

MINING (AMENDMENT) BILL, 1961.

EXPLANATORY NOTE.

THE objects of this Bill are:—

- (a) to amend the definitions of "Crown lands", and to insert new definitions of "Crown-lease for pastoral purposes" and "special lease for pastoral purposes", in the Mining Act, 1906, as amended; and to omit definitions of "lease for pastoral purposes", "small coal" and "street, road or highway" from that Act, as amended;
- (b) to enable mining schools and mining museums to be conducted in connection with all universities within the State, instead of only the University of Sydney;
- (c) to increase the fees payable for miners' rights, business licenses, and duplicates thereof;
- (d) to exempt from occupation under a miner's right Crown lands held under a permissive occupancy for residence purposes only;
- (e) to invalidate any marking out or taking possession, for mining purposes, of exempted Crown lands;
- (f) to provide that upon the forfeiture, surrender or expiration of any Crown lands holding situated within the external boundaries of an area of exempted Crown lands, the holding shall form part of that area;
- (g) to authorise the holder of a miner's right to prospect as well as to mine and to remove his right to take water;
- (h) to terminate the provisions of the Mining Act, 1906, as amended, permitting holders of miners' rights to take possession of Crown lands for residence purposes, and holders of business licenses to take possession of business areas;
- (i) to make new provisions relating to the granting of authorities to prospect on Crown lands;
- (j) to restrict the granting of mining leases in respect of Crown lands held under a permissive occupancy for residence purposes only, or Crown lands held under an authority to prospect;
- (k) to vary the provisions of the Mining Act, 1906, as amended, relating to the taking of possession of Crown lands for the purpose of obtaining priority for an application for a lease;
- (l) to authorise the refusal of applications for leases of Crown lands whether or not the Act and regulations have been complied with;
- (m) to permit an applicant for a lease of Crown lands to occupy and use the land applied for, only with the consent of and subject to conditions imposed by the Minister;
- (n) to authorise the refund, in certain cases, of the whole or part of the survey fee accompanying an application for a lease of Crown lands;

- (o) to increase the annual rental for mining leases of Crown land ;
- (p) to include in the Mining Act, 1906, as amended, provisions authorising applications to be made for mining leases and mining leases to be granted, of Crown lands containing minerals not reserved to the Crown ;
- (q) to provide that an application for an ordinary lease of Crown lands may be treated as an application for a special lease under section forty of the Mining Act, 1906, as amended, if special circumstances exist ;
- (r) to amend the definitions of "occupier", "owner" and "private lands" contained in Part IV (Mining on Private Lands) of the Mining Act, 1906, as amended ;
- (s) to authorise prospecting as well as mining on private lands ;
- (t) to remove the necessity for cultivated land to be enclosed in order for its surface to be exempt from entry or lease under the said Part IV of the Mining Act, 1906, as amended ;
- (u) to increase the fee for a license to prospect on private lands ;
- (v) to provide for applications for authorities to enter private lands to be dealt with according to priority of lodgment ;
- (w) to authorise the warden to refuse an application for an authority to enter private land if the land is exempt from the said Part IV by virtue of section 49 (2A) of the Act ; or is the subject of a pending application for a lease ;
- (x) to permit notice of inquiries to fix the rent in respect of private lands the subject of a proposed authority to enter to be given, in certain cases, by advertisement and to make provision with respect to the payment of such rent and of compensation ;
- (y) to require holders of authorities to enter private lands to serve notice of the grant of the authorities upon every owner and occupier of the lands in respect of which they were granted ;
- (z) to provide that authorities to enter private lands may be granted in respect of areas up to 1000 acres ;
- (aa) to allow extensions of time for commencing prospecting by holders of authorities to enter private lands ;
- (bb) to permit an applicant for a lease of private lands to occupy and use the lands pending determination of his application only with the consent of, and subject to conditions imposed by, the Minister ;
- (cc) to permit leases for mining purposes to be granted of private lands between specified depths and to permit an applicant for a lease for mining purposes to occupy and use the lands pending determination of his application only with the consent of, and subject to conditions imposed by the Minister ;
- (dd) to increase the rent payable to the owner of private lands the subject of a mining lease ;
- (ee) to vary the provisions of section sixty-nine of the Mining Act, 1906, as amended, relating to leases of private lands granted by the owner to the holder of a miner's right ;

- (ff) to require the warden, in cases where an application for an authority to enter private lands in which the minerals are not owned by the owner of the lands, to give notice of the application to the owner of the minerals, and to require the holder of any such authority to serve notice of the grant of the authority upon every owner and occupier of the lands, and upon every owner of the minerals;
- (gg) to increase the rent payable to the owner of coal in lands the subject of a lease where the lands are held without reservation of minerals;
- (hh) to permit an owner of private lands in which the minerals are owned by the owner of the land to obtain a lease of such lands for mining purposes;
- (ii) to permit an owner of private lands, or an owner of minerals in private lands, where they are not the same person, to obtain a mining lease of such lands;
- (jj) to increase the amounts payable to the Minister on behalf of the owner of the minerals by lessees of private lands held without reservation of minerals;
- (kk) to provide that the Minister's decision, for the purpose of settling disputes under section 70D of the Mining Act, 1906, as amended, on whether bona fide mining operations are being carried on, shall be final;
- (ll) to authorise the granting of special leases of private lands similar to special leases of Crown lands;
- (mm) to confer rights of access upon applicants for leases of private lands;
- (nn) to amend the definitions of "occupier", "owner" and "private lands" contained in Part V (Dredging Leases) of the Mining Act, 1906, as amended;
- (oo) to exclude from the operation of the said Part V lands held under the Mining Act, 1906, as amended, and private lands under cultivation;
- (pp) to empower the Governor to exempt from the said Part V any lands;
- (qq) to provide that dredging leases shall be subject to labour conditions determined by the Governor, and that applications for such leases shall be accompanied by a survey fee;
- (rr) to require that an applicant for an authority to enter for the purpose of marking out a dredging lease shall pay a prescribed fee instead of a deposit;
- (ss) to make provisions relating to the priority of applications for dredging leases;
- (tt) to increase the rent payable to the Crown in respect of dredging leases of Crown lands;
- (uu) to enable a lessee under a dredging lease to deduct from the royalties payable to the Minister on behalf of the owner of the minerals any amount paid to the owner by way of rent under the lease;
- (vv) to provide that the Governor, instead of the Minister, may refuse applications for dredging leases;
- (ww) to permit an applicant for a dredging lease to occupy and use the lands applied for pending determination of his application only with the consent of, and subject to conditions imposed by, the Minister;

- (xx) to provide that any exemption of Crown lands from dealings under the Crown Lands Acts may apply to the whole of the land or to the surface of the land and land below the surface to a specified depth ;
- (yy) to require all leases under the Mining Act, 1906, as amended, to be registered with the Registrar, Department of Mines, Sydney ;
- (zz) to require transfers and assignments of, and certain instruments affecting, such leases to be in writing and to be lodged for the Minister's sanction or concurrence, and for registration, without which the transfer, assignment or other instrument has no force ;
- (aaa) to clarify the powers of the warden to grant authorities to enter any land for the purpose of laying pipes or constructing tunnels ;
- (bbb) to extend the circumstances in which the warden may suspend labour conditions attached to a mining lease ;
- (ccc) to empower the Minister to require any person mining under the provisions of the Mining Act, 1906, as amended, to submit royalty returns at any time ;
- (ddd) to amend the provisions of section one hundred and eighteen of the Mining Act, 1906, as amended, relating to amalgamation of leases ;
- (eee) to require the payment of a fee upon the surrender of a lease ;
- (fff) to limit the period within which a complaint for non-compliance with labour conditions attached to a lease may be made ;
- (ggg) to extend the Minister's powers of writing off debts due to the Crown for rent under mining leases or applications therefor ;
- (hhh) to extend the Minister's powers of directing the warden to hold inquiries ;
- (iii) to increase the amount for which an employee is entitled to priority for services in connection with mining from £25 to £100 ;
- (jjj) to increase the penalty for—
 - (i) unauthorised mining from £10 to £500 ;
 - (ii) unauthorised occupation of Crown land from £10 to £500 ;
 - (iii) breaches of regulations under the Mining Act, 1906, as amended, from £10 to £50 ;
 - (iv) wrongful exaction of moneys for anything done under the said Act, as so amended, from £50 to £250 ;
 - (v) wrongful mining on private lands from £10 to £500 ;
- (kkk) to make other provisions of a minor or machinery nature, or ancillary to the foregoing.

No. , 1961.

A BILL

To amend the law relating to mining; for this purpose to amend the Mining Act, 1906, as amended by subsequent Acts; and for purposes connected therewith.

[MR. SIMPSON;—19 September, 1961.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Mining (Amendment) Act, 1961".

(2) Short title, citation and commencement.

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(2) The Mining Act, 1906, as amended by subsequent Acts and by this Act, may be cited as the Mining Act, 1906-1961.

(3) The Mining Act, 1906, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(4) (a) This Act shall commence on such day or days as may be appointed and notified pursuant to paragraph (b) of this subsection.

(b) The Governor may, from time to time, appoint and notify by proclamation published in the Gazette the day upon which any provision of this Act specified in the proclamation shall commence and may appoint and notify different days for different provisions and the provision so specified shall commence accordingly.

2. Part I of the Principal Act is amended—

Amendment
of Act No.
49, 1906.
Part I.—
(Pre-
liminary.)

(a) (i) by omitting from the matter relating to Part II in section one the figures "13" and by inserting in lieu thereof the figures and letter "13A";

(ii) by omitting from the matter relating to Part III in the same section the figures and letters "ss. 35-39B." and by inserting in lieu thereof the following letters, figures and words :—

ss. 35-39C.

3A. *Mining leases of Crown lands containing minerals not reserved to the Crown—*
s. 39D.

(iii) by inserting in the same section after the figures, letters and symbols "ss. 70A-70E." in the matter relating to Part IV the following figures, letters and words :—

4B. *Special leases of private land—s. 70F.*

(iv)

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- (iv) by omitting from the matter relating to Part VI in the same section the figures "130" and by inserting in lieu thereof the figures and letter "130A";
- 5 (v) by omitting from the matter relating to Part IX in the same section the figures "183" and by inserting in lieu thereof the figures and letter "183A";
- 10 (b) (i) by inserting at the end of the definition of Sec. 3. "Crown lands" the following new paragraph : — (Interpretation.)
- (g) public roads vested in fee simple in the council of an area within the meaning of the Local Government Act, 1919, as amended by subsequent Acts.
- 15 (ii) by inserting next after the definition of "Crown Lands Acts" in the same section the following new definition : —
- "Crown-lease for pastoral purposes" means—
- 20 (a) a Crown-lease of land, not being a Crown-lease of land set apart for disposal by way of Crown-lease for grazing, which contains a condition restricting the use of the land comprised therein to grazing or grazing and the giving of access to water; and
- 25 (b) a Crown-lease of land set apart for disposal by way of Crown-lease for grazing, whether or not the whole or any part of the land comprised in the lease may, under the lease, be used for agricultural purposes.
- 30 (iii) by omitting from the same section the definition of "Lease for pastoral purposes";
- 35 (iv)

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- (iv) by omitting from the same section the definition of "Small coal";
- (v) by omitting from the same section the definition of "Street, road, or highway," and by inserting in lieu thereof the following definition :—
- 5 "Special lease for pastoral purposes" means a special lease which is expressed to be for the purposes of grazing or grazing and the giving of access to water.
- (vi) by omitting from the definition of "To mine" in the same section the word "therefrom";
- (c) (i) by omitting from subsection three of section Sec. 4. four the words "the University of Sydney" and by inserting in lieu thereof the words "any University within the State"; (Schools of mines and museums may be established.)
- 15 (ii) by omitting from the same subsection the words "Senate of the University, and such Senate" and by inserting in lieu thereof the words "Senate or Council of such University, and such Senate or Council".
- 20
3. Part II of the Principal Act is amended—
- Amendment of Act No. 49, 1906.
Part II—
(Miners' rights and business licenses.)
- (a) by omitting from section nine the words "five Sec. 9. shillings for every year or two shillings and sixpence" and by inserting in lieu thereof the words "one (Issue of miners' rights.) pound for every year or ten shillings";
- 25 (b) by omitting from section ten the words "one pound Sec. 10. for every year or ten shillings" and by inserting in lieu thereof the words "ten pounds for every year (Issue of business licenses.) or five pounds";
- (c)

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- (c) by omitting from section thirteen the words “one shilling” and by inserting in lieu thereof the words “five shillings”; Sec. 13. (Duplicate rights and licenses.)
- 5 (d) (i) by inserting in subsection two of section fourteen after the word “standing” the words “, and Crown lands held under a permissive occupancy for residence purposes only,”; Sec. 14. (Certain exemptions.)
- (ii) by inserting at the end of the same section the following new subsections : —
- 10 (4) Any marking out or taking possession of, or application for, any Crown lands which are exempt from occupation pursuant to this section as a tenement shall be void and of no effect.
- 15 (5) Upon the forfeiture, surrender or expiration of any lease or other holding under the Crown Lands Acts of lands situated wholly or in part within the external boundaries of any lands exempted under this section, the lands comprised in such lease or other holding shall, to the extent to which they are within the external boundaries of the area so exempted, thereupon form part of such area.
- 20
- (e) (i) by inserting in paragraph (a) of subsection one of section fifteen after the word “mine” the words “or prospect”; Sec. 15. (Rights of occupation in respect of Crown lands.)
- 25 (ii) by omitting paragraph (f) of the same subsection;
- (f) (i) by inserting in subsection three of section sixteen after the word “time” where firstly occurring the following new proviso : — Sec. 16. (Residence area.)
- 30 Provided that the legal representative, or the committee, or manager of the property, of two or more deceased, bankrupt or mentally ill holders of residence areas may, while acting in that

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that capacity, hold and be registered as the holder of one residence area in respect of each deceased, bankrupt or mentally ill holder.

- 5 (ii) by inserting at the end of the same section the following new subsection : —

10 (4) Nothing in this section shall authorise any person to take possession of and occupy any residence area after the commencement of the Mining (Amendment) Act, 1961: Provided that where any person is lawfully in occupation of any residence area at such commencement, he may, subject to the provisions of this Act, continue to occupy such area after such commencement.

- 15 (g) by omitting section seventeen and by inserting in lieu thereof the following section : — Substituted sec. 17.

17. (1) The Minister, on the recommendation of the warden or the prospecting board, may grant Authority to prospect on Crown lands. to a holder of a miner's right an authority to prospect for gold or any mineral on any Crown lands, whether exempted from occupation under this Part or not, and may by such authority authorise the holder to occupy any such Crown lands and to construct and use thereon races, dams, pipe lines, reservoirs or roads.

25 (2) Where an applicant for an authority dies or becomes bankrupt or mentally ill before his application is granted or refused, the authority may, if the legal representative of such deceased or bankrupt applicant or the committee, or manager of the property, of such mentally ill applicant so requests, be granted to such legal representative, committee or manager.

35 (3) An authority may be granted notwithstanding that the applicant therefor has not in every respect complied with the regulations or has included in the land applied for land in respect of which an authority may not be granted under this Act.

(4)

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(4) Any such authority may, at the request in writing of the applicant therefor, be granted to any person nominated by him.

5 (5) The Minister may refuse any such application and upon publication of such refusal in the Gazette such application shall cease to be pending.

(6) The Minister may—

10 (a) determine the land to be held under any such authority and may grant any such authority in respect of the surface of the land and the soil thereof to a specified depth below the surface, or in respect of the soil below a specified depth below the surface, or in respect of the soil between specified depths below the surface;

15 (b) subject to this Act, grant any such authority in respect of the land referred to in the application therefor, or, with the consent in writing of the applicant therefor, grant such authority in respect of such land subject to such alterations, enlargements or reductions in the area thereof as the Minister may determine;

20 (c) determine the rent to be paid in respect of any such authority;

25 (d) grant any such authority subject to such conditions, provisions and stipulations as he may think fit;

30 (e) suspend or postpone the fulfilment of any conditions, provisions and stipulations subject to which the authority was granted for periods not on any one occasion exceeding three months;

(f)

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- (f) cancel any such authority where the holder thereof has failed to comply with any of the conditions, provisions and stipulations subject to which such authority was granted;
- 5 (g) withdraw without payment of compensation any area from any such authority where such area is required for any public purposes and cancel the authority in respect of the land so withdrawn;
- 10 (h) at the request of the holder cancel any authority either wholly or in part.
- (7) Any such authority may be granted for such period not exceeding twelve months as the Minister may determine.
- 15 Upon application in that behalf made by the holder of any such authority during the currency of the authority held by him or any renewal thereof, and not later than one month before the expiry of such authority or renewal, as the case may be, the
- 20 Minister may, at his discretion and subject to such conditions as he may think fit, grant successive renewals of the authority for further periods not exceeding twelve months each in respect of the whole of the land comprised therein or any part thereof.
- 25 (8) An authority shall, on payment in advance of the rent determined as aforesaid, and survey fee where a survey is required by the Minister, entitle the holder during the currency of the authority to carry on prospecting operations and
- 30 to occupy and use the area for any purpose authorised by the authority.
- (9) Within fourteen days after the discovery of gold or any mineral within any land comprised in any authority, the holder of the authority shall
- 35 report the discovery to the Under Secretary for Mines who shall thereupon report the discovery to the

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the Minister. The Minister may thereupon call upon the holder of the authority to apply for a lease of the land or such part thereof as the Minister may deem advisable or to continue prospecting operations.

