



ANNO QUINQUAGESIMO PRIMO ET QUINQUAGESIMO
SECUNDO

VICTORIÆ REGINÆ.

A.D. 1888.

No. 448.

An Act to amend the Law relating to Mining on Private
Property.

[*Assented to, December 8th, 1888.*]

BE it Enacted by the Governor of the Province of South Preamble.
Australia, with the advice and consent of the Legislative
Council and House of Assembly of the said province, in this pre-
sent Parliament assembled, as follows :

1. This Act may for all purposes be cited as the “ Mining on Short title.
Private Property Act, 1888.”

2. In the interpretation and for the purposes of this Act, unless Interpretation.
inconsistent with the context, the following terms shall have the
following meanings :—

“ Commissioner ” shall mean the Commissioner of Crown Lands
or other the Minister for the time being controlling the
mines of the said province :

“ To mine ” or “ mining ” shall include the doing of anything
necessary or convenient for the purpose of obtaining from
land any metal, or any substance containing metal, or of
extracting the metal from any such substance :

“ Metal ” shall mean gold :

“ Owner ” includes as well the owner of the fee simple as a
mortgagee and lessee, and also includes all parties who,
being seised or possessed of, and for the time being entitled
to, the receipt of the rents and profits of any private land, or
any estate or interest therein, are under a disability to sell
or convey the same : “ Private

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“ Private land ” shall include all lands not being Crown lands within the meaning of “ The Crown Lands Consolidation Act, 1886.”

“ Claim ” shall mean claim as defined in the laws relating to gold mining for the time being in force in the said Province :

“ Prescribed ” shall mean provided by regulation set out in the Schedule to this Act, or made under the authority of this Act :

“ Warden ” shall mean a warden of the goldfields for the province.

Limitation of Act.

3. The provisions of this Act shall not extend to any garden, orchard, or vineyard, church, chapel, schoolhouse, hospital, asylum, college, or grounds enclosing the same, or any park lands or recreation grounds vested in any municipal corporation or district council, or other public body or trustees, or to any land of less area than half an acre within any city or township, or to any land within three hundred yards of any well, artificial reservoir, dam, dwelling-house, manufactory, or building, of not less than Fifty Pounds value.

Incorporation of Lands Clauses Consolidation Acts.

4. The Lands Clauses Consolidation Act, and all Acts amending the same, are hereby incorporated with this Act, and for all the purposes of the Lands Clauses Consolidation Act, and of the Acts amending the same, the Commissioner shall be deemed to be the promoter of the undertaking, and the undertaking shall be deemed to be the exercise of the powers conferred on the Governor and the Commissioner by this Act.

Acquisition of right to mine on private land.

5. A right to mine on private land may be acquired by the following methods:—

(PART I.)

i. By the resumption of private land.

(PART II.)

ii. By the proclamation of private land as an alluvial gold-field.

(PART III.)

iii. By compulsory mining lease.

PART I.

PART I.

RESUMPTION OF PRIVATE LANDS.

Private land may be provisionally resumed.

6. The Governor may on behalf of the Crown from time to time provisionally resume the ownership of any private land for mining purposes, and such provisional resumption shall be effected by notice to the owner and occupier, and by Proclamation to be published

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published in the *Government Gazette*, and upon the publication of such Proclamation such provisional resumption shall take effect: Provided that no such Proclamation shall be made without the consent of the owner—

- i. Unless a written application shall have been made to the Commissioner desiring the land shall be so resumed, and unless an inspector appointed under this Act shall have previously certified in writing to the Commissioner that he has examined such land, and that he is of opinion that payable reef gold exists therein, and that such land should be resumed for the purpose of mining:
- ii. Unless six calendar months previous notice to be given in the prescribed form and manner shall have been given by the Commissioner to the owner and also to the occupier of such land of the certificate of the inspector, and of the intention to proceed pursuant to this part of this Act, and, unless in the event of the owner being dissatisfied with such certificate, the same shall be confirmed by a mining expert appointed as hereinafter mentioned.
- iii. Unless there is a failure to show to the satisfaction of the Commissioner that, after the expiration of six calendar months from the giving of the said notice, the said land is being continuously and *bonâ fide* mined with the number of men and in the manner which would be necessary if the said land were held under a mining lease from the Crown.

7. Within one month after the certificate mentioned in subsection ii. of clause 6 has been signed, a copy thereof shall be served upon the owner and occupier, who shall be deemed to be satisfied with the same unless within one month thereafter such owner and occupier, or one of them, shall submit to the Commissioner the name of a mining expert to review such certificate. Should the Commissioner be dissatisfied with such mining expert, and be unable to agree with the owner upon some other mining expert, one shall be appointed on the application of either party by the Special Magistrate of the Local Court of Full Jurisdiction nearest to the land. The mining expert agreed upon or appointed as above-mentioned shall be deemed to have confirmed such certificate unless he shall notify to the Commissioner his dissent therefrom within one month after his appointment, or such further time as may be allowed by such Magistrate as aforesaid.

Certificate and mining expert.

