

[AS REPORTED FROM THE THE GOLDFIELDS AND MINES  
COMMITTEE]

*House of Representatives, 12 November 1953*

**Word struck out by the Goldfields and Mines  
Committee is shown in italic within bold brackets;  
words inserted are shown in black.**

*Hon. Mr Sullivan*

**MINING AMENDMENT**

<b>Title.</b>	<b>ANALYSIS</b>
1. Short Title and commencement.	9. As to acquisition of mining privilege under Public Works Act 1928.
2. State forest lands and scenic reserves subject to Act.	10. As to mining privileges over land suitable for agriculture or affecting soil conservation or rivers control.
3. Removing certain privileges acquired under miner's right.	11. Inspector of Mines to have powers of Inspector of Machinery.
4. Water race or tail race licence may be granted for coal mining purposes.	12. Repealing requirement as to suitor in Warden's Court having mining privilege.
5. All Proclamations in respect of watercourses may be amended or revoked.	13. Increasing penalty for illegal mining.
6. No further grants of business site or residence site licences.	14. Miscellaneous amendments repealing requirements of consent by Minister.
7. Grant of certain privileges subject to consent of Minister.	
8. Grants of licences or privileges to be communicated to Under-Secretary.	

**A BILL INTITULED**

**AN ACT to amend the Mining Act 1926.**

**BE IT ENACTED** by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

- 5**     **1.** (1) This Act may be cited as the Mining Amendment Act 1953, and shall be read together with and deemed part of the Mining Act 1926 (hereinafter referred to as the principal Act).
- 10**    **(2)** This Act shall come into force on the first day of April, nineteen hundred and fifty-four.

**Title.**

Short Title and commencement.  
See Reprint of Statutes, Vol. V, p. 943

State forest  
lands and  
scenic reserves  
subject to Act.  
1949, No. 19  
See Reprint  
of Statutes,  
Vol. VIII,  
p. 613

2. (1) The principal Act is hereby amended by repealing section twenty-two, and substituting the following section:

“22. (1) Notwithstanding anything in the Forests Act 1949 or the Scenery Preservation Act 1908, all Crown lands set apart thereunder as State forest land or as reserves shall be subject to the provisions of this Act relating to mining on Crown lands: 5

“Provided that nothing in this section shall be construed to authorize the felling or removing of any timber upon or from State forest land within a mining district except under the provisions of the Forests Act 1949. 10

“(2) Every grant of a licence or other mining privilege over any State forest land or over land in a reserve under the Scenery Preservation Act 1908 shall be subject to the consent of the Minister of Forests or the Minister charged with the administration of the Scenery Preservation Act 1908, as the case may require, who may refuse his consent or grant it unconditionally or on such conditions as he thinks fit to impose.” 15 20

(2) Section thirty-five of the Forests Act 1949 is hereby amended by omitting from subsection one the words “mining privilege or”. 25

3. (1) Section sixty-six of the principal Act is hereby amended by repealing paragraphs (b) and (f) thereof.

(2) Section three of the Mining Amendment Act 1935 is hereby repealed. 30

4. Section one hundred and eight of the principal Act is hereby amended by adding the following subsection as subsection two thereof:

“(2) Notwithstanding the provisions of section two of this Act, a water race licence or a tail race licence may be granted to any person for the purposes of searching for coal or of carrying on coal mining operations or coal quarrying operations, and the provisions of this Act relating to any such licence shall apply accordingly to any licence so granted.” 35 40

Removing  
certain  
privileges  
acquired under  
miner's right.  
1935, No. 28

Water race or  
tail race licence  
may be granted  
for coal mining  
purposes.

5. Section one hundred and thirty-five of the principal Act is hereby amended by adding the following subsection as subsection two thereof:

“(2) Any such Proclamation, whether made under this Act or any former Mining Act, and any conditions or restrictions set out in the Proclamation, may from time to time be altered, revoked, or cancelled.”

6. (1) Subject to the provisions of this section, no business site or residence site licence shall be granted after the commencement of this Act:

Provided that where, in accordance with section four of the Mining Amendment Act 1941, any holder of a business site licence or a residence site licence wishes to subdivide his interest in the land to which the licence relates and transfer any such subdivision, the Warden may, in accordance with that section, issue new licences in respect of the subdivisions created.

(2) Notwithstanding the provisions of this section, and notwithstanding anything to the contrary in the principal Act, where any of the land comprised in a licence for a claim or in a special site licence is, on the commencement of this Act, occupied as the site for a residence, the person who, in the opinion of the Warden, is entitled to the [beneficial] ownership of the residence may, at any time before the first day of January, nineteen hundred and fifty-six, make application to the Warden for and be granted a residence site licence in respect of the site occupied as aforesaid.

