

T A S M A N I A.

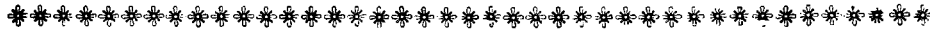


1887.

ANNO QUINQUAGESIMO-PRIMO

VICTORIÆ REGINÆ,

No. 2.



AN ACT to provide further Facilities for the Prosecution of Mining. [31 August, 1887.] A.D. 1887.

WHEREAS it is expedient that further facilities should be provided by law for the prosecution of Mining: PREAMBLE.

Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as "The Mining Operations Act, 1887." Short title.

2 In this Act— Interpretation.

"Person" includes any body of persons, corporate or unincorporate, and any mining partnership or co-adventure entered into by two or more persons for mining purposes and not registered as a Company:

"Lessee" and "Holder of any Lease" mean any person or persons or any body of persons, corporate or unincorporate, or any such mining partnership as aforesaid, to whom has been granted any such Lease as is hereinafter mentioned, or to whom such a Lease has been assigned or transferred, or in whom any such Lease has become otherwise vested.

3 In every case in which any portion of the land held under any Lease granted under the provisions of any of the Acts mentioned in the Schedule hereto, or any Act amending any of the said Acts, has been granted, or shall hereafter be granted by the Crown during the continuance of the Lease under which the said land is held to any Right to extend mining operations into alienated portions of leased land.

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person or persons, or any body corporate or unincorporate other than the Lessee of the said land, to be held by such other person or persons, or body corporate or unincorporate, in fee simple or for any lesser estate therein, it shall be lawful for the Lessee of the said land, during the continuance of the said Lease or of any renewal thereof, to extend into such granted portion as aforesaid of the said land, at a depth of not less than One hundred feet from the surface thereof, the excavations and other mining operations carried on under the powers conferred by the said Lease or any renewal thereof on any other portion of the said land, and to remove from such granted portion as aforesaid of the said land at such depth as aforesaid all metals and minerals which the Lessee is empowered by the said Lease or any renewal thereof to remove from the said land, as freely as if such granted portion as aforesaid of the said land had never been granted as aforesaid.

Tailings Area, &c.

4 It shall be lawful for the holder of any Lease granted under the provisions of any of the Acts aforesaid, to serve upon the owner or occupier of any private land a notice in writing that the person or persons giving such notice are desirous of occupying any portion of the said land as a Tailings Area or a Machinery Site, or for constructing thereon any tramway, or tail-race, or sludge-channel, or reservoir, or other similar work to be used in connection with any mining operations then being carried on by such person or persons under the provisions of any such Lease as aforesaid; and such person or persons shall upon the service of such notice as aforesaid upon the owner or occupier of the said land, acquire the right, upon the terms hereinafter mentioned, to obtain possession of and occupy for any of the purposes aforesaid in connection with such mining operations as aforesaid during the continuance of the Lease under which such mining operations as aforesaid are being carried on, the portion of land described in such notice as aforesaid. Provided, that the land described in any such notice as aforesaid shall not in any case exceed Thirty acres in area.

Mode of procedure to obtain possession of a Tailings Area.

5 Before any land described in any such notice as aforesaid shall be occupied for any of the purposes aforesaid under this Act, the owner and occupier shall respectively be paid such compensation for the loss of the use and occupation of such land as shall be determined by agreement between the parties; and if such compensation shall not be fixed by agreement between the parties within One month after service of such notice as aforesaid, then such compensation shall be determined by arbitration in the mode prescribed by "The Lands Clauses Act," and for such purpose Sections Fourteen to Thirty-seven, both inclusive, of the said Act shall be held to be incorporated herewith, and the person or persons desiring to take such land as aforesaid shall be deemed to be the promoter or promoters of the undertaking for the purpose of the said Sections.

21 Vict. No. 11.

Certain land not to be available under this Act.

6 Notwithstanding anything hereinbefore contained, no land upon which any dwelling-house or the outbuildings used therewith, or any factory or substantial building of any kind is erected, or which constitutes the yard or curtilage or ornamental or other garden attached to any dwelling-house or homestead, or which is required for the proper working of any factory, or which is not distant more than one hundred yards from any dwelling-house or homestead, shall be available under this Act for any of the purposes aforesaid, and no such land shall be affected by service on the owner or occupier thereof of any such notice as aforesaid.

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7 If either party is dissatisfied with the award of the arbitrators or the umpire appointed to determine the amount of compensation to be paid to the owner or occupier for the use and occupation of any land described in any such notice as aforesaid, the dissatisfied party, when the amount of compensation awarded by the arbitrators or the umpire exceeds One hundred pounds, may appeal from the award of the arbitrators or the umpire, as the case may be, to a Judge of the Supreme Court, and may have the amount of compensation fixed by a Judge of the said Court, in the manner hereinafter provided.

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Dissatisfied party may appeal to a Judge of the Supreme Court.

8 If the dissatisfied party desires to appeal from the award of the arbitrators or umpire as aforesaid, he shall, within Fourteen days after the delivery to him of such award or a copy thereof, give notice in writing to the other party of his intention to appeal, and shall, within One month after the service of such notice upon the opposite party, prosecute such appeal in accordance with the Rules made by the Judges for conducting appeals under "The Main Line Railway Amendment Act, No. 2," so far as such Rules are applicable; and the amount of compensation to be paid in such case shall be ascertained by a Judge of the Supreme Court in such manner as he deems advisable, and subject to such conditions as such Judge sees fit to impose, and the Judge may also, in his discretion, make any Order as to the person by whom the costs of the appeal shall be borne: Provided that a Judge of the Supreme Court may, upon what he shall deem sufficient cause, allow an appeal under this Act to be prosecuted after the expiration of the time hereinbefore allowed for that purpose; but no appeal shall be allowed after the expiration of Three months after the service of notice of intention to appeal.

Procedure upon appeal.

36 Vict. No. 19.

9 Where the dissatisfied party gives such notice of appeal as aforesaid, then the award given by the arbitrators or the umpire shall not be made a Rule of Court until a Judge of the Supreme Court, by an Order in writing under his hand, determines the matter in dispute, or the time hereinbefore allowed for prosecuting the appeal has expired.

Award not to be made a Rule of Court until Judge determines matter in dispute.

SCHEDULE.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>
34 Vict. No. 6.	"The Gold Fields Regulation Act, 1870."
34 Vict. No. 11.	"The Mineral Leases Act, 1870."
41 Vict. No. 7	"The Mineral Lands Act, 1877."
44 Vict. No. 16	"The Gold Fields Regulation Act, 1880."
47 Vict. No. 10	"The Mineral Lands Act, 1884."