- (h) by inserting at the end of section eighteen the following new proviso and subsection : —

Sec. 18.
(Holder may occupy land and erect buildings.)

Provided that the legal representative, or the committee, or manager of the property, of two or more deceased, bankrupt or mentally ill holders of business areas may, while acting in that capacity, hold and be registered as the holder of one business area in respect of each such deceased, bankrupt or mentally ill holder.

(2) Nothing in this section shall authorise any person to take possession of and occupy any business area after the commencement of this subsection : Provided that where any person is lawfully in occupation of any business area at such commencement, he may, subject to the provisions of this Act, continue to occupy such area after such commencement.

4. (1) Part III of the Principal Act is amended—

Amendment of Act No. 49, 1906.

Part III—
(Leases of Crown lands.)

- (a) (i) by omitting from subsection one of section twenty-three the words “and any street, road, or highway”;

Sec. 23.
(Governor may grant leases.)

(ii) by inserting in paragraph (b) of subsection two of the same section after the words “Crown land” the words “held under a permissive occupancy for residence purposes only, or”;

(iii)

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(iii) by inserting next after the same paragraph the following new paragraph : —

5 (bi) Crown land held under an authority to prospect, or the subject of an application for an authority to prospect, under the provisions of section seventeen of this Act shall not be leased to any person except with the written consent of the holder of, or the applicant for, such
10 authority, as the case may be.

(iv) by omitting paragraph (d) of the same subsection ;

(v) by inserting next after the same subsection the following new subsections : —

15 (2A) Any marking out or taking possession of, or application for, any Crown lands which are exempt from leasing under this section shall be void and of no effect :

20 Provided that where part only of any Crown lands which have been marked out, taken possession of, or applied for are so exempt, nothing in this subsection shall prevent a lease being granted under this section of such part of those Crown lands as is not so exempt.

25 (2B) Upon the forfeiture, surrender or expiration of any lease or other holding under the Crown Lands Acts of lands situated wholly or in part within the external boundaries of any lands exempted from leasing under this section
30 the lands comprised in such lease or other holding shall, to the extent to which they are within the external boundaries of the area so exempted, thereupon form part of such area.

35 (b) by omitting from subsection one of section twenty-six the words "Provided that" and by inserting in lieu thereof the words "Provided that where under the
Sec. 26.
(First applicant to have priority.)

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the regulations a datum post is not required to be erected, the time of taking possession shall be deemed to be the time at which the application is lodged :

Provided further that”;

- 5 (c) by inserting in subsection three of section twenty-seven after the word “lease” the words “notwithstanding that the applicant may have complied in every respect with the provisions of this Part and of the regulations thereunder”; Sec. 27.
(Irregular application may be granted.)
- 10 (d) (i) by omitting from section twenty-eight the word “mining” where firstly occurring; Sec. 28.
(Applicant may mine upon land.)
- 15 (ii) by omitting from the same section the words “may, by virtue of his application,” and by inserting in lieu thereof the words “or his nominee may, by virtue of the application,”;
- 20 (iii) by omitting from paragraph (a) of the same section the words “occupy the land applied for, and subject to any conditions or restrictions imposed by the Minister mine upon and in the same” and by inserting in lieu thereof the words “subject to the consent of the Minister and to any conditions (including payment of rent and royalty not exceeding the rents and royalties prescribed by section thirty-six of this Act) or
- 25 restrictions specified in such consent, occupy the land applied for and—
- (i) where the application is for a mining lease, mine upon and in such land; or
- 30 (ii) where the application is for a mining purposes lease, construct and use such works upon and in such lands as the Minister may in writing authorise and specify in a notice sent to the applicant”;
- (iv)

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(iv) by omitting from paragraph (c) of the same section the words "or mineral";

5 (v) by omitting from the same section the words
"Provided that the rights specified in paragraph
(a) of this section shall not accrue to any appli-
cant for a mining lease of any street, road, or
highway, or any Crown land reserved or
dedicated for and in actual use for any public
purpose." and by inserting in lieu thereof the
10 following paragraphs :—

The Minister may by notice in writing served
on the applicant or his nominee revoke any
consent referred to in paragraph (a) of this
section or may in like manner vary any such
15 consent as he may think fit.

Any person occupying any land pursuant to
this subsection who neglects or fails to comply
with the conditions or restrictions specified in
any relevant consent given under paragraph (a)
20 of this section or any variation thereof shall
be liable to a penalty not exceeding fifty pounds.

(e) by omitting section thirty-one and by inserting in lieu thereof the following section :— Substituted
sec. 31.

25 31. Except in the prescribed circumstances, every
application for a lease shall be accompanied by the
prescribed survey fee. Survey
fee to
accompany
application
for lease

Where the Minister is of opinion that a survey
is unnecessary for the purposes of any such applica-
tion, or that the cost of the survey is less than the
prescribed survey fee lodged by the applicant for the
30 lease, he may refund to such applicant the whole, or
such part as he thinks fit, of any prescribed survey
fee paid by such applicant.

(f)

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(f) (i) by omitting subsections one and two of section thirty-six; Sec. 36.
(Gold and coal leases—rent and royalty.)

(ii) by inserting next after subsection (2A) of the same section the following new subsection:—

5 (2AB) The annual rent for a gold-mining lease or a mineral lease granted under this Part after the commencement of this subsection shall be five shillings per acre or portion of an acre.

10 (iii) by inserting at the end of paragraph (a) of subsection (2D) of the same section the words “or, in the case of a special mining lease granted under section forty of this Act, at such rates as may be fixed by the Governor under that section”;

15 (iv) by omitting from paragraph (b) of the same subsection the words “one shilling” and by inserting in lieu thereof the words “two shillings”;

20 (v) by omitting from the same paragraph the word “ninepence” and by inserting in lieu thereof the words “one shilling”;

25 (vi) by omitting from subsection five of the same section the words “: Provided also that the Minister may at his discretion remit the amount of royalty payable on coal used for raising steam for motive power at a colliery”;

30 (vii) by inserting in subsection six of the same section after the word “lessee” the words “, or applicant for a lease, or his nominee, as the case may be,”;

(g) by omitting subsection two of section thirty-seven; Sec. 37.
(Labour conditions.)
(h)

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- (h) by inserting next after section 39C the following ^{New} Division 3A.
new Division :—

DIVISION 3A.—MINING LEASES OF CROWN LANDS
CONTAINING MINERALS NOT RESERVED TO THE
CROWN.

39D. (1) The Governor in the name and on ^{Application} behalf of Her Majesty may grant mineral leases of ^{for lease.} Crown lands containing any minerals not reserved to the Crown, whether or not such lands also contain gold or minerals reserved to the Crown. The provisions of subsection two of section twenty-three of this Act shall apply to the leasing of Crown lands under this Division.

(2) Subject to the provisions of this section—

(a) the provisions of Divisions 2 and 3 of this Part of this Act apply mutatis mutandis to leases under this Division and to applications for such leases; and

(b) the provisions of this Act relating to the rights and duties of applicants for, and lessees under, and of other persons in relation to the land comprised in, leases of Crown lands granted under this Division shall be the same as the rights and duties of applicants for, and lessees under, and of other persons in relation to the land comprised in, leases of Crown lands granted under section twenty-three of this Act.

(3) In addition to the rent payable to the Crown in respect of any lease under this Division, a yearly rental of five shillings per acre or portion of an acre in respect of the whole of the area included in any such lease, being a lease to mine for coal or shale, shall be reserved to the owner of such coal or shale and shall be paid half-yearly in advance.

(4)

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(4) (a) A royalty at such rate as may be prescribed shall be paid in respect of all minerals not reserved to the Crown won from any land included in a lease under this Division.

5 (b) The regulations may prescribe rates according to a percentage of the value of the mineral won or an amount per ton on all mineral won or an amount per cubic foot, cubic yard, gallon or other appropriate standard of measurement or otherwise
10 howsoever.

Different rates may be prescribed in respect of different minerals. In the case of rates according to a percentage of the value of the mineral won such rates shall not exceed one and three-quarters per
15 centum of such value. In the case of rates according to an amount per ton on all mineral (other than coal or shale) won such rates shall not exceed two shillings per ton. The rate prescribed in respect of coal or shale shall not exceed one shilling per ton.

20 (c) The holder of any lease granted under this Division shall at the times and in the manner prescribed pay to the Minister on behalf of the owner of the minerals included in such lease the royalties required to be paid by such holder under
25 this subsection.

(d) The Minister shall at the times and in the manner prescribed pay to the owner of the minerals the royalties paid as aforesaid less—

30 (i) one-seventh of the amount paid under paragraph (a) of this subsection in respect of all minerals other than coal or shale won from the land; and

(ii) one penny per ton of all coal or shale won from the land;

35 which he is hereby authorised to deduct from such sum; and the amount so deducted shall be paid by the Minister into the Treasury and carried to the Consolidated Revenue Fund.

(e)

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5 (e) Upon any renewal of a lease under this Division the Governor may, in respect of such renewal, vary the amount payable by way of royalty under paragraph (a) of this subsection to such extent as he may determine.

10 For the purposes of paragraph (d) of this subsection the amount determined by the Governor in respect of any such renewal pursuant to the foregoing provision shall in respect of such renewal be deemed to be the amount prescribed by paragraph (a) of this subsection.

The provisions of paragraph (d) of this subsection with regard to deductions shall apply to such renewed leases.

15 (f) The lessee of any lease granted under this Division, being a lease to mine coal or shale not reserved to the Crown, may deduct from the sum payable under paragraph (a) of this subsection in any one year to the Minister on behalf
20 of the owner of the coal or shale a sum equal to the amount paid by him to such owner as rent for that year. For the purposes of this paragraph leases amalgamated under the provisions of this Act shall be regarded as separate leases unless the owners of
25 the coal or shale are identical.

(5) Where there are in any Crown lands minerals not reserved to the Crown together with gold or minerals reserved to the Crown, the provisions of Division 5 of this Part shall extend
30 to enabling the Minister to grant an authority under that Division in respect of such land, and to revoke or cancel any such authority.

35 The holder of any such authority at the times and in the manner prescribed, shall pay to the Crown in respect of any minerals reserved to the Crown won by him pursuant to such authority a royalty in accordance with the provisions of section thirty-six of this Act and such royalty may be recovered from the lessee as a Crown debt.

(6)

Mining (Amendment).

(6) No lease under this Division shall be granted—

5 (a) where the owner of the minerals not reserved to the Crown, or some other person with his consent, is, at the time possession of the land is taken by the applicant for the lease, bona fide carrying on mining operations for the purpose of winning such minerals unless such owner consents to the lease; or

10 (b) where the minerals that are not reserved to the Crown are coal or shale and are included in the freehold or leasehold lands held by the owner of a colliery and within the colliery holding a plan or description and particulars of title of which have been furnished to the
15 Under Secretary for Mines in accordance with the provisions of the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, before possession of the land is taken by the
20 applicant for the lease, unless the owner of the colliery consents to the lease.

In the event of any dispute arising as to whether bona fide mining operations are being carried on as aforesaid or as to the area protected by this section, the question shall
25 be determined by the Minister after inquiry and report by the warden and the Minister's decision shall be final.

30 (i) (i) by inserting in subsection one of section forty after the words "coal or shale mining" the words "Sec. 40. (Governor may grant special leases.)", whether or not the land applied for exceeds the limits prescribed as to area or dimensions in respect of ordinary leases under this Part,";

35 (ii) by omitting from paragraph (a) of subsection two of the same section the words "that an area in excess of the limit prescribed should be leased" and by inserting in lieu thereof the words "that a special mining lease should be granted";

Mining (Amendment).

(iii) by omitting from subsection three of the same section the words "form of and area to be comprised in any such lease" and by inserting in lieu thereof the words "area to be comprised in any such lease and the form of such area";

(iv) by inserting at the end of the same section the following new subsection :—

(5) Where the Minister is satisfied that by reason of the difficulties and cost attending the construction of mine works upon or of mining any land the subject of an application for a lease under this Part (this section excepted) or for any other sufficient reason it is necessary that any such application should be dealt with in accordance with the provisions of this section the Minister may approve of the application being so dealt with, and, if the Minister so approves, the application shall be deemed to have been made for a lease under this section.

This subsection shall apply to applications for leases made before the commencement of this subsection and not granted or refused at such commencement as well as to applications for leases made after such commencement.

(j) by omitting from subsection one of section 40A the words "the form of and area to be comprised in any such lease" and by inserting in lieu thereof the words "the area to be comprised in any such lease and the form of such area".

Sec. 40A.
(Railway
Commissioners'
leases.)

(2) The amendments made by paragraph (d) of subsection one of this section shall not apply to any applicant for a mining lease where his application was made before the commencement of that paragraph and had not been granted or refused at such commencement, but the provisions of section twenty-eight of the Principal Act shall continue to apply to and in respect of any such applicant and his application until his application is granted or refused.

Mining (Amendment).

5. (1) Part IV of the Principal Act is amended—Amendment
of Act No.
49, 1906.Part IV.—
(Mining on
Private
Lands.)

- (a) (i) by omitting from section forty-five the definitions of "Occupier" and "Owner" and by inserting in lieu thereof the following definitions :—

Sec. 45. c
(Interpreta-
tion.)

"Occupier" means a person in lawful occupation of any private lands.

"Owner" includes—

- (a) any person to whom the Crown has lawfully contracted to grant the fee simple under the Crown Lands Acts, or to whom the Crown has granted any lease under those Acts; and
- (b) a trustee of private lands, a guardian in infancy, committee or manager appointed under Part X of the Mental Health Act, 1958, and a mortgagee in possession.

- (ii) by inserting in paragraph (i) of the definition of "Private lands" in the same section after the word and figure "Part V" the words ", or this Part,";

- (iii) by inserting at the end of paragraph (ii) of the same definition the words "Any such proclamation may be made with respect to the whole of the surface of any land and the soil below the surface, to the surface of the land and the soil thereof to a specified depth below the surface or to the land between or below any specified depths or depth below the surface.";

(b)

Mining (Amendment).

- (b) (i) by inserting in subsection one of section Sec. 46.
forty-six after the words "open to" the words (For gold
"prospecting or"; and other
metals.)
- 5 (ii) by inserting in subsection two of the same
section after the words "open to" the words
"prospecting or";
- 10 (iii) by omitting from subsection (2A) of the same
section the words "the Crown grant of which
contains, or if not yet issued will when issued
contain, a reservation to the Crown of any
mineral,";
- (iv) by inserting in subsection three of the same
section after the words "carrying on" wherever
occurring the words ", or entitled to carry on,";
- 15 (v) by omitting from the same subsection the word
and symbol ", whether";
- (c) by omitting from section forty-eight the words Sec. 48.
"enclosed and"; (Not to
extend to
surface of
cultivated
land with-
out consent.)
- 20 (d) (i) by omitting the short heading to section 49A Sec. 49A.
and by inserting in lieu thereof the following (Application
short heading :— for license.)
License to prospect on private lands.
- 25 (ii) by omitting from subsection one of the same
section the words "by a deposit of ten shillings,
which deposit may be applied wholly or in part
towards payment of compensation for occupa-
tion and for surface damage to be assessed by
the warden" and by inserting in lieu thereof the
words "by a fee of one pound";
- (iii)

Mining (Amendment).

(iii) by omitting paragraph (b) of subsection six of the same section and by inserting in lieu thereof the following paragraph :—

5 (b) The licensee shall pay into the warden's court within the time ordered by the warden compensation as assessed by the warden.

10 (iv) by omitting from paragraph (a) of subsection seven of the same section the words "such amount as will with any surplus to his credit after assessment and payment into court of compensation in respect of the area previously held under his license make up the sum of ten shillings" and by inserting in lieu thereof the words "a further fee of one pound";

15 (e) (i) by omitting from subsection one of section fifty the words "on any private lands" and by inserting in lieu thereof the words "in and upon any private lands and search for gold or any mineral reserved to the Crown." Sec. 50. (Warden may grant authority.)

20 If more than one application is made for the same land, the application which has been first lodged shall be first considered and dealt with, and so on, according to priority of lodgment";

25 (ii) by omitting paragraph (a) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—

30 (a) if the land is land for the time being included in a notification under subsection (2A) of section forty-six of this Act or land in respect of which no application for an authority to enter may be granted by virtue of subsection three of that section;

(iii)

Mining (Amendment).