8. Within six calendar months after the publication of any Proclamation of provisional resumption, the Governor, subject to the provisions of this Act, may publish in the *Government Gazette* a further Proclamation, either revoking such provisional resumption wholly or partially, or making such resumption wholly or partially absolute, and upon

Provisional resumption may be absolute.

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upon the publication of any such further Proclamation the private land described therein, in respect of which such resumption shall be made absolute, shall thenceforth belong absolutely to the Crown, and be Crown lands, and be dealt with accordingly, and a copy of such Proclamation shall be registered and deposited in the General Registry Office, if such land shall not have been under the provisions of any Real Property Act; but if such land shall have been under the provisions of any such Act then, notwithstanding the provisions of the Real Property Act, 1886, the Registrar-General on receipt of a copy of such Proclamation shall enter a memorial thereof, and of the effect thereof on the folium of the register-book in the Lands Titles Registration Office evidencing the title thereto, and on all instruments of title affected thereby.

Purchase on absolute resumption.

9. If any provisional resumption shall be made absolute, payment shall be made by the Commissioner by way of purchase-money, and compensation for the land absolutely resumed, and for the damage thereby occasioned, as if such land had been acquired by the Commissioner under the powers of compulsory purchase contained in the Lands Clauses Consolidation Act, and the Acts amending the same.

Interest on purchase money.

10. Interest at the rate of Five Pounds per cent. per annum, from the date of the provisional resumption, shall be allowed on and added to the purchase-money mentioned in the preceding section and shall be paid therewith estimating from the date of provisional resumption; and in the event of any private land being provisionally resumed as aforesaid, and such provisional resumption being subsequently revoked, the owner of such private land, upon the revocation of such resumption, shall receive compensation from the public revenue of the said province for the loss and damage sustained by him by reason of such provisional resumption, which compensation the Government may recover from the person applying to have the land resumed: Provided that, in estimating the value of any land, no account shall be taken of the value of any metal removed therefrom since the provisional resumption thereof, or known or supposed to be thereon.

Effect of provisional resumption.

11. During the period of the provisional resumption of any private land, such private land may be dealt with for mining purposes, subject to the following provisions:—

- i. Under any mining licence that may be granted of any such land, the licensee shall pay to the Commissioner, at specified intervals, a royalty of two and a-half per cent. on the gross money value of metal raised therefrom:
- ii. Every such licence shall be issued subject to conditions that the licensee shall take all proper precautions for the protection of man and beast and for the preservation of timber, do no unnecessary damage to the land, crush, refine, wash, or otherwise in a miner-like manner to
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treat and render marketable, all metal obtained from the land, and keep proper accounts for inspection when required, containing all necessary information to enable the amount of royalty payable to be determined:

iii. Every such licence shall also be subject to all such other provisions as the Commissioner shall think desirable, or as may be prescribed, and, in particular, any such licence may contain a right of renewal, or to a lease to be exercisable in the event of the provisional resumption being made absolute:

iv. Every person who shall apply for a mining licence, in respect of any private land which, for the time being, shall be provisionally resumed shall, at the time of making such application, pay to the Commissioner such sum as shall be deemed by the Commissioner to be sufficient to pay the compensation, payable by the Commissioner in the event of the provisional resumption of such land not being made absolute.

12. At the end of six calendar months after the publication of any Proclamation of provisional resumption, such resumption shall cease so far as the same shall not have previously been made absolute.

Cesser of provisional resumption.

13. On the cesser or revocation of any provisional resumption, payment shall be made by the Commissioner by way of compensation for the damage occasioned by such provisional resumption and by the exercise of the powers of the Commissioner exercisable during the period thereof, and every dispute as to the amount of such compensation shall be heard and determined in a summary way by two or more Justices of the Peace, of whom one shall be a Special Magistrate.

Compensation on cesser or revocation of provisional resumption.

14. Every mining lease or licence granted in respect of any private land absolutely resumed, shall be subject to the provisions contained in subdivisions 1, 2, and 3 of section 10, as affecting mining licences granted during the period of provisional resumption.

Terms of leases after absolute resumption.

15. All royalties required to be reserved by this part of this Act and received by the Commissioner in respect of mining on private land, either provisionally or absolutely resumed, shall, after deduction by the Commissioner of a commission calculated at the rate of Two Pounds Ten Shillings per centum thereon, be payable to the person, if any, who, but for the resumption of such private land, would for the time being, have been entitled to the first right to mine thereon.

Division of royalties.

16. No allowance shall be made in the assessment of any purchase-money or compensation payable under this part of this Act, for any metal removed from any private land after any provisional resumption thereof, nor for any metal known or supposed to be thereon.

Metal not to be considered in assessing purchase-money or compensation.

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PART II.

PART II.

PROCLAMATION OF PRIVATE LAND AS ALLUVIAL
GOLDFIELD.

Private land may be
declared an alluvial
goldfield.

