Insertion of  
new Part XIA.

51. The following Part is inserted after Part XI of the principal Act:

## PART XIA CAVEATS

Lodging of  
caveats.

73a. (1) A person claiming an interest in a mining tenement may lodge with a mining registrar a caveat forbidding the registration of any transfer or other instrument affecting the mining tenement or interest.

(2) A caveat lodged under this section—

(a) shall be in the prescribed form and shall be accompanied by the prescribed fee;

(b) shall state the full name and address of the caveator;

(c) shall be signed by the caveator or his agent;

and

(d) shall give an address within the State for the service of notices and proceedings in relation to the caveat.

(3) Upon the lodging of the caveat—

(a) a memorial or copy of the caveat shall be entered in the register;

and

(b) notice of the lodging of the caveat shall be sent by registered post or certified mail to the holder of the mining tenement affected by the caveat.

(4) Successive caveats shall not be lodged in respect of the same subject matter except by leave of the warden's court.

73b. (1) Except as provided in this section, a caveat shall lapse upon—

Duration  
and effect  
of caveat.

(a) the order of the warden's court for the removal of the caveat;

(b) the withdrawal of the caveat by the caveator;

(c) the expiration of a period of fourteen days after notification that application has been made for the registration of a transfer or other instrument affecting the subject matter of the caveat, has been sent by or on behalf of the registrar by registered post or certified mail to the caveator at the address for service given in the caveat, unless within that period the warden's court otherwise orders.

(2) When a caveat lapses, a memorial of that fact shall be entered in the register.

(3) Where the holder of a mining tenement has entered into an agreement with any person relating to the sale of an interest in the tenement, then, if the agreement so provides, either party to the agreement may lodge a caveat in accordance with this Part, together with a copy of the agreement and the caveat shall remain in force for such term as may be specified in the agreement, unless sooner withdrawn by consent of the parties to the agreement, or removed by order of the warden's court or some other court that is competent to adjudicate upon the rights protected by the caveat.

(4) A transfer or other instrument that would operate in derogation of rights protected by a caveat shall not be registered by a mining registrar, and its operation shall be suspended, while the caveat remains in force, unless the warden's court, or some other court that is competent to adjudicate upon the rights protected by the caveat, otherwise orders.

(5) Any person interested in the subject matter of a caveat may apply to the warden's court for an order under this section.



Amendment of  
s. 74—  
Penalty for  
illegal mining.

**52. Section 74 of the principal Act is amended—**

(a) by inserting after subsection (1) the following subsection:

(1a) A person who encourages or procures the commission of an offence under subsection (1) shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars or imprisonment for two years.;

(b) by inserting in subsection (4) after the word “section” the passage “and a person against whom such an order has been made may, at any time after the expiration of one year from the date of service of the order upon him, apply to the Minister for its revocation”;

(c) by inserting in subsection (5) after the passage “has been convicted” the passage “or has been found guilty by a court”;

and

(d) by striking out the word “or” between paragraphs (b) and (c) of subsection (5) and by inserting after paragraph (c) of that subsection the following paragraphs:

(d) of an offence, committed on a precious stones field, against section 15 (1) (a), 18, 18a or 19 of the Police Offences Act, 1953-1981;

or

(e) of an offence against section 103 or 104 of the Criminal Law Consolidation Act, 1935-1980.

Amendment of  
s. 76—  
Returns.

**53. Section 76 of the principal Act is amended—**

(a) by striking out from paragraph (a) of subsection (4) the passage “precious stones prospecting permit” and substituting the passage “precious stones claim”;

and

(b) by striking out the word “or” between paragraphs (b) and (c) of subsection (4) and by inserting after paragraph (c) of subsection (4) the following paragraphs:

(d) the holder of an access claim;

or

(e) the holder of a retention lease.

Amendment of  
s. 77—  
Records and  
samples.

**54. Section 77 of the principal Act is amended by striking out from subsection (1) the word “holding” and substituting the word “holder”.**

Amendment of  
s. 79—  
Minister may  
grant  
exemption  
from certain  
obligations.

**55. Section 79 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:**

(1) Where the Minister is satisfied that circumstances exist that justify him in so doing he may—

(a) exempt the holder of a lease or licence under this Act from the obligation to comply with a condition of the lease or licence;

and

(b) exempt the holder of a mining tenement from the obligation to comply with a provision of this Act.

**56. Section 80 of the principal Act is amended—**

(a) by striking out from subsection (1) the passage “subsection (2) of”;  
and

(b) by inserting after subsection (1) the following subsection:

(1a) Land may be simultaneously subject to an access claim and a mining tenement of some other kind but, in such a case, the rights conferred by the claim are, while the claim remains in force, exclusive of the rights conferred by the other mining tenement in respect of lands comprised in the claim.

Amendment of s. 80—  
Conditions under which land may be subject to more than one tenement.

**57. Section 86 of the principal Act is amended—**

(a) by striking out from subsection (1) the passage “forfeited, surrendered or abandoned” and substituting the passage “transferred, surrendered or forfeited”;

and

(b) by striking out from subsection (1) the passage “forfeiture, surrender, abandonment” and substituting the passage “transfer, surrender, forfeiture”.

Amendment of s. 86—  
Removal of machinery, etc.

**58. Section 88 of the principal Act is amended by striking out the passage “Any person” and substituting the passage “A person”.**

Amendment of s. 88—  
Obstruction, etc., of officers exercising powers under this Act.

**59. Section 92 of the principal Act is amended by striking out paragraphs (h) and (j).**

Amendment of s. 92—  
Regulations.

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

**K. D. SEAMAN, Governor**