5 (iii) by omitting from subsection three of the same section the words "of five shillings which" and by inserting in lieu thereof the words "calculated at the rate of one pound for each one hundred acres or part thereof comprised in the area applied for, which fee";

(f) (i) by inserting at the end of subsection one of section fifty-one the following new paragraph : — Sec. 51.
(Rent to be fixed.)

10 Notwithstanding the foregoing provisions of this subsection where no part of the surface is applied for and there is more than one owner of the land applied for the warden, in lieu of giving notice to any such owner as required by
15 this subsection, may, by advertisement published in a newspaper circulating in the district where the land is situated, give notice of the inquiry to be held under this subsection and where any
20 such inquiry is so advertised due notice of the inquiry shall be deemed to have been given to every owner of the land applied for.

(ii) by omitting subsections three and four of the same section and by inserting in lieu thereof the following subsections : —

25 (3) The first payment of the rent shall be made within fourteen days of the issue of the authority and before entry upon the land in pursuance of the authority. If such payment is not so made, or if any rent afterwards due is
30 left unpaid for a period of one month, the warden may cancel the authority.

35 (4) Compensation shall be paid within the period fixed by the warden. If such compensation is not so paid, or if any compensation afterwards assessed and ordered to be paid is left unpaid for a period of one month, the warden may cancel the authority.

(iii)

Mining (Amendment).

- (iii) by omitting from subsection five of the same section the words "within fourteen days";
- (iv) by omitting from the same subsection the words "the last two preceding subsections" and by inserting in lieu thereof the words "subsection three of this section";
- (g) (i) by inserting in subsection one of section fifty-two after the words "in force" the words "and where the application for the extension thereof is made not later than one month before its expiry";
- (ii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection :—
- (3) The holder of such authority shall, within the period and as directed by the warden, serve notice, in the prescribed form, of the grant of such authority and of every extension thereof, upon the owner and occupier, or upon each owner and occupier, if there is more than one, of the land defined in the authority.
- Notwithstanding the foregoing provisions of this subsection where no part of the surface is applied for and there is more than one owner of the land applied for the holder with the consent of the warden, in lieu of giving notice to any such owner as required by this subsection, may, by advertisement published in a newspaper circulating in the district where the land is situated, give notice of the grant of the authority and of any extension thereof and where any such grant or extension is so advertised due notice of the grant or extension shall be deemed to have been given to every owner of the land applied for.
- (h) by omitting section fifty-three and by inserting in lieu thereof the following section :—
53. (1) Every such authority shall state the area, and contain a definition, of the land in respect of which it is granted.
- (2)

Sec. 52.
(Duration
and extension
of
authority.)

Substituted
sec. 53.

Extent of
area.

Mining (Amendment).

(2) The said area may be such as appears to the warden suitable, having regard to the class of deposit to be searched for, but shall not exceed one thousand acres and the warden shall cause the boundaries of the land in respect of which the authority is granted to be defined, as prescribed, on the land :

Provided that the warden may dispense with such definition where in the circumstances of the case he considers such definition impracticable or unnecessary.

(i) by inserting in paragraph (a) of subsection two of section fifty-four after the word "authority" the words "or within such further time as the warden may, in writing, allow"; Sec. 54. (When prospecting lawful.)

(j) (i) by omitting paragraph (a) of subsection one of section fifty-seven and by inserting in lieu thereof the following paragraph : — Sec. 57. (Power to define boundaries.)

(a) has served the prescribed notice relating to the grant of such authority upon the owner and occupier of the said land; and;

(ii) by omitting from the same subsection the words "not exceeding the extent prescribed by section sixty-three" and by inserting in lieu thereof the words "but, except where application is made for a special mining lease under this Part, the area shall not exceed that prescribed by section sixty-three of this Act";

(iii) by omitting from subsection four of the same section the word "or" and by inserting in lieu thereof the word "and";

(iv) by omitting subsection five of the same section and by inserting in lieu thereof the following subsection : —

(5) When any application for a lease has been duly made the applicant, or his nominee, may by virtue of the application, until such lease

Mining (Amendment).

lease is granted or refused, subject to the consent of the Minister and to any conditions (including payment of rent and royalty not exceeding the rents and royalties prescribed by sections sixty-four, eighty-two and 70c of this Act and such compensation as may be assessed) or restrictions imposed by him, occupy the land applied for and mine upon and in such land.

The Minister may by notice in writing served on the applicant revoke any such consent or may, in like manner, vary any such consent as he may think fit.

Any person occupying any land pursuant to this subsection who neglects or fails to comply with the conditions or restrictions specified in any relevant consent given under this subsection shall be liable to a penalty not exceeding fifty pounds.

- (k) by inserting at the end of subsection one of section fifty-eight the following new paragraph : —
- Any such refusal shall be notified in the Gazette and shall take effect from the time of publication thereof.

Sec. 58.

(Power to refuse, etc.)

- (1) (i) by omitting from paragraph (c) of subsection one of section fifty-nine the words "determined by the Minister in accordance with the regulations" and by inserting in lieu thereof the word "prescribed";

Sec. 59.

(Particulars to be stated in lease.)

- (ii) by omitting subsection two of the same section;

- (m) (i) by omitting subsection one of section sixty and by inserting in lieu thereof the following subsection : —

Sec. 60.

(Lease for race, tramway, etc.)

(1) Subject to the assessment by the warden of compensation, the Governor may grant to any person who has made application to the Minister

Mining (Amendment).

Minister in that behalf in the prescribed manner
a lease of the surface of any private land and
of the soil to a specified depth below the surface
or of the soil below the surface of any private
land between or below any specified depths or
depth below the surface, for any mining
purpose.

(ii) by inserting next after subsection four of the
same section the following new subsection :—

(5) When any application for a lease under
this section has been duly made, the applicant,
or his nominee, may by virtue of the application,
until such lease is granted or refused, subject
to the consent of the Minister and to any con-
ditions (including payment of such rent and
compensation as may be assessed by the
Minister) or restrictions imposed by him, occupy
the land applied for and construct and use such
works upon and in the same as the Minister
may authorise.

The Minister may by notice in writing served
on the applicant revoke any such consent or
may, in like manner, modify or amend any such
consent as he may think fit.

Any person occupying any land pursuant to
this subsection who neglects or fails to comply
with the conditions or restrictions of any
relevant consent given under this subsection
shall be liable to a penalty not exceeding fifty
pounds.

(n) (i) by omitting from section sixty-three the words
“The area” and by inserting in lieu thereof the
words “Except in respect of special leases, the
area”;

(ii)

Mining (Amendment).

- 5 (ii) by omitting from the same section the words
 “: Provided that upon the recommendation of
 the Minister, the Governor may grant a lease
 exceeding the area above prescribed; but the
 Minister shall not make such recommendation
 unless the prospecting board certifies that, by
 reason of the difficulties and cost attending the
 construction of mine works upon or of mining
 10 such land, it is necessary that such greater area,
 to be specified by the board, should be included
 in the lease”;
- 15 (o) (i) by omitting from subsection one of section sixty- Sec. 64.
 four the words “notification in the Gazette of (Rents
 the approval of the lease by the Governor” and payable.)
 by inserting in lieu thereof the word “lease”;
- (ii) by inserting next after subsection one of the
 same section the following new subsection :—
- 20 (1A) The yearly rental reserved to the owner
 of the land in respect of any such lease (except
 a lease under section sixty of this Act) granted
 after the commencement of this subsection
 shall be two pounds per acre or portion of an
 acre commencing from the date of the lease
 payable half-yearly in advance, and shall be
 25 payable in respect of the portion of the surface
 leased.
- (p) by inserting in paragraph (b) of section sixty-six Sec. 66.
 after the word “owner” the words “of such trees, (Lessee not
 bark or timber”; to use water
 artificially
 conserved,
 nor depas-
 ture sheep,
 nor keep
 dog, nor
 remove
 rock, etc.)
- (q)

Mining (Amendment).

- (q) (i) by omitting from subsection two of section sixty-nine the words and symbols "(after deduction of any sum paid by way of rent)";

Sec. 69.
(Lease or agreement by owner to mine for minerals reserved to the Crown.)

- (ii) by omitting subsections four, five and six of the same section;

- (r) by omitting subsections five, six and seven of section seventy;

Sec. 70.
(Lease or agreement to mine for minerals not reserved to the Crown.)

- (s) (i) by inserting at the end of subsection two of section 70A the following new proviso :—

Sec. 70A.
(Grant of authority to enter.)

10 Provided that where application for any such authority to enter is made in respect of any mineral, which is owned by a person other than the owner of the land, the warden shall, before issuing the authority, give due notice of the inquiry referred to in section fifty-one of this Act to the owner of such mineral in addition to any other person to whom notice is required to be given under that section.

- 20 (ii) by inserting at the end of subsection three of the same section the following new proviso :—

25 Provided that the holder of any such authority shall, within the period and as directed by the warden, serve notice, in the prescribed form, of the grant of such authority and of every extension thereof upon the owner and occupier or upon each owner and occupier, if there is more than one, of the land defined in the authority and on the owner of any mineral which is owned by a person other than the owner of the land or upon each owner of such mineral, if there is more than one.

Notwithstanding

Mining (Amendment).

5 Notwithstanding the foregoing provisions of
this subsection where no part of the surface is
applied for and there is more than one owner
of the land applied for the holder with the
consent of the warden, in lieu of giving notice
to any such owner who is not the owner of the
mineral as required by this subsection, may, by
advertisement published in a newspaper
circulating in the district where the land is
10 situated, give notice of the grant of the autho-
rity and of any extension thereof and where any
such grant or extension is so advertised due
notice of the grant or extension shall be deemed
to have been given to every owner of the land
15 applied for who is not an owner of the mineral.

(t) (i) by inserting in subsection one of section 70B Sec. 70B.
after the words "or any part thereof," the words (Applica-
"and has served the prescribed notice relating tion for
to the grant of such authority upon the owner lease.)
and occupier of the said land and upon the
20 owner of any mineral, which is owned by a
person other than the owner of the land, and
has paid rent and compensation as prescribed,";

(ii) by inserting at the end of the same subsection
25 the following new paragraph : —

 The notice of intention to apply for a lease
required to be served upon the owner and
occupier of the land as provided by subsection
four of section fifty-seven of this Act shall also
30 be served by the applicant upon the owner of
any mineral, which is owned by a person other
than the owner of the land, or upon each owner
of such mineral, if there is more than one.

(iii) by omitting from subsection three of the same
35 section the word "shall" and by inserting in lieu
thereof the words "and applicants shall, subject
to this Division,";

(iv)

Mining (Amendment).

(iv) by inserting next after subsection four of the same section the following new subsection :—

5 (5) In respect of any lease granted after the commencement of the Mining (Amendment) Act, 1961, subsection four of this section shall have effect as if the words “two shillings and sixpence” were omitted therefrom and the words “five shillings” were inserted in lieu thereof.

10 (u) by inserting next after section 70B the following new sections :— New secs.
70BA, 70BB.

15 70BA. (1) (a) Any person who is the owner of any private lands and any minerals not reserved to the Crown in or on such land may, if such land is not applied for or occupied for mining operations under this Act, and whether or not he is the holder of an authority to enter, make application in the prescribed manner for a lease of such land to mine such minerals. Applica-
tion for
lease by
owner of
land and
minerals.

20 (b) Leases under this section may be granted by the Governor in the name and on behalf of Her Majesty to such applicants, and the provisions of Division 3 of this Part of this Act relating to the grant or refusal of applications for leases of private lands shall apply to applications made under this section.

25 (c) Any such application or lease shall confer the same rights upon the applicant, or lessee, under this section as an application or lease under section 70B of this Act would confer in the case of an applicant or lessee under that section.

30 (2) An owner applying as aforesaid shall have no preferential rights over other applicants and shall be subject to payment of royalty and all other provisions of this Part binding upon other applicants or lessees thereunder, as the case may be, with the exception of payment of rent and compensation, and
35 of

Mining (Amendment).

of those provisions which relate to such notices as the owner would be entitled to receive in his capacity as owner of the land and minerals in the case of an application made by some other person.

5 70BB. (1) (a) Where any private lands and minerals therein or thereon are not owned by the same person (such lands or minerals not being lands or minerals owned by the Crown), the owner of such lands or the owner of such minerals may—

Application
for lease
by owner
of land or
minerals.

10 (i) if such land is not applied for or occupied for mining operations under this Act; and

(ii) he is the holder of an authority to enter under this Part,

15 make application in the prescribed manner for a lease of such land to mine such minerals.

(b) Leases under this section may be granted by the Governor in the name and on behalf of Her Majesty to such applicants, and the provisions of Division 3 of this Part of this Act relating to the grant or refusal of applications for leases of private lands shall apply to applications made under this section.

20 (c) Any such application or lease shall confer the same rights upon the applicant, or lessee, under this section as an application or lease under section 70B of this Act would confer in the case of an applicant or lessee under that section.

(2) An owner applying as aforesaid shall have no preferential rights over other applicants and shall be subject to the payment of royalty and all other provisions of this Part binding upon other applicants or lessees thereunder, as the case may be, except—

30 (a) where the applicant or lessee is the owner of the lands and the application is for, or the lease is, a lease to mine for coal or shale,
35 the

Mining (Amendment).

the assessment and payment of rent and compensation other than rent reserved to the owner of the minerals under subsection four of section 70B of this Act;

- 5 (b) where the applicant or lessee is the owner of the minerals and the application is for, or the lease is, a lease to mine for coal or shale, the payment of rent reserved to the owner of the minerals under subsection four
10 of section 70B; and
- (c) such other provisions of this Part as relate to notices that the owner would be entitled to receive in his capacity as owner of the land or owner of the minerals, as the case
15 may be, if the application had been made by some person other than the owner of the land or the minerals.
- (v) (i) by omitting from subparagraph (i) of paragraph Sec. 70c.
20 (a) of subsection five of section 70C the words (Royalty payable.)
“per centum” where secondly occurring;
- (ii) by omitting from paragraph (b) of the same subsection the words “one shilling” and by inserting in lieu thereof the words “two shillings”;
- 25 (iii) by omitting from the same paragraph the word “ninepence” and by inserting in lieu thereof the words “one shilling”;
- (w) by inserting at the end of subsection one of section Sec. 70D.
30 70D the words “and the Minister’s determination (Protection of land upon which mining operations are being carried on.)
shall be final”;
- (x) (i) by inserting in subsection one of section 70E Sec. 70E.
after the word “plan” the words “Or (Protection of land in certain colliery holdings.)
description”;
- (ii)

Mining (Amendment).

- (ii) by omitting from subsection (1A) of the same section the words "of section 70D of this Act or";
- 5 (iii) by inserting in the same subsection after the words "section may" the words ", subject to section 70D of this Act,";
- (iv) by inserting in subsection three of the same section after the word "plan" the words "or description and particulars";

- 10 (y) by inserting next after section 70E the following new Division : — New Div.
4B.

DIVISION 4B.—SPECIAL LEASES OF PRIVATE LAND.

- 15 70F. (1) The Governor may, upon the recom- Governor
may grant
special
leases of
private
land.
mendation of the Minister, grant a special mining
lease of private land for mining, other than coal or
shale mining, whether or not the area applied for
exceeds any limits prescribed as to area or
dimensions, and irrespective of whether any of the
minerals contained in such land are reserved to the
20 Crown or are not so reserved, if the Minister is
satisfied that by reason of the difficulties and cost
attending the construction of mine works upon or
of mining such land, or for any other sufficient
reason, it is necessary that such lease be granted.

- 25 (2) The Minister may, on application being
made in the prescribed manner for such lease, direct
the prospecting board or the warden to inquire and
report—

- 30 (a) whether by reason of the difficulties and cost
attending the construction of mine works
upon and of mining such land, or for any
other sufficient reason, it is necessary that a
special mining lease should be issued; and
- (b) upon the royalty to be paid; and
- 35 (c) upon such other matters as the Minister may
direct.

Mining (Amendment).

(3) The Governor may fix the area to be comprised in any such lease and the form of such area and the labour and other conditions, reservations and exceptions to be contained in the lease.

5 (4) The Governor may fix the royalty to be paid by the lessee of any such lease and the lessee shall—

10 (a) in respect of all gold and minerals reserved to the Crown won from the land so leased, pay to the Crown the royalty fixed as aforesaid at the times and in the manner prescribed and such royalty may be recovered from the lessee as a Crown debt; and

15 (b) in respect of minerals not so reserved won from the land so leased, pay to the Minister on behalf of the owner of such minerals, the royalty fixed as aforesaid at the times and in the manner prescribed.

20 The Minister shall at the times and in the manner prescribed pay to the owner of such minerals the sum paid as aforesaid less one-seventh of such sum which he is hereby authorised to deduct from such sum; and the amounts so deducted shall be paid by the Minister into the Treasury and carried to the Consolidated Revenue Fund.