17. The Governor may, after giving six calendar months' notice to the owner and occupier of the land, and by Proclamation to be published in the *Government Gazette*, declare that any private land shall be an alluvial goldfield: Provided that no such private land shall be declared an alluvial goldfield, except under conditions similar to those rendered necessary in cases of provisional resumption, by subdivisions 1, 2, and 3 of section 6, but so that the certificate of the mining inspector required by the said subdivision shall refer to the existence of payable alluvial gold instead of to the existence of payable reef gold. Upon the publication of any Proclamation declaring any private land an alluvial goldfield, the following consequences shall ensue:—

- i. The private land, the subject of such Proclamation, shall, for all purposes of all laws in force for the time being relating to alluvial gold mining, be deemed to be Crown lands and an alluvial goldfield; and the said land, and all persons entering thereon for mining or other purposes, shall be subject to the Warden's jurisdiction, and all laws and regulations in force for the time being relating to alluvial gold mining on Crown lands shall apply to such land and persons, and persons shall be entitled to mine upon such land subject to such laws and regulations and to the provisions of this Act:
- ii. Every person mining upon, or occupying any claim upon, any such private land, shall pay to the Warden a weekly rent of Two Shillings therefor, in advance.

Provided as follows:—

- i. No person shall sink any shaft to a greater depth than one hundred feet upon any such land without the written permission of the owner of such land whereon such claim is situated, or unless such land shall have been resumed, either provisionally or absolutely; but private land declared an alluvial goldfield may be resumed without compliance with subsections ii. and iii. of section 6:
- ii. No person shall mine on any such land until he has obtained a special licence for mining on such land, which special licence shall be in force for one year from the date thereof, and shall be issued by the Commissioner on payment by the applicant of a fee of One Pound, and may be renewed on payment of the like fee:
- iii. Any person mining on or occupying any such private land without having duly paid the rent of his claim, or mining on any such land without having obtained such special licence, shall forfeit and pay a penalty not exceeding Twenty Pounds.

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Division of rents.

18. The owner of any private land declared an alluvial goldfield may, after the expiration of six calendar months from the date of the publication of the Proclamation, by written notice given to the Commissioner, require the said land to be absolutely resumed; and if such land shall not be absolutely resumed within one calendar month after the giving of such notice, such land shall thereupon cease to be an alluvial goldfield: Provided that in the case of an alluvial goldfield resumed at the request of the owner, pursuant to this section, there shall, on the issue of any lease or licence for alluvial goldmining, be reserved to the owner, in lieu of the royalties which, but for this proviso, would be payable, one-half of the rents received from licence holders working on such land. All moneys received by the warden for rent of any claims on any private land declared an alluvial goldfield pursuant to this part of this Act, shall, after payment thereout to the Commissioner of a charge calculated at the rate of Two Pounds Ten Shillings per centum thereon, be divided equally between the person who, but for such declaration, would for the time being have been entitled to the first right to mine thereon, and the person who, but for such declaration, would for the time being have been entitled to the possession of the said land. If the said person shall be entitled to the first right to mine and to possession, then the whole of such moneys, after deducting such commission, shall be paid to him.

19. One-half of the special licence fees provided for by proviso 2 of section 16 shall be retained by the Commissioner, and the remainder shall be disposed of in manner provided by section 17 in regard to moneys received for rent after deducting commission.

Division of licence fees.

20. The Governor may, by Proclamation to be published in the *Government Gazette*, declare that any private land declared to be an alluvial goldfield, shall cease to be a goldfield, and upon the publication of such Proclamation, all powers arising by virtue of the original declaration shall cease to be exerciseable. If any land absolutely resumed pursuant to this Act shall cease to be used for mining purposes for six calendar months the Commissioner may sell the same, but the person who but for such resumption would have been the owner shall have the prior right to purchase such land, and in the event of such person exercising such right the price to be paid therefor shall be the amount paid on resumption.

Private land to cease to be goldfield on proclamation.

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COMPULSORY MINING LEASES.

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21. Any person may apply in the prescribed form and manner to the owner of any private land to grant to him a mining lease of any portion of such land in a prescribed shape, not exceeding twenty acres for gold mining.

Owner of private land to grant mining lease thereof.

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Owner may refuse to grant lease.

22. The owner of the private land referred to in any such application shall be entitled in the prescribed manner and within the prescribed time, to refuse to grant a mining lease thereof, but, in the event of his so refusing, and the inspector having previously certified in writing that he has examined such land, and that he is of opinion that payable metal exists therein, and that such land should be resumed for the purpose of mining, such owner shall, after two months from the date of such application, continuously and *bona fide* mine the land, the subject of such application, with the number of men, and in the manner which would be necessary if the said land were held under a similar mining lease from the Crown, and if he shall not so mine the said land the owner shall have no further right to refuse to grant any mining lease for which any person may apply in the prescribed form and manner in respect of the same land. The certificate of the inspector in this section mentioned shall be subject to review, disallowance, and confirmation, in the same manner as the certificate mentioned in subsection II. of clause 6, and clause 7.

Provisions as to terms and conditions of mining leases.