(3) Section one hundred and forty-four of the principal Act is hereby amended by omitting the words “Business site licences: Residence site licences”.

(4) Paragraph (a) of section one hundred and forty-seven of the principal Act is hereby repealed.

(5) Section fifty-five of the Land Act 1948 is hereby amended by inserting in subsection four, after the words “mining privilege”, the words, “other than a business site or a residence site licence”.

(6) Nothing in this section shall be construed to affect the rights of any holder of a business site licence or a residence site licence in force on the commencement of this Act, and any such licence may be renewed or transferred in accordance with the provisions of the principal Act.

All Proclamations in respect of watercourses may be amended or revoked.

No further grants of business site or residence site licences.

1941, No. 16

1948, No. 64

Grant of certain privileges subject to consent of Minister.

7. (1) Section one hundred and sixty-nine of the principal Act is hereby amended by repealing paragraph (y), and substituting the following paragraph:

“(y) In any of the following cases,—

“(i) If the land to which the application relates is outside a mining district; or

“(ii) If the application is for a special claim (other than a dredging claim) the area of which exceeds thirty acres, or for an ordinary prospecting licence in respect of an area exceeding one hundred acres, or for a licence for any mining privilege (whatever the area thereof) under the sea or on the foreshore, or for a mineral licence, or for a licence for a dam; or

“(iii) If the application is for a licence for a dredging claim (whatever the area thereof) or for a mining privilege of any description affecting land which is the subject of a coal mining right granted under the Coal Mines Act 1925,—

the grant of the application shall be subject to the consent of the Minister, who may refuse his consent or grant it unconditionally or on such conditions as he thinks fit to impose.”

(2) Section eighteen of the Mining Amendment Act 1934 and section five of the Mining Amendment Act 1948 are hereby repealed.

8. The principal Act is hereby amended by inserting, after section one hundred and seventy, the following section:

“170A. Where the grant of a licence or other mining privilege is subject to the consent of a Minister, the Warden shall make his decision in respect of the grant and, if he decides to grant the application, shall forthwith communicate his decision to the Under-Secretary.”

9. (1) The principal Act is hereby amended by repealing section one hundred and seventy-seven, and substituting the following section:

See Reprint of Statutes, Vol. V, p. 843

1934, No. 26  
1948, No. 26

Grants of licences or privileges to be communicated to Under-Secretary.

As to acquisition of mining privilege under Public Works Act 1928.

“ 177. Where a mining privilege in respect of water is taken, purchased, or otherwise acquired by the Minister of Works on behalf of Her Majesty under the Public Works Act 1928, the following provisions shall apply:

See Reprint of Statutes, Vol. VII, p. 622

5           “(a) For the purposes of the Public Works Act 1928 and of this Act, it shall be deemed a sufficient identification of the interest in  
10           land created by the licence granting the privilege to describe it as the whole of the interest created by the licence or to use the description set out in the licence:

15           “(b) Her Majesty the Queen shall be entitled to the same rights, benefits, priorities, and privileges as those to which the former licensee was entitled immediately before the acquisition of the mining privilege:

20           “(c) Notwithstanding the provisions of Part VII of this Act, the licensee from whom a mining privilege is taken shall be entitled to compensation in accordance with Part III of the Public Works Act 1928, and the provisions of that Act, as far as they are applicable and with the necessary  
25           modifications, shall apply accordingly:

“ Provided that in the case of a privilege granted at any time after the ninth day of November, nineteen hundred and twenty (being the date of the commencement of the Mining Amendment Act 1920), compensation  
30 shall be assessed on the basis that the licence granting the privilege was, at the time of the taking, subject to the following conditions:

35           “(i) That the Minister, on behalf of Her Majesty, had a prior right to the privilege in the event of the licensee applying for a renewal or, as the case may be, a fresh licence in respect of the privilege; and

40           “(ii) That the compensation payable to the licensee in the event of the Minister exercising his prior right as aforesaid was limited to the fair market value of the works constructed for the purpose of the licence, together with the consequent depreciation in value of any other property comprised  
45           in a mining privilege held by the same licensee.”

(2) Section three of the Mining Amendment Act 1948 is hereby amended by repealing subsection two thereof.

As to mining privileges over land suitable for agriculture or affecting soil conservation or rivers control.