25 Where any private land the subject of a lease under this section and the minerals to which the lessee is pursuant to such lease entitled to mine in or upon such land are privately owned and in the same ownership, and the royalty payable in respect of such minerals by the lessee during any one year exceeds the rent paid for such year in respect of such land, the amount paid as rent as aforesaid may be deducted from such sum payable as royalty; but
30 if the royalty in any one year amounts to less than the rent paid for such year, the lessee shall not for such year be required to pay royalty.

(5)

Mining (Amendment).

(5) In all other respects a special mining lease of private land and the application therefor shall be subject to the provisions of this Act in respect of ordinary leases under this Part.

- 5 (6) Where the Minister is satisfied that by reason of the difficulties and cost attending the construction of mine works upon or of mining any land the subject of an application for a lease under this Part or for any other sufficient reason it is
10 necessary that any such application should be dealt with in accordance with the provisions of this section the Minister may approve of the application being so dealt with, and, if the Minister so approves, the application shall be deemed to have been made for
15 a lease under this section.

This subsection shall apply to applications for leases made before the commencement of this subsection and not granted or refused at such commencement as well as to applications for leases made
20 after such commencement.

- (z) by inserting at the end of paragraph (a) of subsection (2A) of section eighty-two the words "or, in the case of a special mining lease granted under section 70F of this Act, at such rates as may be
25 fixed by the Governor under that section";

- (aa) (i) by inserting in section eighty-three after the words "authority to enter" the words ", every application for lease";

- (ii) by omitting from the same section the words
30 "thereby conferred" and by inserting in lieu thereof the words "conferred by or under this Act, or the lease, upon the holder of such authority or lease or upon the applicant for such lease";

(iii)

Mining (Amendment).

(iii) by inserting in the same section after the word "lease" where secondly occurring the words
", or the subject of the application,";

5 (iv) by inserting in the same section after the word "authority" where thirdly occurring the words
", the applicant".

(2) The amendments made by subparagraph (iv) of paragraph (j) of subsection one of this section shall not apply to any applicant for a lease of private lands where his
10 application was made before the commencement of that subparagraph and had not been granted or refused at such commencement, but the provisions of subsection five of section fifty-seven of the Principal Act shall continue to apply to and
in respect of any such applicant until his application is
15 granted or refused.

6. Part V of the Principal Act is amended—

Amendment
of Act No.
49, 1906.
Part V—
(Dredging
leases.)

(a) (i) by omitting from section eighty-four the
definitions of "Occupier" and "Owner" and by
inserting in lieu thereof the following
20 definitions:—

Sec. 84.
(Interpre-
tation.)

"Occupier" means a person in lawful
occupation of any private lands.

"Owner" includes—

25 (a) any person to whom the Crown
has lawfully contracted to grant
the fee simple under the Crown
Lands Acts, or to whom the
Crown has granted any lease
under those Acts; and

30 (b) a trustee of private lands, a
guardian in infancy, committee or
manager appointed under Part X
of the Mental Health Act, 1958,
and a mortgagee in possession.

"Private

Mining (Amendment).

"Private lands" means lands other than Crown lands but does not include leases granted under Part III or IV, or this Part, of this Act.

- 5 (ii) by omitting from the same section the definition of "River-bed";

- (b) by omitting section eighty-five and by inserting in lieu thereof the following new section :—

Substituted
sec. 85.

- 10 85. Nothing in this Part shall apply to any lands held under this Act nor, where the owner of any private lands has not consented to the grant of an authority to enter thereon, to those private lands if they are found by the warden to have been at the time the application for such authority under actual cultivation. Cultivation for the growth and spread of pasture grasses shall not be deemed to be cultivation within the meaning of this section unless, in the opinion of the Minister, the circumstances so warrant. In the case of dispute as to whether land is or is not under cultivation within the meaning of this section the Minister's decision thereon shall be final.

This Part
not to apply
to certain
cultivated
land.

- 25 (c) (i) by omitting from subsection one of section eighty-six the words and symbols "any land (not being land held under or by virtue of any Act relating to mining)" and by inserting in lieu thereof the words "any Crown lands or private lands";

Sec. 86.
(Governor
may grant
leases for
purposes of
mining by
dredging,
etc., and of
what lands.)

- 30 (ii) by inserting next after the same subsection the following new subsection :—

- 35 (1A) The Governor, on the recommendation of the Minister, may, by notification, exempt from the provisions of this Part any land, whether Crown land or private land, and may, in like manner, revoke or amend any such notification.

Any

Mining (Amendment).

Any marking out of, or application for, any lands which are exempt from leasing under this section shall be void and of no effect :

5 Provided that where part only of any lands marked out or applied for are so exempt, nothing in this subsection shall prevent a lease being granted under this section of such part of those lands as is not so exempt.

10 (iii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection : —

(2) (a) The area that may be demised by any lease granted under this section shall not exceed one hundred acres.

15 (b) Every such lease shall contain such labour conditions as the Governor may determine.

20 (c) Except in the prescribed circumstances, every application for any such lease shall be accompanied by the prescribed survey fee.

25 Where the Minister is of opinion that a survey is unnecessary for the purposes of any such application, or that the cost of the survey is less than the prescribed survey fee lodged by the applicant for the lease, he may refund the whole or such part as he thinks fit, of any prescribed survey fee to such applicant.

30 (d) (i) by omitting from subsection one of section eighty-seven the words "is not Crown land" wherever occurring and by inserting in lieu thereof the words "is private lands";

Sec. 87.
(Land to be applied for to be entered and marked out.)

35 (ii) by omitting from subsection two of the same section the word "deposit" where firstly occurring and by inserting in lieu thereof the word "fee";

(iii)

Mining (Amendment).

- (iii) by omitting from the same subsection the words
 "On the order of the Minister the amount of
 such deposit, less such sum (if any) as the
 Minister directs to be retained to cover the
 expenses incurred by the Crown in relation to
 the application, shall be refunded to the
 applicant on the execution of the lease by the
 lessee, or if the Minister is satisfied that the
 application was bona fide, on the refusal of the
 application.";
- (e) by omitting from subsection one of section eighty-
 eight the words "fourteen days" and by inserting in
 lieu thereof the words "twenty-eight days";
- (f) by omitting subsection three of section ninety and
 by inserting in lieu thereof the following sub-
 sections : —
- (3) If more than one application is made for a
 lease of the same land the application of the person
 who has first marked out such land shall be first
 considered and dealt with and so on according to
 priority of marking out.
- For the purposes of this subsection "marking out"
 means the act of erecting a datum post, provided that
 the mode of marking out prescribed by the regula-
 tions is forthwith complied with :
- Provided that where under the regulations a
 datum post is not required, the time of marking out
 shall be deemed to be the time at which the
 application is lodged.
- (4) If any application for a lease is refused or
 abandoned any other application for a lease of the
 same land may be considered and dealt with regard
 being had where necessary to the rule of priority
 aforesaid.

Sec. 88.
 (Entry in
 pursuance
 of
 authority.)

Sec. 90.
 (Application
 for leases to
 be made to
 warden and
 forwarded
 to the
 Minister.)

First
 applicant to
 have
 priority.

(g)

Mining (Amendment).

- 5 (g) (i) by omitting from subsection one of section ninety-one the words "At such inquiry" and by inserting in lieu thereof the words "The Minister may direct the warden to hold an inquiry in the manner prescribed with respect to any application for a lease under this Part.
At such inquiry";
- 10 (ii) by omitting from paragraph (b) of the same subsection the words "not Crown land" and by inserting in lieu thereof the words "private land";
- (iii) by inserting in the same subsection after the words "such rent" wherever occurring the words "or compensation";
- 15 (iv) by omitting from the same subsection the words "But no such agreement shall contain any provision or stipulation for the payment of any sum by way of royalty upon the gold or minerals won from the land applied for.";
- 20 (h) by omitting section ninety-four;
- (i) by omitting from subsection two of section ninety-five the words "to use such road with horses, cattle, and vehicles" and by inserting in lieu thereof the words "the applicant for a lease under this Part, or his nominee, as the case may be, to use such road for any purpose in connection with mining operations carried on under the lease or by virtue of the application";
- 25 (j) by omitting from subsection one of section ninety-seven the words "land which is not Crown land" and by inserting in lieu thereof the words "private land";
- 30 (k)

Sec. 91.
(Warden to inquire and make orders as to roads of access, sites for machinery, rent and compensation.)

Sec. 94.
(Minister may refuse application or grant lease.)

Sec. 95.
(Warden may order such road or site to be marked out.)

Sec. 97.
(First payment to be made into warden's court.)

Mining (Amendment).

- (k) (i) by inserting next after subsection one of section ninety-eight the following new subsection : — Sec. 98.
(Rent and royalty.)

(1A) The rent to be paid to the Crown in respect of Crown land included in any dredging lease granted under this Part after the commencement of this subsection shall be five shillings per acre or portion of an acre. Such rent shall be payable at the times and places and in the manner prescribed :

Provided that all such rents shall be payable yearly in advance and the first annual payment shall be made on making the application for such lease.

- (ii) by inserting at the end of paragraph (a) of subsection three of the same section the following new proviso : —

Provided that the lessee may deduct from the sum payable as aforesaid in any one year to the Minister on behalf of the owner of the minerals, a sum equal to the amount paid by him to such owner as rent for that year. For the purposes of this subsection leases amalgamated under the provisions of this Act shall be regarded as separate leases unless the owners of the minerals are identical : Provided further that if the royalty in any one year payable to the Minister on behalf of the owner of the mineral amounts to less than the rent paid to such owner for such year, the lessee shall not for such year be required to pay royalty.

- (l) by inserting next after subsection two of section ninety-nine the following new subsection : — Sec. 99.
(No obligation to grant lease.)

(2A) The Governor may refuse any application for a lease and such refusal shall take effect from the time of publication of such refusal in the Gazette.

- (m) by omitting from section one hundred the words "freehold or conditionally purchased" ; Sec. 100.
(Owner to have access to water.)

(n)

Mining (Amendment).

- (n) by omitting section one hundred and one and by inserting in lieu thereof the following section : —

Substituted
sec. 101.

Mining during pendency of application.

5 101. (1) When any application for a lease has been duly made the applicant, or his nominee, may by virtue of the application, until such lease is granted or refused, subject to the consent of the Minister and to any conditions (including, in the case of Crown lands, the payment of rent and royalty not exceeding that prescribed by section ninety-eight of this Act, and, in the case of private lands, such rent and compensation as may be determined or assessed and royalty not exceeding that prescribed by that section) or restrictions imposed by him, occupy the land applied for and mine upon and in such land. The Minister may by notice in writing addressed to the applicant revoke any such consent or may, in like manner, vary any such consent as he may think fit.

Minister
may
consent to
mining
during
pendency.

20 Any person occupying any land pursuant to this subsection who neglects or fails to comply with conditions or restrictions specified in any relevant consent given under this subsection shall be liable to a penalty not exceeding fifty pounds.

25 (2) This section shall apply to applications for leases made under this Part before the commencement of this section, and not granted at such commencement as well as to applications for leases made under this Part after such commencement :

30 Provided that where the applicant for a lease applied for before, and not granted at, such commencement, has before such commencement obtained the consent of the owner or occupier to commence mining operations in or on the area included in the application, such applicant may, in accordance with such consent, commence, and continue to carry on, such operations notwithstanding the provisions of this section.

Mining (Amendment).

7. Part VI of the Principal Act is amended—

Amendment
of Act No.
49, 1906.Part VI.—
(Tenements
and leases
generally.)

- 5 (a) by omitting from subsection one of section one hundred and five the words "Crown lease or license for pastoral purposes" and by inserting in lieu thereof the words "Crown lease for pastoral purposes or special lease for pastoral purposes";

Sec. 105.
(Suspension
of pastoral
lease.)

- 10 (b) (i) by inserting in section one hundred and six after the words "any Act." the following new paragraph :—

Sec. 106.
(Exemption
of Crown
lands from
alienation.)

Any such notification may be made with respect to the whole of any land or to the surface of any land and the land below the surface to any specified depth.

- 15 (ii) by inserting at the end of the same section the following new paragraph :—

Nothing in section eight of the Crown Lands (Amendment) Act, 1960, affects, or shall be deemed to have affected, any reservation of land deemed to have been reserved for mining or mining purposes by notification under the Crown Lands Acts made before the commencement of subparagraph (ii) of paragraph (b) of section seven of the Mining (Amendment) Act, 1961.

- 25 (c) by omitting section one hundred and nine and by inserting in lieu thereof the following section :—

Substituted
sec. 109.

109. (1) Every lease under this Act shall be registered with the Registrar, Department of Mines, Sydney.

Registration
of leases,
etc.

- 30 (2) Every transfer or assignment (except an assignment by operation of law) of, and every instrument being a sub-lease, tribute agreement, option contract, mortgage, deed of trust, partnership agreement,

Mining (Amendment).

5 agreement, working agreement, or other instrument, affecting, any lease under this Act or lease or agreement registered under section sixty-nine or seventy of this Act, together with a copy of every such instrument certified by any two persons to be a true copy of the original, shall be lodged within the time and in the manner prescribed for—

10 (a) the sanction of the Minister in the case of any such transfer, assignment or instrument, affecting any lease under this Act; or

15 (b) the concurrence of the Minister in the case of any transfer, assignment or instrument, affecting any lease or agreement registered under section sixty-nine or seventy of this Act,

and for registration by the Registrar, Department of Mines, Sydney, under the provisions of this section.

20 The Minister may refuse such sanction or concurrence or may grant it absolutely or subject to such amendments, modifications, stipulations or conditions (including a condition as to the payment of royalty), as he may think necessary in the public interest to make or impose.

25 Any transfer, assignment or other instrument required to be lodged for registration under this subsection, which is not lodged within the time and in manner prescribed, shall not be registered unless the Minister so approves.

30 Any person who neglects or fails to comply with any such amendment, modification, stipulation or condition so imposed upon him shall be liable to a penalty not exceeding fifty pounds and to a further penalty not exceeding five pounds for each and every day such neglect or failure continues.

35 (3) Every instrument which by this section is required to be lodged for registration shall be lodged by such person as may be prescribed.

Any

Mining (Amendment).

5 Any person so prescribed who neglects or fails to comply with the provisions of subsection two of this section shall be guilty of an offence against this Act and shall be liable upon conviction to a penalty not exceeding fifty pounds and to a further penalty not exceeding five pounds for each and every day such neglect or failure continues.

10 (4) (a) No transfer or assignment (except an assignment by operation of law) of, and no sub-lease, tribute agreement, option contract, mortgage, partnership agreement, working agreement or other dealing, affecting, any lease under this Act or lease or agreement registered under section sixty-nine or
15 seventy of this Act shall have any force or effect unless it is in writing and is signed by the parties thereto.

20 Nothing in this paragraph applies to any transfer or assignment, or any sub-lease, tribute, option, contract, mortgage, partnership agreement, working agreement or other dealing made before the commencement of the Mining (Amendment) Act, 1961, other than a transfer or tribute agreement referred to in section sixty-nine or seventy of this Act, as enacted immediately before such commencement.

25 (b) Any transfer, assignment or other instrument required to be lodged for registration under subsection two of this section shall not have any force or effect until it is registered under the provisions of this section.

30 Nothing in this paragraph applies to any transfer, assignment or other instrument made before the commencement of the Mining (Amendment) Act, 1961, other than a transfer or tribute agreement referred to in section sixty-nine or seventy of this
35 Act, as enacted immediately before such commencement.

(5)

Mining (Amendment).

- 5 (5) Any person claiming interest in any
lease under this Act or any Act hereby repealed, or
under any lease or agreement under section sixty-
nine or seventy of this Act may, before the
registration of any instrument required by subsection
one or two of this section to be registered, lodge
with the Minister a caveat in the prescribed form,
and accompanied by the prescribed fee, against such
10 registration. On receipt of such caveat the Minister
shall stay registration for fourteen days, unless the
caveat is sooner withdrawn, but may then register
the instrument, unless the person lodging the caveat
has obtained and served upon him an order of some
competent court forbidding such registration.
- 15 (d) by inserting in subsection one of section one hundred and ten after the words "hereby repealed," the words "or to the applicant for any such lease,";
Sec. 110.
(Warden may allow pipeline, etc., to be constructed on public road, etc.)
- 20 (e) (i) by omitting from subsection one of section one hundred and eleven the words "claim or lease" and by inserting in lieu thereof the words "lease, claim, authority or other holding, or any applicant for a lease,";
Sec. 111.
(Authority to construct tunnels, etc., on holding.)
- 25 (ii) by omitting from the same subsection the words "or other holding" and by inserting in lieu thereof the words ", authority or other holding, or the subject of an application for a lease,";
- 30 (iii) by omitting from the same subsection the words "or lessee" and by inserting in lieu thereof the words ", lessee or applicant, or to or from any land the subject of any such application";
- 35 (iv) by omitting from the same subsection the words "such land" and by inserting in lieu thereof the words "the land held under such lease, claim, authority or other holding, or the subject of an application for a lease, as aforesaid";
- (v)

Mining (Amendment).