23. In the event of the owner of any private land in respect whereof an application for a mining lease shall be duly made, not refusing in the prescribed manner and within the prescribed time to grant a mining lease, or not being entitled to refuse to grant the same, the following consequences shall ensue:—

- i. Should such owner and such applicant agree upon the terms of such mining lease, such lease shall be granted accordingly:
- ii. Should no such agreement be come to, such owner shall, subject to the provisions of this Act, grant to such applicant a mining lease of the private land the subject of such application at a royalty at the rate of two and a half per cent. on the gross money value of metal raised from such land during the currency of such lease:
- iii. There shall also be reserved in such lease a rent for the surface of the land, to be assessed by the Local Court of Full Jurisdiction nearest in a direct line to the land the subject of the application:
- iv. Such lease shall be for the term of twenty-eight years, and shall comprise a convenient right of way to the land to be leased, and shall contain all such powers and provisions as shall be prescribed; and shall also contain proper provisions compelling the lessee to take all proper precautions for the preservation of timber and for preventing any unnecessary damage to the land or injury to man or beast:
- v. Every such lease shall contain a right of re-entry by the owner of the private land the subject of the lease, on non-payment of rent or royalty or breach of covenant by the lessee for such time as may be prescribed.

Provided

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Provided as follows:—

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- i. In assessing the rent to be reserved by any such lease the Local Court assessing the same shall take into consideration any special damage to the land, or to any adjacent land, likely to be caused by mining or by obtaining access to the land:
- ii. In the event of the Local Court, which shall assess any such rent, being of opinion that any special injury is likely to arise to any private land by reason of any mining lease being granted, such Local Court may order that such land shall be purchased in the prescribed manner by the applicant for such lease:
- iii. There shall be an appeal in the prescribed manner to the Supreme Court against the decision of any Local Court:
- iv. In the event of any applicant for a mining lease being dissatisfied with the rent assessed, or in the event of his being unwilling to purchase any land pursuant to the order of any Local Court, it shall be lawful for such applicant to give notice in the prescribed form to the owner of such private land abandoning his claim to such lease or purchase:
- v. The costs of all proceedings in any Local Court or Supreme Court, in respect of the matters herein referred to, shall be paid by the applicant for the lease:
- vi. In any case in which the metal in any private land shall be reserved, or shall be the property of the Crown, no mining lease of such land shall be granted pursuant to this part of this Act without the consent of the Commissioner, and proper royalties shall be reserved to the Commissioner by every such lease.

24. Should the owner of any private land, not being entitled so to do, neglect or refuse to grant a mining lease pursuant to the provisions hereof, and refuse to sell his land, the Master of the Supreme Court shall, subject to the provisions of this Act, grant such lease in the prescribed form, and such lease, when duly executed by the Master of the Supreme Court and by the lessee, shall, on application, and on payment of the prescribed fees, be registered by the Registrar-General on the folium of the register book constituting the title to such land without requiring the production of the land grant or certificate of title to such land, should such land be under the operation of the "Real Property Act, 1886," and, in the case of land subject to the general law of conveyancing, such lease shall, on payment of the prescribed fees, be registered in the General Registry Office for the registration of deeds; and, immediately on such registration, the term of years granted thereby shall vest in the lessee, and the lease shall have effect in all respects as if the same had been executed by the owner of such private land: Provided as follows:—

Master of Supreme Court to grant lease on unlawful refusal of owner.

- i. The owner of such private land shall, in the event of his refusal

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refusal to grant such lease as aforesaid, such refusal not proceeding from incapacity, pay all the costs connected with the obtaining and granting such lease :

11. The Master of the Supreme Court shall from time to time, until the owner of the private land comprised in such lease ratifies the same, hold the rents and royalties received under such lease upon trust for the owner of such private land ; but shall be entitled to deduct therefrom a charge of Two Pounds Ten Shillings per centum for the cost of collecting the same, and the Master of the Supreme Court shall not be required to invest any accumulations of rent or royalty.

General.

Appointment of inspectors.

25. The Governor may appoint any qualified persons inspectors under this Act, and any inspector may enter upon, examine, and report upon any private land at any convenient time during the day ; but at least eight clear days' written notice shall be given to the occupier, if any, of the property, giving the name of the inspector, and the time of the visit before such examination is made.

Governor may make regulations.

26. The Governor may, from time to time, make, alter, annul, vary, or amend the regulations in the Schedule to or made under the authority of this Act, or any of them, or may, from time to time, make other regulations in lieu thereof, or in addition thereto, for carrying into effect the provisions of the Act: Provided that all regulations made under the authority of this Act shall be laid before both Houses of Parliament within twenty-one days after the same have been made, or if Parliament be not then sitting, within twenty-one days after the commencement of the next ensuing session thereof ; and, if an address be presented to the Governor by either House of Parliament within the next subsequent twenty-one days on which the said House shall have sat, praying that the regulations or any portion thereof may be annulled, the Governor shall thereupon annul such regulations or any portion thereof, as the case may be, and the same shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which may in the meantime have been taken under the same.

Return to be laid before both Houses of Parliament.

27. Within twenty-one days after the giving of any notice of intention to provisionally resume any private land, or to declare any private land a goldfield, if Parliament shall then be sitting, or, if Parliament shall not then be sitting, then within twenty-one days after the commencement of the next session thereof, a return shall be laid before both Houses of Parliament showing the land proposed to be resumed or declared a goldfield and the names of the owners thereof.