10. (1) The principal Act is hereby amended by repealing section two hundred and eighteen, and substituting the following section: 5

“218. (1) In every case where, after the passing of this Act, application is made to a Warden for the grant of a mining privilege to authorize the dredging or sluicing away of any land (whether Crown land or not) the Warden shall, before granting the application, submit the same to the Commissioner of Crown Lands for the district in which the land is situated for a report as to whether or not, in the opinion of the Commissioner, the land is suitable for agricultural or pastoral purposes and to the Catchment Board or, as the case may require, to the Soil Conservation Committee of the district in which the land is situated for a report as to whether or not, in the opinion of the Board or the Committee, the granting of the application would conflict with the purposes of the Soil Conservation and Rivers Control Act 1941. 10 15 20

1941, No. 12

“(2) Unless the Commissioner certifies that in his opinion the land to which the application relates is not suitable for agricultural or pastoral purposes, and the Catchment Board or the Soil Conservation Committee, as the case may be, certifies that in its opinion the granting of the application would not conflict with the purposes of the Soil Conservation and Rivers Control Act 1941, the Warden shall, if the application is approved, issue a licence subject to such special terms, conditions, and reservations as may be prescribed by regulations in that behalf, or, in default of any such regulations, as he may consider sufficient to prevent, as far as practicable, the destruction of the surface of the land or the rendering of it unfit for agricultural or pastoral purposes and **to prevent, as far as practicable,** any conflict with the purposes of the Soil Conservation and Rivers Control Act 1941.” 25 30 35

1934, No. 26

(2) Section twenty-two of the Mining Amendment Act 1934 is hereby repealed. 40

11. (1) Section two hundred and ninety-nine of the principal Act is hereby amended by omitting from paragraph (a) the words "of an Inspector of Machinery under the Inspection of Machinery Act 1908, and that  
 5 Act shall be construed accordingly", and substituting the words "of an Inspector under the Machinery Act 1950 with respect to any machinery to which that Act applies in a mine and all the powers of an Engineer Surveyor under the Boilers, Lifts, and Cranes Act 1950  
 10 with respect to any machinery (other than steam engines and boilers) to which that Act applies in a mine:  
 Provided that nothing in this Act shall be deemed to abridge or annul any of the provisions of the Machinery Act 1950, or the Boilers, Lifts, and Cranes Act 1950,  
 15 or to affect the duties of any Inspectors or Engineer Surveyors appointed under either of those Acts in relation to the inspection in mines of machinery and boilers to which either of those Acts apply."
- Inspector of Mines to have powers of Inspector of Machinery.  
 1950, No. 52  
 1950, No. 53
- (2) Section three hundred and one of the principal  
 20 Act is hereby repealed.
12. (1) Section three hundred and forty-three of the principal Act is hereby amended by repealing the proviso thereto.
- Repealing requirement as to suitor in Warden's Court having mining privilege.
- (2) Section sixty-six of the principal Act is hereby  
 25 amended by repealing paragraph (d) thereof.
13. Section four hundred and thirty-one of the principal Act is hereby amended by omitting the words "and is liable to a fine of not more than five pounds", and substituting the words "and shall be  
 30 liable on summary conviction to a fine not exceeding two hundred pounds and, if the offence is a continuing one, to a further fine not exceeding five pounds for every day during which the offence continues".
- Increasing penalty for illegal mining.
14. (1) Section one hundred and one of the principal  
 35 Act is hereby amended by omitting from paragraph (b) the words "Provided also that when such period exceeds six months the previous consent of the Minister shall be necessary".
- Miscellaneous amendments repealing requirements of consent by Minister.
- (2) Section one hundred and sixty-one of the  
 40 principal Act is hereby amended as follows:  
 (a) By repealing paragraphs (d) and (e) thereof.  
 (b) By omitting from paragraph (f) the words "or, as the case may be, the Warden with the consent of the Minister":

(c) By omitting from paragraph (i) the words  
“ and, where necessary, by the Minister ”.

(3) Section one hundred and sixty-eight of the principal Act is hereby amended by omitting the words  
“ the Minister, on the recommendation of ”. 5

(4) Section one hundred and seventy of the principal Act is hereby amended by omitting the words “ six months ”, and substituting the words “ twelve months ”.

(5) Section one hundred and seventy-two of the principal Act is hereby amended by omitting from the proviso to paragraph (i) the words “ with the consent of the Minister ”. 10

See Reprint  
of Statutes,  
Vol. V, p. 1168

(6) Section two hundred and seventeen of the principal Act, as amended by section nine of the Mining Amendment Act 1927, is hereby further amended as follows: 15

(a) By omitting from subsection one the words  
“ with the written consent of the Minister ”:

(b) By omitting from subsection two the words  
“ with the like consent ”. 20

1934, No. 26

(7) Sections eleven and thirty-eight of the Mining Amendment Act 1934 are hereby repealed and any notification under the said section thirty-eight in force on the commencement of this Act shall be deemed to be cancelled and of no effect. 25

1941, No. 16

(8) Section fourteen of the Mining Amendment Act 1941 is hereby amended by omitting the words “ with the consent in writing of the Minister, and ”