(v) by omitting subsection four of the same section and by inserting in lieu thereof the following new subsection : —

(4) The rights and duties under any authority issued under this section may be assigned and transferred with the claim, lease or other holding in connection with which it was issued or to the nominee of any applicant for a lease.

(vi) by omitting from subsection five of the same section the words “or lease” and by inserting in lieu thereof the words “lease or holding”;

(vii) by inserting in the same subsection after the word “period” where secondly occurring the words “or notwithstanding that the application for the lease has been granted or refused”;

(f) (i) by inserting at the end of paragraph (c) of subsection three of section one hundred and thirteen the following word and new paragraph : —

Sec. 113. (Registered owners may apply.)

; or

(d) that in the case of a lease, the lessee requires time to enable him to plan the development and make preparatory arrangements for the working of the lease :

Provided that the warden shall not grant any such authority only on the ground specified in this paragraph for a period which would expire after the expiration of the first twelve months of the term of the lease.

(ii) by inserting at the end of subsection six of the same section the words “or as to the continuance by the lessee of restoration work during the period of suspension”;

(g) (i) by inserting in subsection one of section one hundred and fifteen after the word “repealed” the words “, and every applicant for any such lease

Sec. 115. (Return to be furnished by holder of lease, etc.)

Mining (Amendment).

lease or other title to mine, carrying on mining operations under this Act”;

5 (ii) by inserting in the same subsection after the words “to mine” where lastly occurring the words “or applied for, as the case may be,”;

(iii) by inserting in the same subsection after the words “such holder” the words “or applicant”;

10 (iv) by inserting in subsection two of the same section after the words “holder of” the words “, or applicant for,”;

(v) by inserting next after the same subsection the following new subsection :—

15 (2A) Notwithstanding the foregoing provisions of this section, the Minister may by notice served upon any such holder of or applicant for a lease or other title to mine call upon him to furnish, within such time as may be specified in the notice, a return in the prescribed form covering any period so specified.

20 (vi) by inserting in subsection three of the same section after the word “holder” the words “or applicant”;

25 (vii) by inserting in the same subsection after the words “extended time” where firstly occurring the words “, or within the time specified in any notice referred to in subsection (2A) of this section, as the case may be,”;

30 (viii) by inserting in the same subsection after the word “extended” where secondly occurring the words “or specified”;

(h) (i) by omitting subsection one of section one hundred and eighteen and by inserting in lieu thereof the following subsection :—

35 (1) (a) On application in the prescribed manner by the lessee or lessees of two or more leases (whether such leases have been granted under

Sec. 118.
(Minister
may
authorise
amalgama-
tion.)

Mining (Amendment).

under the provisions of the same Act or not), and after investigation and report by the Chief Inspector of Mines or the Chief Inspector of Coal Mines as to whether the lands comprised in such leases can be more effectively worked as one mine, the Minister may subject to such stipulations or conditions, including conditions as to the payment of royalty, as he may think necessary in the public interest to impose, authorise the amalgamation of the said leases upon payment of a fee of two pounds for each lease so amalgamated, or he may refuse such application.

(b) Where any two or more leases have been amalgamated, whether before or after the commencement of this subsection and such amalgamated leases are the subject of any application made under this subsection after such commencement, they shall, for the purpose of calculating the fee payable in respect of such application, be regarded as one lease.

(ii) by omitting subsection (1A) of the same section ;

(iii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection : —

(2) Upon application by the lessee under any amalgamated leases and after investigation and report by the Chief Inspector of Mines or the Chief Inspector of Coal Mines, the Minister may, subject to such stipulations or conditions, including conditions as to the payment of royalty, as he may think necessary in the public interest to impose, cancel any amalgamation of such leases, or he may refuse to cancel any such amalgamation.

(i)

Mining (Amendment).

- (i) (i) by omitting from section 121A the words "geological surveyor" wherever occurring and by inserting in lieu thereof the word "geologist";
- 5 (ii) by omitting from subsection two of the same section the words "Such surveyor" and by inserting in lieu thereof the words "Such geologist";
- 10 (j) by omitting from section 121B the words "geological surveyor" and by inserting in lieu thereof the word "geologist";
- (k) by inserting in section one hundred and twenty-three after the word "Governor" where firstly occurring the words "and on payment of a fee of two pounds";
- 15 (l) (i) by inserting in subsection one of section 124A after the word "cancelled." the words "No such notice by complaint shall be given in respect of any non-compliance with labour conditions relating to a period greater than two years before the date of the notice and any such notice by complaint shall be lodged within three months after the last day of the period of non-compliance referred to in such notice.";
- 20 (ii) by omitting from subsection two of the same section the words "five pounds" and by inserting in lieu thereof the words "twenty-five pounds";
- 25 (iii) by omitting from subsection eight of the same section the words "The notification of the approval of the Governor to the grant of such lease shall be published at the same time as the notification of cancellation of the cancelled lease, and thereupon the complainant shall be
- 30 entitled

Sec. 121A.
(Geologist
may enter
and
inspect.)

Sec. 121B.
(Power of
geologist
to enter
private
lands.)

Sec. 123.
(Lessee
may
surrender
lease
wholly or
in part.)

Sec. 124A.
(Complaint
as to non-
compliance
with labour
conditions.)

Mining (Amendment).

entitled upon making all the prescribed payments to the same rights as are conferred by the provisions of this Act upon an applicant for a lease of the same class as the cancelled lease." and by inserting in lieu thereof the following paragraph :—

Upon the notification of the cancellation of the lease, the complainant shall be entitled, upon making all the prescribed payments, to the same rights and be subject to the same duties as are conferred or imposed by the provisions of this Act upon an applicant for a lease of the same class as the cancelled lease.

(m) (i) by inserting in section 124B after the word "repealed" the words ", or upon the refusal of any application for any such lease,"; Sec. 124B. (Writing off Crown rent.)

(ii) by inserting at the end of the same section after the words "on such lease" the words "or application, whereupon such debt shall be extinguished";

(n) by omitting subsection two of section 125c; Sec. 125c. (Cancellation of abandoned tenements.)

(o) by omitting section one hundred and twenty-seven and by inserting in lieu thereof the following section :— Sec. 127. (Inquiry may be directed.)

127. The Minister may direct a warden to hold an inquiry with reference to any proposal relating to mining or any matter affecting any tenure or application therefor under this Act. Minister may direct inquiry by warden.

Every inquiry under this section shall be conducted in open court and the warden shall have the powers of a warden's court.

*Mining (Amendment).***8. Part VII of the Principal Act is amended—**Amendment
of Act No.
49, 1906.Part VII—
(Wardens'
Courts.)

- (a) by omitting from section one hundred and thirty-four the words "twenty-five pounds" and by inserting in lieu thereof the words "one hundred pounds";

Sec. 134.

(Wages to
be a first
charge.)

- 5 (b) by inserting at the end of section one hundred and fifty-seven the words "or the application refused".

Sec. 157.

(Additional
assessment.)

9. Part IX of the Principal Act is amended by omitting from subsection one of section one hundred and seventy-eight the words "land not Crown land" and by inserting in lieu
10 thereof the words "the owner of any mineral".

Amendment
of Act No.
49, 1906.Part IX—
(General
provisions.)

Sec. 178.

(Service of
notices.)

10. Part X of the Principal Act is amended by omitting paragraph (xxxiii) of section one hundred and eighty-four.

Amendment
of Act No.
49, 1906.Part X—
(Regula-
tions and
rules.)

Sec. 184.

(Purposes
for which
regulations
may be
made.)**11. Part XI of the Principal Act is amended—**Amendment
of Act No.
49, 1906.Part XI—
(Penalties.)

- 15 (a) by omitting from section one hundred and eighty-seven the words "ten pounds" and by inserting in lieu thereof the words "five hundred pounds";

Sec. 187.

(Un-
authorised
mining,
etc.)

(b)

Mining (Amendment).

- (b) by omitting from section one hundred and eighty-eight the words "ten pounds" and by inserting in lieu thereof the words "five hundred pounds"; Sec. 188. (Un-authorised occupation of Crown land.)
- 5 (c) by omitting from section one hundred and eighty-nine the words "ten pounds" and by inserting in lieu thereof the words "fifty pounds"; Sec. 189. (Breach of regulation.)
- 10 (d) by omitting from section one hundred and ninety-three the words "fifty pounds" and by inserting in lieu thereof the words "two hundred and fifty pounds"; Sec. 193. (Wrongful exaction of moneys.)
- 15 (e) (i) by omitting from section one hundred and ninety-five the words and figures "Part IV, or of any land which is not Crown land as defined in Part V of this Act" and by inserting in lieu thereof the words and figures "Parts IV and V of this Act"; Sec. 195. (Wrongful obstruction on private lands.)
- 20 (ii) by inserting in paragraph (b) of the same section, after the word "Act", the words "or the regulations thereunder";
- (f) (i) by inserting in section one hundred and ninety-six after the word and symbols "Part IV" the word and symbol "or V"; Sec. 196. (Wrongful mining on private lands.)
- 25 (ii) by omitting from the same section the words "ten pounds" and by inserting in lieu thereof the words "five hundred pounds".

No. , 1961.

A BILL

To amend the law relating to mining; for this purpose to amend the Mining Act, 1906, as amended by subsequent Acts; and for purposes connected therewith.

[MR. SIMPSON;—19 September, 1961.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Mining (Amendment) Act, 1961".
- (2) Short title, citation and commencement.

Mining (Amendment).

(2) The Mining Act, 1906, as amended by subsequent Acts and by this Act, may be cited as the Mining Act, 1906-1961.

(3) The Mining Act, 1906, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(4) (a) This Act shall commence on such day or days as may be appointed and notified pursuant to paragraph (b) of this subsection.

(b) The Governor may, from time to time, appoint and notify by proclamation published in the Gazette the day upon which any provision of this Act specified in the proclamation shall commence and may appoint and notify different days for different provisions and the provision so specified shall commence accordingly.

2. Part I of the Principal Act is amended—

Amendment
of Act No.
49, 1906.
Part I.—
(Pre-
liminary.)

(a) (i) by omitting from the matter relating to Part II in section one the figures "13" and by inserting in lieu thereof the figures and letter "13A";

(ii) by omitting from the matter relating to Part III in the same section the figures and letters "ss. 35-39B." and by inserting in lieu thereof the following letters, figures and words :—

ss. 35-39C.

3A. *Mining leases of Crown lands containing minerals not reserved to the Crown—*
s. 39D.

(iii) by inserting in the same section after the figures, letters and symbols "ss. 70A-70E." in the matter relating to Part IV the following figures, letters and words :—

4B. *Special leases of private land—s. 70F.*

(iv)

Mining (Amendment).

- (iv) by omitting from the matter relating to Part VI in the same section the figures "130" and by inserting in lieu thereof the figures and letter "130A";
- 5 (v) by omitting from the matter relating to Part IX in the same section the figures "183" and by inserting in lieu thereof the figures and letter "183A";
- 10 (b) (i) by inserting in section three at the end of the definition of "Crown lands" the following new paragraph : — Sec. 3.
(Interpretation.)
- (g) public roads vested in fee simple in the council of an area within the meaning of the Local Government Act, 1919, as amended by subsequent Acts.
- 15 (ii) by inserting next after the definition of "Crown Lands Acts" in the same section the following new definition : —
- "Crown-lease for pastoral purposes" means—
- 20 (a) a Crown-lease of land, not being a Crown-lease of land set apart for disposal by way of Crown-lease for grazing, which contains a condition restricting the use of
- 25 the land comprised therein to grazing or grazing and the giving of access to water; and
- (b) a Crown-lease of land set apart for disposal by way of Crown-lease for grazing, whether or not the whole or any part of the land comprised in the lease may, under the lease, be used for agricultural purposes.
- 30 (iii) by omitting from the same section the definition of "Lease for pastoral purposes";
- 35 (iv)

Mining (Amendment).

- (iv) by omitting from the same section the definition of "Small coal";
- (v) by omitting from the same section the definition of "Street, road, or highway," and by inserting in lieu thereof the following definition :—
- "Special lease for pastoral purposes" means a special lease which is expressed to be for the purposes of grazing or grazing and the giving of access to water.
- (vi) by omitting from the definition of "To mine" in the same section the word "therefrom";
- (c) (i) by omitting from subsection three of section four the words "the University of Sydney" and by inserting in lieu thereof the words "any University within the State";
- (Schools of mines and museums may be established.)
- (ii) by omitting from the same subsection the words "Senate of the University, and such Senate" and by inserting in lieu thereof the words "Senate or Council of such University, and such Senate or Council".
3. Part II of the Principal Act is amended—
- Amendment of Act No. 49, 1906.
Part II—
(Miners' rights and business licenses.)
- (a) by omitting from section nine the words "five shillings for every year or two shillings and sixpence" and by inserting in lieu thereof the words "one pound for every year or ten shillings";
- Sec. 9.
(Issue of miners' rights.)
- (b) by omitting from section ten the words "one pound for every year or ten shillings" and by inserting in lieu thereof the words "ten pounds for every year or five pounds";
- Sec. 10.
(Issue of business licenses.)
- (c)

Mining (Amendment).

- (c) by omitting from section thirteen the words “one shilling” and by inserting in lieu thereof the words “five shillings”; (Duplicate rights and licenses.)
- 5 (d) (i) by inserting in subsection two of section fourteen after the word “standing” the words “, and Crown lands held under a permissive occupancy for residence purposes only,”; (Certain exemptions.)
- (ii) by inserting at the end of the same section the following new subsections : —
- 10 (4) Any marking out or taking possession of, or application for, any Crown lands which are exempt from occupation pursuant to this section as a tenement shall be void and of no effect.
- 15 (5) Upon the forfeiture, surrender or expiration of any lease or other holding under the Crown Lands Acts of lands situated wholly or in part within the external boundaries of any lands exempted under this section, the lands comprised in such lease or other holding shall, to the extent to which they are within the external boundaries of the area so exempted, thereupon form part of such area.
- 20
- (e) (i) by inserting in paragraph (a) of subsection one of section fifteen after the word “mine” the words “or prospect”; (Rights of occupation in respect of Crown lands.)
- 25 (ii) by omitting paragraph (f) of the same subsection;
- (f) (i) by inserting in subsection three of section sixteen after the word “time” where firstly occurring the following new proviso : — (Residence area.)
- 30 Provided that the legal representative, or the committee, or manager of the property, of two or more deceased, bankrupt or mentally ill holders of residence areas may, while acting in that

Mining (Amendment).

that capacity, hold and be registered as the holder of one residence area in respect of each deceased, bankrupt or mentally ill holder.

- 5 (ii) by inserting at the end of the same section the following new subsection :—

10 (4) Nothing in this section shall authorise any person to take possession of and occupy any residence area after the commencement of the Mining (Amendment) Act, 1961: Provided that where any person is lawfully in occupation of any residence area at such commencement, he may, subject to the provisions of this Act, continue to occupy such area after such commencement.

- 15 (g) by omitting section seventeen and by inserting in lieu thereof the following section :— Substituted sec. 17.

17. (1) The Minister, on the recommendation of the warden or the prospecting board, may grant to a holder of a miner's right an authority to prospect for gold or any mineral on any Crown lands, whether exempted from occupation under this Part or not, and may by such authority authorise the holder to occupy any such Crown lands and to construct and use thereon races, dams, pipe lines, reservoirs or roads.

25 (2) Where an applicant for an authority dies or becomes bankrupt or mentally ill before his application is granted or refused, the authority may, if the legal representative of such deceased or bankrupt applicant or the committee, or manager of the property, of such mentally ill applicant so requests, be granted to such legal representative, committee or manager.

30 (3) An authority may be granted notwithstanding that the applicant therefor has not in every respect complied with the regulations or has included in the land applied for land in respect of which an authority may not be granted under this Act.

(4)

Mining (Amendment).

(4) Any such authority may, at the request in writing of the applicant therefor, be granted to any person nominated by him.

5 (5) The Minister may refuse any such application and upon publication of such refusal in the Gazette such application shall cease to be pending.

(6) The Minister may—

10 (a) determine the land to be held under any such authority and may grant any such authority in respect of the surface of the land and the soil thereof to a specified depth below the surface, or in respect of the soil below a specified depth below the surface, or in
15 respect of the soil between specified depths below the surface;

(b) subject to this Act, grant any such authority in respect of the land referred to in the application therefor, or, with the consent in
20 writing of the applicant therefor, grant such authority in respect of such land subject to such alterations, enlargements or reductions in the area thereof as the Minister may determine;

25 (c) determine the rent to be paid in respect of any such authority;

(d) grant any such authority subject to such conditions, provisions and stipulations as he may think fit;

30 (e) suspend or postpone the fulfilment of any conditions, provisions and stipulations subject to which the authority was granted for periods not on any one occasion exceeding three months;

(f)

Mining (Amendment).