Provision where metal the property of the Crown.

28. Save as herein expressly provided, no claim shall be made for any payment for purchase-money, compensation, rent, royalty, or otherwise

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otherwise, or on account of the exercise of any power conferred on the Governor or the Commissioner, and in any case in which any metal or any private land shall be reserved to, or shall be the property of, the Crown, no royalty reserved in respect of such metal will be payable to any private person under this Act, but the same shall be wholly paid to the Commissioner, and one-half of all rents payable under Part II. of this Act shall be paid to the Commissioner in any such case, in lieu of the charge therein provided.

29. All provisions of this Act relating to metal shall extend to all metals associated with or containing gold, which it shall be necessary or proper to remove, or treat, in the ordinary course of mining for gold.

Provisions of Act to extend to associated metals.

30. For the purposes of this Act private land shall be deemed to be mined with the necessary number of men, if, on the area held by any one proprietary, in one block or contiguous blocks, there shall be altogether employed the number of men which would be necessary if the whole of such land were held under mining leases from the Crown.

Performance of labor condition.

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

WM. C. F. ROBINSON, Governor.

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THE SCHEDULE REFERRED TO.

REGULATIONS.

PART I.—RESUMPTION OF PRIVATE LANDS.

1. Every application to the Commissioner for the resumption of private land shall contain the particulars and be in the form A in the Appendix hereto, or to the like effect, and shall be signed by the applicant.

2. Upon the receipt of any application the Commissioner shall instruct an inspector to examine the land mentioned in the application and report as to whether or not, in his opinion, payable reef gold exists therein, and whether or not such land should be resumed for the purpose of mining.

3. The notice required to be given under section 24 of this Act to the occupier of the intended visit of the inspector for the purpose of examining the land and reporting thereon shall be in the form B in the Appendix hereto.

4. The Commissioner shall, if he intends to provisionally resume such land, give to the owner, and also to the occupier thereof, a notice of the report of the inspector, and of such intention, such notice to be in the form C in the Appendix hereto, and shall also furnish such owner and occupier with a copy of the report of the inspector.

5. Mining licences under this Act shall be issued by the Commissioner, and all licences issued previously to the provisional resumption of land being made absolute shall, in case of cesser or revocation of such provisional resumption, immediately determine.

6. Every licensee and lessee shall furnish particulars to the satisfaction of the Commissioner from time to time when required by him, so as to enable him to ascertain the amount of royalty payable, and such licensee and lessee shall, if so required by the Commissioner, verify such particulars by a declaration before a Justice of the Peace, and in the event of any licensee or lessee neglecting or refusing to comply with any requirement of the Commissioner, of which due notice shall have been given, in which notice a time shall be limited for the performance thereof, he shall be liable to a penalty not exceeding £5 for every day during which such neglect or refusal shall continue after such limited time shall have elapsed, and every licensee and lessee shall, if required by the Commissioner, allow him or any officer whom he shall from time to time appoint to inspect the books of account and memoranda kept by the licensee or lessee and take copies thereof or particulars therefrom.

7. If any licensee or lessee fail to perform any condition of his licence or lease, or to comply with any regulation under this Act, the Commissioner may cancel such licence or lease.

8. The Commissioner or his agents and workmen may at all reasonable times enter into and upon the land comprised in any licence or lease, and into and upon any mines or works that may be found therein, to inspect the same.

PART II.—PROCLAMATION OF PRIVATE LAND AS ALLUVIAL GOLDFIELD.

9. The foregoing regulations as to the provisional resumption of private land, and for all purposes consequent thereon as provided by this Act, shall apply to private land to be declared an alluvial goldfield *mutatis mutandis*.

10. The special licences to be issued for mining on private land declared an alluvial goldfield shall be in the form D in the Appendix hereto.

11. If any owner shall elect to receive purchase-money and compensation for his land, under section 17 of this Act, after payment of such purchase-money and compensation as shall be determined, the private land described in the proclamation shall thenceforth belong absolutely to the Crown, and a copy of the proclamation may be registered and deposited in manner provided by section 7 of this Act, in the case of private lands absolutely resumed.

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PART III.—COMPULSORY MINING LEASES.

12. Every application for a lease under this Act to any owner of private land shall be in the form E in the Appendix hereto.

13. All private land in respect of which a mining lease shall be applied for shall be in the shape of a rectangular parallelogram, the length of the longest side of which shall not exceed twice the length of the shortest side.

14. If any owner to whom an application shall be made for a mining lease shall refuse to grant the same, such owner shall, within two calendar months from the date of the application, signify his refusal by delivering or posting a notice to the applicant, at the address mentioned in his application: Provided that such owner shall, after the expiration of the time aforesaid, be deemed to have refused to grant such mining lease if he shall not have previously agreed to grant the same.

15. On the refusal mentioned in the preceding regulation, the applicant may give to the Commissioner a notice of the application having been made, and of the refusal by the owner. Such notice shall be in the form F in the Appendix hereto, and upon receipt of the same the Commissioner shall proceed to obtain a report from an inspector, as required by this Act.