- (f) cancel any such authority where the holder thereof has failed to comply with any of the conditions, provisions and stipulations subject to which such authority was granted;
- 5 (g) withdraw without payment of compensation any area from any such authority where such area is required for any public purposes and cancel the authority in respect of the land so withdrawn;
- 10 (h) at the request of the holder cancel any authority either wholly or in part.
- (7) Any such authority may be granted for such period not exceeding twelve months as the Minister may determine.
- 15 Upon application in that behalf made by the holder of any such authority during the currency of the authority held by him or any renewal thereof, and not later than one month before the expiry of such authority or renewal, as the case may be, the
- 20 Minister may, at his discretion and subject to such conditions as he may think fit, grant successive renewals of the authority for further periods not exceeding twelve months each in respect of the whole of the land comprised therein or any part thereof.
- 25 (8) An authority shall, on payment in advance of the rent determined as aforesaid, and survey fee where a survey is required by the Minister, entitle the holder during the currency of the authority to carry on prospecting operations and
- 30 to occupy and use the area for any purpose authorised by the authority.
- (9) Within fourteen days after the discovery of gold or any mineral within any land comprised in any authority, the holder of the authority shall
- 35 report the discovery to the Under Secretary for Mines who shall thereupon report the discovery to the

Mining (Amendment).

the Minister. The Minister may thereupon call upon the holder of the authority to apply for a lease of the land or such part thereof as the Minister may deem advisable or to continue prospecting operations.

- (h) by inserting at the end of section eighteen the following new proviso and subsection :—

Sec. 18.
(Holder may occupy land and erect buildings.)

Provided that the legal representative, or the committee, or manager of the property, of two or more deceased, bankrupt or mentally ill holders of business areas may, while acting in that capacity, hold and be registered as the holder of one business area in respect of each such deceased, bankrupt or mentally ill holder.

(2) Nothing in this section shall authorise any person to take possession of and occupy any business area after the commencement of this subsection : Provided that where any person is lawfully in occupation of any business area at such commencement, he may, subject to the provisions of this Act, continue to occupy such area after such commencement.

4. (1) Part III of the Principal Act is amended—

Amendment of Act No. 49, 1906.
Part III—
(Leases of Crown lands.)

- (a) (i) by omitting from subsection one of section twenty-three the words "and any street, road, or highway";

Sec. 23.
(Governor may grant leases.)

(ii) by inserting in paragraph (b) of subsection two of the same section after the words "Crown land" the words "held under a permissive occupancy for residence purposes only, or";

(iii)

Mining (Amendment).

(iii) by inserting next after the same paragraph the following new paragraph : —

5 (bi) Crown land held under an authority to prospect, or the subject of an application for an authority to prospect, under the provisions of section seventeen of this Act shall not be leased to any person except with the written consent of the holder of, or the applicant for, such
10 authority, as the case may be.

(iv) by omitting paragraph (d) of the same subsection ;

(v) by inserting next after the same subsection the following new subsections : —

15 (2A) Any marking out or taking possession of, or application for, any Crown lands which are exempt from leasing under this section shall be void and of no effect :

20 Provided that where part only of any Crown lands which have been marked out, taken possession of, or applied for are so exempt, nothing in this subsection shall prevent a lease being granted under this section of such part of those Crown lands as is not so exempt.

25 (2B) Upon the forfeiture, surrender or expiration of any lease or other holding under the Crown Lands Acts of lands situated wholly or in part within the external boundaries of any lands exempted from leasing under this section
30 the lands comprised in such lease or other holding shall, to the extent to which they are within the external boundaries of the area so exempted, thereupon form part of such area.

35 (b) by omitting from subsection one of section twenty- Sec. 26.
six the words "Provided that" and by inserting in (First applicant to have priority.)
lieu thereof the words "Provided that where under
the

Mining (Amendment).

the regulations a datum post is not required to be erected, the time of taking possession shall be deemed to be the time at which the application is lodged :

Provided further that”;

- 5 (c) by inserting in subsection three of section twenty-seven after the word “lease” the words “notwithstanding that the applicant may have complied in every respect with the provisions of this Part and of the regulations thereunder”; Sec. 27.
(Irregular application may be granted.)
- 10 (d) (i) by omitting from section twenty-eight the word “mining” where firstly occurring; Sec. 28.
(Applicant may mine upon land.)
- 15 (ii) by omitting from the same section the words “may, by virtue of his application,” and by inserting in lieu thereof the words “or his nominee may, by virtue of the application,”;
- 20 (iii) by omitting from paragraph (a) of the same section the words “occupy the land applied for, and subject to any conditions or restrictions imposed by the Minister mine upon and in the same” and by inserting in lieu thereof the words “subject to the consent of the Minister and to any conditions (including payment of rent and royalty not exceeding the rents and royalties prescribed by section thirty-six of this Act) or
- 25 restrictions specified in such consent, occupy the land applied for and—
- (i) where the application is for a mining lease, mine upon and in such land; or
- 30 (ii) where the application is for a mining purposes lease, construct and use such works upon and in such lands as the Minister may in writing authorise and specify in a notice sent to the applicant”;
- (iv)

Mining (Amendment).

(iv) by omitting from paragraph (c) of the same section the words "or mineral";

(v) by omitting from the same section the words "Provided that the rights specified in paragraph (a) of this section shall not accrue to any applicant for a mining lease of any street, road, or highway, or any Crown land reserved or dedicated for and in actual use for any public purpose." and by inserting in lieu thereof the following paragraphs :—

The Minister may by notice in writing served on the applicant or his nominee revoke any consent referred to in paragraph (a) of this section or may in like manner vary any such consent as he may think fit.

Any person occupying any land pursuant to this subsection who neglects or fails to comply with the conditions or restrictions specified in any relevant consent given under paragraph (a) of this section or any variation thereof shall be liable to a penalty not exceeding fifty pounds.

(e) by omitting section thirty-one and by inserting in lieu thereof the following section :—

Substituted
sec. 31.

31. Except in the prescribed circumstances, every application for a lease shall be accompanied by the prescribed survey fee.

Survey
fee to
accompany
application
for lease

Where the Minister is of opinion that a survey is unnecessary for the purposes of any such application, or that the cost of the survey is less than the prescribed survey fee lodged by the applicant for the lease, he may refund to such applicant the whole, or such part as he thinks fit, of any prescribed survey fee paid by such applicant.

(f)

Mining (Amendment).

- (f) (i) by omitting subsections one and two of section thirty-six; Sec. 36.
(Gold and coal leases—rent and royalty.)
- (ii) by inserting next after subsection (2A) of the same section the following new subsection :—
- 5 (2AB) The annual rent for a gold-mining lease or a mineral lease granted under this Part after the commencement of this subsection shall be five shillings per acre or portion of an acre.
- 10 (iii) by inserting at the end of paragraph (a) of subsection (2D) of the same section the words “or, in the case of a special mining lease granted under section forty of this Act, at such rates as may be fixed by the Governor under that section”;
- 15 (iv) by omitting from paragraph (b) of the same subsection the words “one shilling” and by inserting in lieu thereof the words “two shillings”;
- 20 (v) by omitting from the same paragraph the word “ninepence” and by inserting in lieu thereof the words “one shilling”;
- 25 (vi) by omitting from subsection five of the same section the words “: Provided also that the Minister may at his discretion remit the amount of royalty payable on coal used for raising steam for motive power at a colliery”;
- 30 (vii) by inserting in subsection six of the same section after the word “lessee” the words “, or applicant for a lease, or his nominee, as the case may be,”;
- (g) by omitting subsection two of section thirty-seven; Sec. 37.
(Labour conditions.)
- (h)

Mining (Amendment).

(h) by inserting next after section 39C the following ^{New} Division 3A.
new Division :—

DIVISION 3A.—MINING LEASES OF CROWN LANDS
CONTAINING MINERALS NOT RESERVED TO THE
CROWN.

39D. (1) The Governor in the name and on ^{Application} for lease.
behalf of Her Majesty may grant mineral leases of
Crown lands containing any minerals not reserved
to the Crown, whether or not such lands also contain
gold or minerals reserved to the Crown. The
provisions of subsection two of section twenty-three
of this Act shall apply to the leasing of Crown lands
under this Division.

(2) Subject to the provisions of this
section—

(a) the provisions of Divisions 2 and 3 of this
Part of this Act apply mutatis mutandis to
leases under this Division and to applications
for such leases; and

(b) the provisions of this Act relating to the
rights and duties of applicants for, and lessees
under, and of other persons in relation to
the land comprised in, leases of Crown lands
granted under this Division shall be the same
as the rights and duties of applicants for, and
lessees under, and of other persons in relation
to the land comprised in, leases of Crown
lands granted under section twenty-three of
this Act.

(3) In addition to the rent payable to the
Crown in respect of any lease under this Division,
a yearly rental of five shillings per acre or portion
of an acre in respect of the whole of the area
included in any such lease, being a lease to mine for
coal or shale, shall be reserved to the owner of such
coal or shale and shall be paid half-yearly in
advance.

(4)

Mining (Amendment).

(4) (a) A royalty at such rate as may be prescribed shall be paid in respect of all minerals not reserved to the Crown won from any land included in a lease under this Division.

5 (b) The regulations may prescribe rates according to a percentage of the value of the mineral won or an amount per ton on all mineral won or an amount per cubic foot, cubic yard, gallon or other appropriate standard of measurement or otherwise
10 howsoever.

Different rates may be prescribed in respect of different minerals. In the case of rates according to a percentage of the value of the mineral won such rates shall not exceed one and three-quarters per
15 centum of such value. In the case of rates according to an amount per ton on all mineral (other than coal or shale) won such rates shall not exceed two shillings per ton. The rate prescribed in respect of coal or shale shall not exceed one shilling per ton.

20 (c) The holder of any lease granted under this Division shall at the times and in the manner prescribed pay to the Minister on behalf of the owner of the minerals included in such lease the royalties required to be paid by such holder under
25 this subsection.

(d) The Minister shall at the times and in the manner prescribed pay to the owner of the minerals the royalties paid as aforesaid less—

30 (i) one-seventh of the amount paid under paragraph (a) of this subsection in respect of all minerals other than coal or shale won from the land; and

(ii) one penny per ton of all coal or shale won from the land;

35 which he is hereby authorised to deduct from such sum; and the amount so deducted shall be paid by the Minister into the Treasury and carried to the Consolidated Revenue Fund.

(e)

Mining (Amendment).

(e) Upon any renewal of a lease under this Division the Governor may, in respect of such renewal, vary the amount payable by way of royalty under paragraph (a) of this subsection to such extent as he may determine.

For the purposes of paragraph (d) of this subsection the amount determined by the Governor in respect of any such renewal pursuant to the foregoing provision shall in respect of such renewal be deemed to be the amount prescribed by paragraph (a) of this subsection.

The provisions of paragraph (d) of this subsection with regard to deductions shall apply to such renewed leases.

(f) The lessee of any lease granted under this Division, being a lease to mine coal or shale not reserved to the Crown, may deduct from the sum payable under paragraph (a) of this subsection in any one year to the Minister on behalf of the owner of the coal or shale a sum equal to the amount paid by him to such owner as rent for that year. For the purposes of this paragraph leases amalgamated under the provisions of this Act shall be regarded as separate leases unless the owners of the coal or shale are identical.

(5) Where there are in any Crown lands minerals not reserved to the Crown together with gold or minerals reserved to the Crown, the provisions of Division 5 of this Part shall extend to enabling the Minister to grant an authority under that Division in respect of such land, and to revoke or cancel any such authority.

The holder of any such authority at the times and in the manner prescribed, shall pay to the Crown in respect of any minerals reserved to the Crown won by him pursuant to such authority a royalty in accordance with the provisions of section thirty-six of this Act and such royalty may be recovered from the lessee as a Crown debt.

(6)

Mining (Amendment).

(6) No lease under this Division shall be granted—

5 (a) where the owner of the minerals not reserved to the Crown, or some other person with his consent, is, at the time possession of the land is taken by the applicant for the lease, bona fide carrying on mining operations for the purpose of winning such minerals unless such owner consents to the lease; or

10 (b) where the minerals that are not reserved to the Crown are coal or shale and are included in the freehold or leasehold lands held by the owner of a colliery and within the colliery holding a plan or description and particulars of title of which have been furnished to the Under Secretary for Mines in accordance with the provisions of the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, before possession of the land is taken by the applicant for the lease, unless the owner of the colliery consents to the lease.

25 In the event of any dispute arising as to whether bona fide mining operations are being carried on as aforesaid or as to the area protected by this section, the question shall be determined by the Minister after inquiry and report by the warden and the Minister's decision shall be final.

30 (i) (i) by inserting in subsection one of section forty Sec. 40. after the words "coal or shale mining" the words (Governor may grant special leases.)
" , whether or not the land applied for exceeds the limits prescribed as to area or dimensions in respect of ordinary leases under this Part,";

35 (ii) by omitting from paragraph (a) of subsection two of the same section the words "that an area in excess of the limit prescribed should be leased" and by inserting in lieu thereof the words "that a special mining lease should be granted";

Mining (Amendment).

5 (iii) by omitting from subsection three of the same section the words "form of and area to be comprised in any such lease" and by inserting in lieu thereof the words "area to be comprised in any such lease and the form of such area";

(iv) by inserting at the end of the same section the following new subsection :—

10 (5) Where the Minister is satisfied that by reason of the difficulties and cost attending the construction of mine works upon or of mining any land the subject of an application for a lease under this Part (this section excepted) or for any other sufficient reason it is necessary that any such application should be dealt with in accordance with the provisions of this section the Minister may approve of the application being so dealt with, and, if the Minister so approves, the application shall be deemed to have been made for a lease under this section.

20 This subsection shall apply to applications for leases made before the commencement of this subsection and not granted or refused at such commencement as well as to applications for leases made after such commencement.

25 (j) by omitting from subsection one of section 40A the words "the form of and area to be comprised in any such lease" and by inserting in lieu thereof the words "the area to be comprised in any such lease and the form of such area".

Sec. 40A.
(Railway
Commissioners'
leases.)

30 (2) The amendments made by paragraph (d) of subsection one of this section shall not apply to any applicant for a mining lease where his application was made before the commencement of that paragraph and had not been granted or refused at such commencement, but the provisions of section
35 twenty-eight of the Principal Act shall continue to apply to and in respect of any such applicant and his application until his application is granted or refused.

Mining (Amendment).

5. (1) Part IV of the Principal Act is amended—

Amendment
of Act No.
49, 1906.
Part IV.—
(Mining on
Private
Lands.)

- (a) (i) by omitting from section forty-five the definitions of "Occupier" and "Owner" and by inserting in lieu thereof the following definitions:—

Sec. 45.
(Interpreta-
tion.)

"Occupier" means a person in lawful occupation of any private lands.

"Owner" includes—

- (a) any person to whom the Crown has lawfully contracted to grant the fee simple under the Crown Lands Acts, or to whom the Crown has granted any lease under those Acts; and
- (b) a trustee of private lands, a guardian in infancy, committee or manager appointed under Part X of the Mental Health Act, 1958, and a mortgagee in possession.

- (ii) by inserting in paragraph (i) of the definition of "Private lands" in the same section after the word and figure "Part V" the words ", or this Part,";

- (iii) by inserting at the end of paragraph (ii) of the same definition the words "Any such proclamation may be made with respect to the whole of the surface of any land and the soil below the surface, to the surface of the land and the soil thereof to a specified depth below the surface or to the land between or below any specified depths or depth below the surface.";

(b)

Mining (Amendment).

- (b) (i) by inserting in subsection one of section forty-six after the words "open to" the words "prospecting or"; Sec. 46.
(For gold and other metals.)
- 5 (ii) by inserting in subsection two of the same section after the words "open to" the words "prospecting or";
- 10 (iii) by omitting from subsection (2A) of the same section the words "the Crown grant of which contains, or if not yet issued will when issued contain, a reservation to the Crown of any mineral,";
- 15 (iv) by inserting in subsection three of the same section after the words "carrying on" wherever occurring the words ", or entitled to carry on,";
- (v) by omitting from the same subsection the word and symbol ", whether";
- (c) by omitting from section forty-eight the words "enclosed and"; Sec. 48.
(Not to extend to surface of cultivated land without consent.)
- 20 (d) (i) by omitting the short heading to section 49A and by inserting in lieu thereof the following short heading:— Sec. 49A.
(Application for license.)
- License to prospect on private lands.*
- 25 (ii) by omitting from subsection one of the same section the words "by a deposit of ten shillings, which deposit may be applied wholly or in part towards payment of compensation for occupation and for surface damage to be assessed by the warden" and by inserting in lieu thereof the words "by a fee of one pound";
- (iii)

Mining (Amendment).

(iii) by omitting paragraph (b) of subsection six of the same section and by inserting in lieu thereof the following paragraph :—

5 (b) The licensee shall pay into the warden's court within the time ordered by the warden compensation as assessed by the warden.

10 (iv) by omitting from paragraph (a) of subsection seven of the same section the words "such amount as will with any surplus to his credit after assessment and payment into court of compensation in respect of the area previously held under his license make up the sum of ten shillings" and by inserting in lieu thereof the words "a further fee of one pound";

15 (e) (i) by omitting from subsection one of section fifty the words "on any private lands" and by inserting in lieu thereof the words "in and upon any private lands and search for gold or any mineral reserved to the Crown." Sec. 50. (Warden may grant authority.)

20 If more than one application is made for the same land, the application which has been first lodged shall be first considered and dealt with, and so on, according to priority of lodgment";

25 (ii) by omitting paragraph (a) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—

30 (a) if the land is land for the time being included in a notification under subsection (2A) of section forty-six of this Act or land in respect of which no application for an authority to enter may be granted by virtue of subsection three of that section;

(iii)

Mining (Amendment).

(iii) by omitting from subsection three of the same section the words "of five shillings which" and by inserting in lieu thereof the words "calculated at the rate of one pound for each one hundred acres or part thereof comprised in the area applied for, which fee";

(f) (i) by inserting at the end of subsection one of section fifty-one the following new paragraph :—

Sec. 51.
(Rent to
be fixed.)

Notwithstanding the foregoing provisions of this subsection where no part of the surface is applied for and there is more than one owner of the land applied for the warden, in lieu of giving notice to any such owner as required by this subsection, may, by advertisement published in a newspaper circulating in the district where the land is situated, give notice of the inquiry to be held under this subsection and where any such inquiry is so advertised due notice of the inquiry shall be deemed to have been given to every owner of the land applied for.

(ii) by omitting subsections three and four of the same section and by inserting in lieu thereof the following subsections :—

(3) The first payment of the rent shall be made within fourteen days of the issue of the authority and before entry upon the land in pursuance of the authority. If such payment is not so made, or if any rent afterwards due is left unpaid for a period of one month, the warden may cancel the authority.

(4) Compensation shall be paid within the period fixed by the warden. If such compensation is not so paid, or if any compensation afterwards assessed and ordered to be paid is left unpaid for a period of one month, the warden may cancel the authority.

(iii)

Mining (Amendment).

- (iii) by omitting from subsection five of the same section the words "within fourteen days";
- (iv) by omitting from the same subsection the words "the last two preceding subsections" and by inserting in lieu thereof the words "subsection three of this section";
- (g) (i) by inserting in subsection one of section fifty-two after the words "in force" the words "and where the application for the extension thereof is made not later than one month before its expiry";
- (ii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection :—
- (3) The holder of such authority shall, within the period and as directed by the warden, serve notice, in the prescribed form, of the grant of such authority and of every extension thereof, upon the owner and occupier, or upon each owner and occupier, if there is more than one, of the land defined in the authority.
- Notwithstanding the foregoing provisions of this subsection where no part of the surface is applied for and there is more than one owner of the land applied for the holder with the consent of the warden, in lieu of giving notice to any such owner as required by this subsection, may, by advertisement published in a newspaper circulating in the district where the land is situated, give notice of the grant of the authority and of any extension thereof and where any such grant or extension is so advertised due notice of the grant or extension shall be deemed to have been given to every owner of the land applied for.
- (h) by omitting section fifty-three and by inserting in lieu thereof the following section :—
53. (1) Every such authority shall state the area, and contain a definition, of the land in respect of which it is granted.
- (2)

Sec. 52.
(Duration
and extension
of
authority.)

Substituted
sec. 53.

Extent of
area.

Mining (Amendment).

(2) The said area may be such as appears to the warden suitable, having regard to the class of deposit to be searched for, but shall not exceed one thousand acres and the warden shall cause the boundaries of the land in respect of which the authority is granted to be defined, as prescribed, on the land :

Provided that the warden may dispense with such definition where in the circumstances of the case he considers such definition impracticable or unnecessary.

(i) by inserting in paragraph (a) of subsection two of Sec. 54. section fifty-four after the word "authority" the words "or within such further time as the warden may, in writing, allow"; (When prospecting lawful.)

15 (j) (i) by omitting paragraph (a) of subsection one of section fifty-seven and by inserting in lieu thereof the following paragraph : — (Power to define boundaries.)

(a) has served the prescribed notice relating to the grant of such authority upon the owner and occupier of the said land; and;

(ii) by omitting from the same subsection the words "not exceeding the extent prescribed by section sixty-three" and by inserting in lieu thereof the words "but, except where application is made for a special mining lease under this Part, the area shall not exceed that prescribed by section sixty-three of this Act";

30 (iii) by omitting from subsection four of the same section the word "or" and by inserting in lieu thereof the word "and";

(iv) by omitting subsection five of the same section and by inserting in lieu thereof the following subsection : —

35 (5) When any application for a lease has been duly made the applicant, or his nominee, may by virtue of the application, until such lease

Mining (Amendment).

5 lease is granted or refused, subject to the consent of the Minister and to any conditions (including payment of rent and royalty not exceeding the rents and royalties prescribed by sections sixty-four, eighty-two and 70c of this Act and such compensation as may be assessed) or restrictions imposed by him, occupy the land applied for and mine upon and in such land.

10 The Minister may by notice in writing served on the applicant revoke any such consent or may, in like manner, vary any such consent as he may think fit.

15 Any person occupying any land pursuant to this subsection who neglects or fails to comply with the conditions or restrictions specified in any relevant consent given under this subsection shall be liable to a penalty not exceeding fifty pounds.

20 (k) by inserting at the end of subsection one of section fifty-eight the following new paragraph : —
Any such refusal shall be notified in the Gazette and shall take effect from the time of publication thereof.

Sec. 58.
(Power to refuse, etc.)

25 (l) (i) by omitting from paragraph (c) of subsection one of section fifty-nine the words "determined by the Minister in accordance with the regulations" and by inserting in lieu thereof the word "prescribed";

Sec. 59.
(Particulars to be stated in lease.)

30 (ii) by omitting subsection two of the same section ;

(m) (i) by omitting subsection one of section sixty and by inserting in lieu thereof the following subsection : —

Sec. 60.
(Lease for race, tramway, etc.)

35 (1) Subject to the assessment by the warden of compensation, the Governor may grant to any person who has made application to the Minister

Mining (Amendment).

5 Minister in that behalf in the prescribed manner
a lease of the surface of any private land and
of the soil to a specified depth below the surface
or of the soil below the surface of any private
land between or below any specified depths or
depth below the surface, for any mining
purpose.

(ii) by inserting next after subsection four of the
same section the following new subsection :—

10 (5) When any application for a lease under
this section has been duly made, the applicant,
or his nominee, may by virtue of the application,
until such lease is granted or refused, subject
15 to the consent of the Minister and to any con-
ditions (including payment of such rent and
compensation as may be assessed by the
Minister) or restrictions imposed by him, occupy
the land applied for and construct and use such
works upon and in the same as the Minister
20 may authorise.

The Minister may by notice in writing served
on the applicant revoke any such consent or
may, in like manner, modify or amend any such
consent as he may think fit.

25 Any person occupying any land pursuant to
this subsection who neglects or fails to comply
with the conditions or restrictions of any
relevant consent given under this subsection
shall be liable to a penalty not exceeding fifty
30 pounds.

(n) (i) by omitting from section sixty-three the words ^{Sec. 63.}
"The area" and by inserting in lieu thereof the ^{(Extent of}
words "Except in respect of special leases, the ^{lease.)}
area";

(ii)

Mining (Amendment).

- (ii) by omitting from the same section the words
 “: Provided that upon the recommendation of
 the Minister, the Governor may grant a lease
 exceeding the area above prescribed; but the
 Minister shall not make such recommendation
 unless the prospecting board certifies that, by
 reason of the difficulties and cost attending the
 construction of mine works upon or of mining
 such land, it is necessary that such greater area,
 to be specified by the board, should be included
 in the lease”;
- (o) (i) by omitting from subsection one of section sixty- Sec. 64.
 four the words “notification in the Gazette of (Rents
 the approval of the lease by the Governor” and payable.)
 by inserting in lieu thereof the word “lease”;
- (ii) by inserting next after subsection one of the
 same section the following new subsection :—
- (1A) The yearly rental reserved to the owner
 of the land in respect of any such lease (except
 a lease under section sixty of this Act) granted
 after the commencement of this subsection
 shall be two pounds per acre or portion of an
 acre commencing from the date of the lease
 payable half-yearly in advance, and shall be
 payable in respect of the portion of the surface
 leased.
- (p) by inserting in paragraph (b) of section sixty-six Sec. 66.
 after the word “owner” the words “of such trees, (Lessee not
 bark or timber”; to use water
 artificially
 conserved,
 nor depas-
 ture sheep,
 nor keep
 dog, nor
 remove
 rock, etc.)
- (q)

Mining (Amendment).

(q) (i) by omitting from subsection two of section sixty-nine the words and symbols "(after deduction of any sum paid by way of rent)";

Sec. 69.
(Lease or agreement by owner to mine for minerals reserved to the Crown.)

(ii) by omitting subsections four, five and six of the same section;

(r) by omitting subsections five, six and seven of section seventy;

Sec. 70.
(Lease or agreement to mine for minerals not reserved to the Crown.)

(s) (i) by inserting at the end of subsection two of section 70A the following new proviso :—

Sec. 70A.
(Grant of authority to enter.)

Provided that where application for any such authority to enter is made in respect of any mineral, which is owned by a person other than the owner of the land, the warden shall, before issuing the authority, give due notice of the inquiry referred to in section fifty-one of this Act to the owner of such mineral in addition to any other person to whom notice is required to be given under that section.

(ii) by inserting at the end of subsection three of the same section the following new proviso :—

Provided that the holder of any such authority shall, within the period and as directed by the warden, serve notice, in the prescribed form, of the grant of such authority and of every extension thereof upon the owner and occupier or upon each owner and occupier, if there is more than one, of the land defined in the authority and on the owner of any mineral which is owned by a person other than the owner of the land or upon each owner of such mineral, if there is more than one.

Notwithstanding

Mining (Amendment).

5 Notwithstanding the foregoing provisions of
this subsection where no part of the surface is
applied for and there is more than one owner
of the land applied for the holder with the
consent of the warden, in lieu of giving notice
to any such owner who is not the owner of the
mineral as required by this subsection, may, by
advertisement published in a newspaper
circulating in the district where the land is
10 situated, give notice of the grant of the autho-
rity and of any extension thereof and where any
such grant or extension is so advertised due
notice of the grant or extension shall be deemed
to have been given to every owner of the land
15 applied for who is not an owner of the mineral.

(t) (i) by inserting in subsection one of section 70B Sec. 70B.
after the words "or any part thereof," the words (Applica-
"and has served the prescribed notice relating tion for
to the grant of such authority upon the owner lease.)
and occupier of the said land and upon the
20 owner of any mineral, which is owned by a
person other than the owner of the land, and
has paid rent and compensation as prescribed,";

(ii) by inserting at the end of the same subsection
25 the following new paragraph : —

The notice of intention to apply for a lease
required to be served upon the owner and
occupier of the land as provided by subsection
four of section fifty-seven of this Act shall also
30 be served by the applicant upon the owner of
any mineral, which is owned by a person other
than the owner of the land, or upon each owner
of such mineral, if there is more than one.

(iii) by omitting from subsection three of the same
35 section the word "shall" and by inserting in lieu
thereof the words "and applicants shall, subject
to this Division,";

(iv)

Mining (Amendment).

(iv) by inserting next after subsection four of the same section the following new subsection :—

(5) In respect of any lease granted after the commencement of the Mining (Amendment) Act, 1961, subsection four of this section shall have effect as if the words “two shillings and sixpence” were omitted therefrom and the words “five shillings” were inserted in lieu thereof.

(u) by inserting next after section 70B the following new sections :— New secs.
70BA, 70BB.

70BA. (1) (a) Any person who is the owner of any private lands and any minerals not reserved to the Crown in or on such land may, if such land is not applied for or occupied for mining operations under this Act, and whether or not he is the holder of an authority to enter, make application in the prescribed manner for a lease of such land to mine such minerals. Applica-
tion for
lease by
owner of
land and
minerals.

(b) Leases under this section may be granted by the Governor in the name and on behalf of Her Majesty to such applicants, and the provisions of Division 3 of this Part of this Act relating to the grant or refusal of applications for leases of private lands shall apply to applications made under this section.

(c) Any such application or lease shall confer the same rights upon the applicant, or lessee, under this section as an application or lease under section 70B of this Act would confer in the case of an applicant or lessee under that section.

(2) An owner applying as aforesaid shall have no preferential rights over other applicants and shall be subject to payment of royalty and all other provisions of this Part binding upon other applicants or lessees thereunder, as the case may be, with the exception of payment of rent and compensation, and of

of those provisions which relate to such notices as the owner would be entitled to receive in his capacity as owner of the land and minerals in the case of an application made by some other person.

70BB. (1) (a) Where any private lands and minerals therein or thereon are not owned by the same person (such lands or minerals not being lands or minerals owned by the Crown), the owner of such lands or the owner of such minerals may—

10 (i) if such land is not applied for or occupied
for mining operations under this Act; and

(ii) he is the holder of an authority to enter under
this Part.

15 make application in the prescribed manner for a lease of such land to mine such minerals.

(b) Leases under this section may be granted by the Governor in the name and on behalf of Her Majesty to such applicants, and the provisions of Division 3 of this Part of this Act relating to the grant or refusal of applications for leases of private lands shall apply to applications made under this section.

25 (c) Any such application or lease shall confer the same rights upon the applicant, or lessee, under this section as an application or lease under section 70B of this Act would confer in the case of an applicant or lessee under that section.

30 (2) An owner applying as aforesaid shall have no preferential rights over other applicants and shall be subject to the payment of royalty and all other provisions of this Part binding upon other applicants or lessees thereunder, as the case may be, except—

35 (a) where the applicant or lessee is the owner of the lands and the application is for, or the lease is, a lease to mine for coal or shale, the

Mining (Amendment).

the assessment and payment of rent and compensation other than rent reserved to the owner of the minerals under subsection four of section 70B of this Act;

- 5 (b) where the applicant or lessee is the owner of the minerals and the application is for, or the lease is, a lease to mine for coal or shale, the payment of rent reserved to the owner of the minerals under subsection four
10 of section 70B; and
- (c) such other provisions of this Part as relate to notices that the owner would be entitled to receive in his capacity as owner of the land or owner of the minerals, as the case
15 may be, if the application had been made by some person other than the owner of the land or the minerals.
- (v) (i) by omitting from subparagraph (i) of paragraph Sec. 70c.
20 (a) of subsection five of section 70C the words (Royalty payable.)
“per centum” where secondly occurring;
- (ii) by omitting from paragraph (b) of the same subsection the words “one shilling” and by inserting in lieu thereof the words “two shillings”;
- 25 (iii) by omitting from the same paragraph the word “ninepence” and by inserting in lieu thereof the words “one shilling”;
- (w) by inserting at the end of subsection one of section Sec. 70D.
30 70D the words “and the Minister’s determination (Protection of land upon which mining operations are being carried on.)
shall be final”;
- (x) (i) by inserting in subsection one of section 70E Sec. 70E.
after the word “plan” the words “or (Protection of land in certain colliery holdings.)
description”;
- (ii)

Mining (Amendment).

- (ii) by omitting from subsection (1A) of the same section the words "of section 70D of this Act or";
- 5 (iii) by inserting in the same subsection after the words "section may" the words ", subject to section 70D of this Act,";
- (iv) by inserting in subsection three of the same section after the word "plan" the words "or description and particulars";

- 10 (y) by inserting next after section 70E the following new Division : — New Div.
4B.

DIVISION 4B.—SPECIAL LEASES OF PRIVATE LAND.

70F. (1) The Governor may, upon the recom- Governor
may grant
special
leases of
private
land.
mendation of the Minister, grant a special mining
15 lease of private land for mining, other than coal or
shale mining, whether or not the area applied for
exceeds any limits prescribed as to area or
dimensions, and irrespective of whether any of the
minerals contained in such land are reserved to the
20 Crown or are not so reserved, if the Minister is
satisfied that by reason of the difficulties and cost
attending the construction of mine works upon or
of mining such land, or for any other sufficient
reason, it is necessary that such lease be granted.

25 (2) The Minister may, on application being
made in the prescribed manner for such lease, direct
the prospecting board or the warden to inquire and
report—

- 30 (a) whether by reason of the difficulties and cost
attending the construction of mine works
upon and of mining such land, or for any
other sufficient reason, it is necessary that a
special mining lease should be issued; and
- (b) upon the royalty to be paid; and
- 35 (c) upon such other matters as the Minister may
direct.

Mining (Amendment).

(3) The Governor may fix the area to be comprised in any such lease and the form of such area and the labour and other conditions, reservations and exceptions to be contained in the lease.