16. If any owner who shall be willing to grant a mining lease in accordance with the application made to him cannot agree with the applicant as to the terms of the mining lease to be granted, then such lease shall contain all the powers and provisions mentioned in the form G in the Appendix hereto, and shall be in such form or to the like effect: Provided that if the land intended to be leased shall be under the provisions of the Real Property Act, 1886, then such form shall be altered, so as to conform with the requirements of such Act.

17. The notice of abandonment to be given by every applicant for a mining lease who is dissatisfied with the rent assessed by the Local Court, or who shall be unwilling to purchase any land pursuant to the order of the Local Court, shall be in the form H in the Appendix hereto.

18. If any owner shall refuse to grant a mining lease, or, not having refused, shall neglect to execute such lease within seven days after the same shall be tendered to such owner for execution, then the Master of the Supreme Court, upon being satisfied as to the refusal or neglect by the owner, shall grant a mining lease in the form G in the Appendix hereto: Provided that if the land required to be leased shall be under the provisions of the Real Property Act, 1886, then such form shall be altered so as to conform with the requirements of such Act.

19. All costs and expenses of and incidental to the obtaining and granting such mining lease by the Master, may be deducted by the applicant to whom such lease is granted out of the rents and royalties payable thereunder.

MISCELLANEOUS.

20. Every notice required to be given or served under this Act, or any regulations thereunder, shall be deemed to be duly given and served if the same shall be delivered to the person or persons for whom it is intended, or if the same shall be posted to or left at the last known or usual place of abode of such person or persons.

21. All rents and royalties reserved in any mining lease of private land, or payable in respect of any metal raised from any such land, may be recoverable by distress in the same manner as rent in arrear is recoverable under an ordinary demise.

22. Applications to a Judge of the Supreme Court, under section 6A of this Act, shall be made upon summons, a copy of which shall be served by the party applying thereunder on the other party at least seven clear days before the day fixed for the hearing of the application, and such summons shall be supported by evidence on affidavit to the satisfaction of the Judge.

23. All matters which by this Act are to be determined by a Local Court of Full Jurisdiction shall be commenced by an application in writing, intituled "In the matter of the 'Mining on Private Property Act, 1888,'" and be signed by such applicant or his solicitor. The application shall state in a clear and concise manner the nature and object thereof, and shall be left at the office of the clerk of the Local Court in which such application is to be made, with as many copies thereof as persons to be affected by such application. The clerk of such Court shall fix a day for the hearing of the application and forthwith post to the other party or parties affected by such application a copy thereof, together with a notice of the day fixed for the hearing, which shall be the day when the next Court of Full Jurisdiction shall be held after the expiration of ten days from the posting of such notice, and the hearing of such application shall as nearly as possible, be conducted in the same manner as ordinary trials in Local Courts.

24. Appeals

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24. Appeals to the Supreme Court under this Act shall be made and conducted in the same manner as is provided in case of appeals from Local Courts, under the Local Courts Act, 1886, and the practice thereunder shall regulate appeals from this Act.

25. The costs of and incidental to all matters and things under this Act shall be in the discretion of the Court in which the same shall be heard and determined, and any costs so awarded by any Court shall be recovered in the same manner as costs in such Courts are generally recovered.

26. If any person knowingly makes a false declaration concerning any matter or procedure made or done in pursuance of this Act or these regulations such person shall be deemed guilty of perjury.

27. The procedure for the recovery of all penalties under this Act or these regulations shall be heard and determined in a summary way under an Act No. 6 of 1850, or any other Act for the time being in force relating to the duties of Justices of the Peace with respect to summary convictions and orders, and all convictions and orders may be enforced as in such Act is or shall be provided.

APPENDIX.

A.

Form of Application to Commissioner for Resumption of Private Land.

“Mining on Private Property Act, 1888.”

To the Commissioner

I, A.B., of [*address and occupation*] do hereby request that all that piece of land being [*here insert a full description of the land*] and now in the occupation of [*here insert name of occupier*] be resumed for mining purposes, and that a report by an inspector pursuant to the said Act be obtained.

Dated this

day of

18

[*Signature of Applicant.*]

B.

Notice to Occupier of Visit of Inspector.

“Mining on Private Property Act, 1888.”

To, [*name and description of occupier in full*].

I hereby give you notice that [*name of inspector*] is authorised to enter upon, examine, and report upon the land occupied by you being [*insert description of land as in application*], and that the day fixed for the examination is the

day of

18

Dated this

day of

18

Commissioner.

C.

Notice to Owner and Occupier of intended Provisional Resumption.

“Mining on Private Property Act, 1888.”

To [*name of occupier or owner*].

I hereby give you notice that [*name of inspector*], the inspector appointed under this Act to examine and report upon [*here insert description of land as in application*], has examined the same, and certified that he is of opinion that payable (reef gold, or alluvial gold, as the case may be) exists on the said land, and that such land should be resumed for the purpose of mining, and that it is my intention to (provisionally resume the ownership of such land for mining purposes, or declare such land to be an alluvial goldfield, as the case may be).

A copy of the inspector's report is herewith

Dated this

day of

18

Commissioner.

D.

Mining on Private Property Act.—1888.

D.

SOUTH [Royal Arms] AUSTRALIA

“Mining on Private Property Act, 1888.”

No.

Date

Special Licence.

A. B., of [address and occupation], is hereby licensed for twelve months from this date, and no longer, to dig, search for, and remove gold from the land proclaimed on the _____ day of _____ 18____, as an alluvial goldfield, being [here describe the land].

Fees paid, £1.

Commissioner.

E.

Form of Application for Mining Lease.

“Mining on Private Property Act, 1888.”

To [name and address of owner].

I, [name of applicant, address, and occupation], hereby request that you will grant me, in accordance with the Mining on Private Property Act, 1888, a gold mining [lease of describe particularly the portion of land required], which said piece of land contains [area as nearly as possible]: And I hereby give you notice that I will execute such mining lease upon such terms as shall be agreed upon, or upon the basis mentioned in the said Act and regulations.

Dated this _____ day of _____ 18____.

A. B.

F.

Notice by Applicant of Refusal of Owner to Grant Lease.

“Mining on Private Property Act, 1888.”

To the Commissioner.

I, [here state name of applicant, address, and occupation], hereby give you notice that, on the _____ day of _____, 18____, I applied, in accordance with the Mining on Private Property Act, 1888, to [name and address of person to whom application is made], for a gold mining lease of [here shortly describe land], and that the said _____ has refused to grant me such lease; and I hereby request that a report by an inspector, pursuant to the said Act, be obtained.

Dated this _____ day of _____, 18____.

[Signature of Applicant.]

G.

Form of Lease.

“Mining on Private Property Act, 1888.”

This Indenture made the _____ day of _____ one thousand eight hundred and _____ between A.B. of _____ in the Province of South Australia (who and his heirs executors administrators and assigns are hereinafter called the lessor) of the one part and C.D., of _____ in the said province who and his executors administrators and assigns are hereinafter called the lessee) of the other part Witnesseth that in consideration of the rent and royalties hereinafter reserved and made payable and of the covenants conditions and agreements hereinafter contained the lessor doth demise and lease unto the lessee all that [here describe land with a convenient right-of-way if same shall be necessary] for gold mining purposes Together with liberty for the lessee and _____ agents and workmen in and upon the said land to construct races drains dams reservoirs roads and tramways and to dig sink drive make and use all such pits shafts levels watercourses and other works which it may be necessary to use in finding seeking for winning working and obtaining the gold and gold-bearing minerals therein contained and also to appropriate and use such part of the said lands either underground or on the surface as may be requisite as well for piacing and heaping the waste refuse and rubbish which may be worked therewith from time to time as for washing and obtaining snch gold and for effectually separating from it all the substances

Mining on Private Property Act.—1888.

substances mixed with it and for the purposes aforesaid to erect make and employ all such fire steam water or other engines buildings smelting works furnaces workmen's houses shops crushing-mills sheds or hovels machinery and works as may be proper and reasonable for the purposes aforesaid Excepting to the lessor all mines and minerals whatsoever save gold and gold-bearing minerals with liberty of ingress egress and regress to and for the lessor and all other persons authorised by with or without horses carts and carriages into over and upon the said lands to dig try search for and work the said mines and minerals and to take such minerals from the said lands and also to do all such other works upon the said lands as shall be necessary in and about the premises To have and to hold the said land and premises with their appurtenances (except as aforesaid) unto the lessee from the day of one thousand eight hundred and for and during the term of twenty-eight (28) years from thence next ensuing yielding and paying therefor yearly and every year unto the lessee a yearly rental of [*here state amount and manner of payment of rent*] And also a further sum or royalty of Two Pounds Ten Shillings per centum on the gross amount of gold to be raised from the said land and premises and which said sum or royalty shall be payable at the times and in manner hereinafter mentioned And the lessee do hereby covenant with the lessor that the lessee will during the said term pay or cause to be paid to the lessor (*or in case the lease shall be executed by the Master of the Supreme Court of the said province* to the Master for the time being of the Supreme Court of the said province until these presents shall be ratified by the lessor and from and after such ratification to the lessor) the said rent and royalty hereby reserved at the times and in manner herein appointed for payment thereof And also will pay and discharge all taxes rates and outgoings whatsoever to become due in respect of the said premises And will not during the continuance of the said term use the said land for any other purpose than for the purpose of gold mining and other purposes connected therewith And will during the continuance of the said term hereby granted work and carry on such mining operations in a skilful and workmanlike manner and according to the Mining on Private Property Act, 1888, and any regulations made from time to time under the said Act in every respect And will crush refine wash or otherwise in a miner-like manner treat and render marketable all gold and gold bearing minerals therein contained And that it shall be lawful for the lessor or agents and workmen at all reasonable times during the said term without any interruption from the lessee or agents servants or workmen to enter into and upon the premises and into and upon any mines or works that may be found therein to view and examine the conditions thereof and whether the same be worked in a proper skilful and workmanlike manner and for such purposes to make use of any of the tramways other roads or ways machinery and works belonging to such mines and premises and the lessee shall effectually assist the lessor agents servants and workmen in descending any pits and shafts and in entering into inspecting and examining the said mines and works and in returning to the surface And the lessee shall also properly secure and keep open with timber stone or other durable means the pits and shafts to be sunk or made on the said lands or premises and make and maintain sufficient walls and fences around all such pits and shafts for the protection of all persons and so as to effectually prevent access thereto by all kinds of cattle And that the lessee will not at any time during the continuance of the said term place or leave any waste or dead heaps of refuse or rubbish which may be brought out of the said mines near to any river brook or channel of water whereby such waste or dead heaps refuse or rubbish may reasonably be supposed to be liable to be disturbed or carried away by floods or other natural causes And will at all times during the continuance of the said term keep and preserve the said land gold mines and premises from all unnecessary injury and damage and all the levels drifts shafts pits sumps watercourses races drains dams reservoirs roads tramways buildings houses erections sheds washing-places puddles and other conveniences in good order repair and condition and in such state and condition at the end or other sooner determination of the said term deliver peaceable possession thereof And also will during at least eleven weeks during every three months of the said term employ and keep employed not less than one man for every two and a-half ($2\frac{1}{2}$) acres of the land hereby demised in mining upon the said land and in searching for or raising gold and gold-bearing minerals. Provided nevertheless that due allowance shall be made by the lessor for machinery or horses employed at the rate of two men for each horsepower And shall preserve from injury by cattle or otherwise all timber and timber-like trees growing on the said land and premises and will not fell cut or destroy the same without the consent in writing of the lessor for that purpose first had and obtained And also shall at all times during the said term keep or cause to be kept

correct

Mining on Private Property Act.—1888.

correct and proper books of account which shall contain accurate entries of the quantity of gold and gold-bearing minerals raised from the said mines during the said terms and particulars of all sales made in respect of the same for the purpose of ascertaining the royalties payable under these presents And the lessee shall half-yearly on the _____ day of _____ and the _____ day of _____ in each and every year deliver to the lessor or _____ agent correct extracts from the said books of account for the purpose of showing what royalties are payable for the preceding half-year and shall verify such extracts by a declaration before a Justice of the Peace and shall pay to the lessor the royalties at the rate aforesaid which shall be due up to the date of furnishing the extracts aforesaid And in default of such payment the said royalties shall be recoverable in the same manner as rent in arrear Provided that the lessee shall permit the lessor or _____ agent at all reasonable times to inspect the said books of account and take extracts therefrom And it is hereby declared that if the rents and royalties hereby reserved or any of them or any part or parts thereof shall not be paid at the times and in manner hereinbefore mentioned for payment thereof the lessor may in every such case enter into and upon the mines and premises hereby demised or any lands which shall for the time being be possessed or occupied by the lessee for the purpose of these presents and may distrain all or any of the gold gold-bearing minerals horses engines wheels trams whimseys tools implements machines and all other goods and chattels of what nature and kind soever which may be found in or upon the said land and the same may take lead and drive carry away and impound keep or otherwise demean therein according to law until the rent and royalties which shall then be due and all costs and expenses occasioned by the non-payment thereof and such distress shall be fully paid and satisfied And also that if the rents and royalties hereby reserved or any of them or any part or parts thereof shall be unpaid for the space of twenty-one days next after any of the days whereon the same ought to be paid as aforesaid whether the same shall have been legally demanded or not or if the lessee shall commit any breach of the covenants and conditions contained in this lease and on _____ part to be observed and performed or any of them then and in any such case it shall be lawful for the lessor at any time thereafter into and upon the mines and premises hereby demised or any part thereof in the name of the whole to re-enter and the same to have again re-possess and enjoy as of _____ former estate And that the lessee shall be at liberty to determine these presents by giving to the lessor or _____ agents three calendar months' notice in writing to expire on any of the days hereinbefore appointed for the payment of the rent hereby reserved of _____ desire or intention so to do and shall also have power to remove all machinery from the said land and premises prior to the expiration of such notice And the lessor covenants with the lessee that the lessee paying the rents and royalties hereby reserved and observing and performing the covenants provisoes, and conditions and restrictions herein contained and on _____ part to be observed and performed shall peaceably and quietly hold and enjoy the mines and premises hereby demised for and during the term hereby granted without any lawful interruption from or by the lessor or any person lawfully claiming from or under _____ In witness whereof the said parties to these presents have hereunto set their hands and seals the day and year firstly before written.

Signed sealed and delivered by the lessor
in the presence of _____

Signed sealed and delivered by the lessee
in the presence of _____

H.

Notice Abandoning Claim to Lease or Purchase.

“Mining on Private Property Act, 1888.”

To [name and address of owner].

I, A. B. [address and occupation], hereby give you notice that I abandon my claim to (a gold mining lease of, or to purchase, as the case may be) the land referred to in my application, being [here shortly describe land].

Dated this _____ day of _____, 18 .

[Signature of Applicant.]