5 (4) The Governor may fix the royalty to be paid by the lessee of any such lease and the lessee shall—

10 (a) in respect of all gold and minerals reserved to the Crown won from the land so leased, pay to the Crown the royalty fixed as aforesaid at the times and in the manner prescribed and such royalty may be recovered from the lessee as a Crown debt; and

15 (b) in respect of minerals not so reserved won from the land so leased, pay to the Minister on behalf of the owner of such minerals, the royalty fixed as aforesaid at the times and in the manner prescribed.

20 The Minister shall at the times and in the manner prescribed pay to the owner of such minerals the sum paid as aforesaid less one-seventh of such sum which he is hereby authorised to deduct from such sum; and the amounts so deducted shall be paid by the Minister into the Treasury and carried to
25 the Consolidated Revenue Fund.

30 Where any private land the subject of a lease under this section and the minerals to which the lessee is pursuant to such lease entitled to mine in or upon such land are privately owned and in the same ownership, and the royalty payable in respect of such minerals by the lessee during any one year exceeds the rent paid for such year in respect of such land, the amount paid as rent as aforesaid may be deducted from such sum payable as royalty; but
35 if the royalty in any one year amounts to less than the rent paid for such year, the lessee shall not for such year be required to pay royalty.

(5)

Mining (Amendment).

(5) In all other respects a special mining lease of private land and the application therefor shall be subject to the provisions of this Act in respect of ordinary leases under this Part.

5 (6) Where the Minister is satisfied that by
reason of the difficulties and cost attending the
construction of mine works upon or of mining any
land the subject of an application for a lease under
10 this Part or for any other sufficient reason it is
necessary that any such application should be dealt
with in accordance with the provisions of this section
the Minister may approve of the application being
so dealt with, and, if the Minister so approves, the
15 application shall be deemed to have been made for
a lease under this section.

This subsection shall apply to applications for
leases made before the commencement of this sub-
section and not granted or refused at such com-
mencement as well as to applications for leases made
20 after such commencement.

(z) by inserting at the end of paragraph (a) of Sec. 82.
subsection (2A) of section eighty-two the words "Or, (Amount.)
in the case of a special mining lease granted under
section 70F of this Act, at such rates as may be
25 fixed by the Governor under that section";

(aa) (i) by inserting in section eighty-three after the Sec. 83.
words "authority to enter" the words ", every (Right of
application for lease"; ingress,
egress and
regress.)

30 (ii) by omitting from the same section the words
"thereby conferred" and by inserting in lieu
thereof the words "conferred by or under this
Act, or the lease, upon the holder of such
authority or lease or upon the applicant for
such lease";

(iii)

Mining (Amendment).

(iii) by inserting in the same section after the word
“lease” where secondly occurring the words
“, or the subject of the application,”;

5 (iv) by inserting in the same section after the word
“authority” where thirdly occurring the words
“, the applicant”.

(2) The amendments made by subparagraph (iv) of
paragraph (j) of subsection one of this section shall not
apply to any applicant for a lease of private lands where his
10 application was made before the commencement of that sub-
paragraph and had not been granted or refused at such com-
mencement, but the provisions of subsection five of section
fifty-seven of the Principal Act shall continue to apply to and
in respect of any such applicant until his application is
15 granted or refused.

6. Part V of the Principal Act is amended—

Amendment
of Act No.
49, 1906.

Part V—
(Dredging
leases.)

(a) (i) by omitting from section eighty-four the
definitions of “Occupier” and “Owner” and by
inserting in lieu thereof the following
20 definitions :—

Sec. 84.
(Interpre-
tation.)

“Occupier” means a person in lawful
occupation of any private lands.

“Owner” includes—

25 (a) any person to whom the Crown
has lawfully contracted to grant
the fee simple under the Crown
Lands Acts, or to whom the
Crown has granted any lease
under those Acts; and

30 (b) a trustee of private lands, a
guardian in infancy, committee or
manager appointed under Part X
of the Mental Health Act, 1958,
and a mortgagee in possession.

“Private

Mining (Amendment).

“Private lands” means lands other than Crown lands but does not include leases granted under Part III or IV, or this Part, of this Act.

5 (ii) by omitting from the same section the definition of “River-bed”;

(b) by omitting section eighty-five and by inserting in lieu thereof the following new section :—

Substituted
sec. 85.

10 85. Nothing in this Part shall apply to any lands held under this Act nor, where the owner of any private lands has not consented to the grant of an authority to enter thereon, to those private lands if they are found by the warden to have been at the time the application for such authority under actual cultivation. Cultivation for the growth and spread of pasture grasses shall not be deemed to be cultivation within the meaning of this section unless, in the opinion of the Minister, the circumstances so warrant. In the case of dispute as to whether land is or is not under cultivation within the meaning of this section the Minister’s decision thereon shall be final.

This Part
not to apply
to certain
cultivated
land.

25 (c) (i) by omitting from subsection one of section eighty-six the words and symbols “any land (not being land held under or by virtue of any Act relating to mining)” and by inserting in lieu thereof the words “any Crown lands or private lands”;

Sec. 86.
(Governor
may grant
leases for
purposes of
mining by
dredging,
etc., and of
what lands.)

30 (ii) by inserting next after the same subsection the following new subsection :—

35 (1A) The Governor, on the recommendation of the Minister, may, by notification, exempt from the provisions of this Part any land, whether Crown land or private land, and may, in like manner, revoke or amend any such notification.

Any

Mining (Amendment).

Any marking out of, or application for, any lands which are exempt from leasing under this section shall be void and of no effect :

5 Provided that where part only of any lands marked out or applied for are so exempt, nothing in this subsection shall prevent a lease being granted under this section of such part of those lands as is not so exempt.

10 (iii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection : —

(2) (a) The area that may be demised by any lease granted under this section shall not exceed one hundred acres.

15 (b) Every such lease shall contain such labour conditions as the Governor may determine.

20 (c) Except in the prescribed circumstances, every application for any such lease shall be accompanied by the prescribed survey fee.

25 Where the Minister is of opinion that a survey is unnecessary for the purposes of any such application, or that the cost of the survey is less than the prescribed survey fee lodged by the applicant for the lease, he may refund the whole or such part as he thinks fit, of any prescribed survey fee to such applicant.

30 (d) (i) by omitting from subsection one of section eighty-seven the words "is not Crown land" wherever occurring and by inserting in lieu thereof the words "is private lands"; Sec. 87.
(Land to be applied for to be entered and marked out.)

35 (ii) by omitting from subsection two of the same section the word "deposit" where firstly occurring and by inserting in lieu thereof the word "fee";

(iii)

Mining (Amendment).

- (iii) by omitting from the same subsection the words
 "On the order of the Minister the amount of
 such deposit, less such sum (if any) as the
 Minister directs to be retained to cover the
 expenses incurred by the Crown in relation to
 the application, shall be refunded to the
 applicant on the execution of the lease by the
 lessee, or if the Minister is satisfied that the
 application was bona fide, on the refusal of the
 application.";
- (e) by omitting from subsection one of section eighty-
 eight the words "fourteen days" and by inserting in
 lieu thereof the words "twenty-eight days";
- (f) by omitting subsection three of section ninety and
 by inserting in lieu thereof the following sub-
 sections : —
- (3) If more than one application is made for a
 lease of the same land the application of the person
 who has first marked out such land shall be first
 considered and dealt with and so on according to
 priority of marking out.
- For the purposes of this subsection "marking out"
 means the act of erecting a datum post, provided that
 the mode of marking out prescribed by the regula-
 tions is forthwith complied with :
- Provided that where under the regulations a
 datum post is not required, the time of marking out
 shall be deemed to be the time at which the
 application is lodged.
- (4) If any application for a lease is refused or
 abandoned any other application for a lease of the
 same land may be considered and dealt with regard
 being had where necessary to the rule of priority
 aforesaid.
- (g)

Sec. 88.
 (Entry in
 pursuance
 of
 authority.)

Sec. 90.
 (Application
 for leases to
 be made to
 warden and
 forwarded
 to the
 Minister.)

First
 applicant to
 have
 priority.

Mining (Amendment).

- 5 (g) (i) by omitting from subsection one of section ninety-one the words "At such inquiry" and by inserting in lieu thereof the words "The Minister may direct the warden to hold an inquiry in the manner prescribed with respect to any application for a lease under this Part.
At such inquiry";
- 10 (ii) by omitting from paragraph (b) of the same subsection the words "not Crown land" and by inserting in lieu thereof the words "private land";
- (iii) by inserting in the same subsection after the words "such rent" wherever occurring the words "or compensation";
- 15 (iv) by omitting from the same subsection the words "But no such agreement shall contain any provision or stipulation for the payment of any sum by way of royalty upon the gold or minerals won from the land applied for.";
- 20 (h) by omitting section ninety-four;
- (i) by omitting from subsection two of section ninety-five the words "to use such road with horses, cattle, and vehicles" and by inserting in lieu thereof the words ", the applicant for a lease under this Part, or his nominee, as the case may be, to use such road for any purpose in connection with mining operations carried on under the lease or by virtue of the application";
- 25 (j) by omitting from subsection one of section ninety-seven the words "land which is not Crown land" and by inserting in lieu thereof the words "private land";
- 30 (k)

Sec. 91.
(Warden to inquire and make orders as to roads of access, sites for machinery, rent and compensation.)

Sec. 94.
(Minister may refuse application or grant lease.)

Sec. 95.
(Warden may order such road or site to be marked out.)

Sec. 97.
(First payment to be made into warden's court.)

Mining (Amendment).

- (k) (i) by inserting next after subsection one of section ninety-eight the following new subsection :—

Sec. 98.
(Rent and
royalty.)

(1A) The rent to be paid to the Crown in respect of Crown land included in any dredging lease granted under this Part after the commencement of this subsection shall be five shillings per acre or portion of an acre. Such rent shall be payable at the times and places and in the manner prescribed :

Provided that all such rents shall be payable yearly in advance and the first annual payment shall be made on making the application for such lease.

- (ii) by inserting at the end of paragraph (a) of subsection three of the same section the following new proviso :—

Provided that the lessee may deduct from the sum payable as aforesaid in any one year to the Minister on behalf of the owner of the minerals, a sum equal to the amount paid by him to such owner as rent for that year. For the purposes of this subsection leases amalgamated under the provisions of this Act shall be regarded as separate leases unless the owners of the minerals are identical : Provided further that if the royalty in any one year payable to the Minister on behalf of the owner of the mineral amounts to less than the rent paid to such owner for such year, the lessee shall not for such year be required to pay royalty.

- (l) by inserting next after subsection two of section ninety-nine the following new subsection :—

Sec. 99.
(No obligation to
grant
lease.)

(2A) The Governor may refuse any application for a lease and such refusal shall take effect from the time of publication of such refusal in the Gazette.

- (m) by omitting from section one hundred the words "freehold or conditionally purchased";

Sec. 100.
(Owner to
have access
to water.)

(n)

Mining (Amendment).

- (n) by omitting section one hundred and one and by inserting in lieu thereof the following section : —

Substituted
sec. 101.

Mining during pendency of application.

5 101. (1) When any application for a lease has been duly made the applicant, or his nominee, may by virtue of the application, until such lease is granted or refused, subject to the consent of the Minister and to any conditions (including, in the case of Crown lands, the payment of rent and
10 royalty not exceeding that prescribed by section ninety-eight of this Act, and, in the case of private lands, such rent and compensation as may be determined or assessed and royalty not exceeding
15 that prescribed by that section) or restrictions imposed by him, occupy the land applied for and mine upon and in such land. The Minister may by notice in writing addressed to the applicant revoke any such consent or may, in like manner, vary any such consent as he may think fit.

Minister
may
consent to
mining
during
pendency.

20 Any person occupying any land pursuant to this subsection who neglects or fails to comply with conditions or restrictions specified in any relevant consent given under this subsection shall be liable to a penalty not exceeding fifty pounds.

25 (2) This section shall apply to applications for leases made under this Part before the commencement of this section, and not granted at such commencement as well as to applications for leases made under this Part after such commencement :

30 Provided that where the applicant for a lease applied for before, and not granted at, such commencement, has before such commencement obtained the consent of the owner or occupier to commence mining operations in or on the area
35 included in the application, such applicant may, in accordance with such consent, commence, and continue to carry on, such operations notwithstanding the provisions of this section.

Mining (Amendment).

7. Part VI of the Principal Act is amended—

Amendment
of Act No.
49, 1906.
Part VI.—
(Tenements
and leases
generally.)

- (a) by omitting from subsection one of section one hundred and five the words "Crown lease or license for pastoral purposes" and by inserting in lieu thereof the words "Crown lease for pastoral purposes or special lease for pastoral purposes";
- (b) (i) by inserting in section one hundred and six after the words "any Act." the following new paragraph :—
Any such notification may be made with respect to the whole of any land or to the surface of any land and the land below the surface to any specified depth.
- (ii) by inserting at the end of the same section the following new paragraph :—
Nothing in section eight of the Crown Lands (Amendment) Act, 1960, affects, or shall be deemed to have affected, any reservation of land deemed to have been reserved for mining or mining purposes by notification under the Crown Lands Acts made before the commencement of subparagraph (ii) of paragraph (b) of section seven of the Mining (Amendment) Act, 1961.
- (c) by omitting section one hundred and nine and by inserting in lieu thereof the following section :—
109. (1) Every lease under this Act shall be registered with the Registrar, Department of Mines, Sydney.
(2) Every transfer or assignment (except an assignment by operation of law) of, and every instrument being a sub-lease, tribute agreement, option contract, mortgage, deed of trust, partnership agreement,

Sec. 105.
(Suspension
of pastoral
lease.)

Sec. 106.
(Exemption
of Crown
lands from
alienation.)

Substituted
sec. 109.

Registration
of leases,
etc.

Mining (Amendment).

5 agreement, working agreement, or other instrument,
affecting, any lease under this Act or lease or
agreement registered under section sixty-nine or
seventy of this Act, together with a copy of every
such instrument certified by any two persons to be
a true copy of the original, shall be lodged within
the time and in the manner prescribed for—

10 (a) the sanction of the Minister in the case of
any such transfer, assignment or instrument,
affecting any lease under this Act; or

15 (b) the concurrence of the Minister in the case of
any transfer, assignment or instrument,
affecting any lease or agreement registered
under section sixty-nine or seventy of this
Act,

and for registration by the Registrar, Department of
Mines, Sydney, under the provisions of this section.

20 The Minister may refuse such sanction or
concurrence or may grant it absolutely or subject
to such amendments, modifications, stipulations or
conditions (including a condition as to the payment
of royalty), as he may think necessary in the public
interest to make or impose.

25 Any transfer, assignment or other instrument
required to be lodged for registration under this
subsection, which is not lodged within the time and
in manner prescribed, shall not be registered unless
the Minister so approves.

30 Any person who neglects or fails to comply with
any such amendment, modification, stipulation or
condition so imposed upon him shall be liable to a
penalty not exceeding fifty pounds and to a further
penalty not exceeding five pounds for each and every
day such neglect or failure continues.

35 (3) Every instrument which by this section
is required to be lodged for registration shall be
lodged by such person as may be prescribed.

Any

Mining (Amendment).

5 Any person so prescribed who neglects or fails to comply with the provisions of subsection two of this section shall be guilty of an offence against this Act and shall be liable upon conviction to a penalty not exceeding fifty pounds and to a further penalty not exceeding five pounds for each and every day such neglect or failure continues.

10 (4) (a) No transfer or assignment (except an assignment by operation of law) of, and no sub-lease, tribute agreement, option contract, mortgage, partnership agreement, working agreement or other dealing, affecting, any lease under this Act or lease or agreement registered under section sixty-nine or
15 seventy of this Act shall have any force or effect unless it is in writing and is signed by the parties thereto.

20 Nothing in this paragraph applies to any transfer or assignment, or any sub-lease, tribute, option, contract, mortgage, partnership agreement, working agreement or other dealing made before the commencement of the Mining (Amendment) Act, 1961, other than a transfer or tribute agreement referred to in section sixty-nine or seventy of this Act, as enacted immediately before such commencement.

25 (b) Any transfer, assignment or other instrument required to be lodged for registration under subsection two of this section shall not have any force or effect until it is registered under the provisions of this section.

30 Nothing in this paragraph applies to any transfer, assignment or other instrument made before the commencement of the Mining (Amendment) Act, 1961, other than a transfer or tribute agreement referred to in section sixty-nine or seventy of this
35 Act, as enacted immediately before such commencement.

(5)

Mining (Amendment).

- (5) Any person claiming interest in any lease under this Act or any Act hereby repealed, or under any lease or agreement under section sixty-nine or seventy of this Act may, before the registration of any instrument required by subsection one or two of this section to be registered, lodge with the Minister a caveat in the prescribed form, and accompanied by the prescribed fee, against such registration. On receipt of such caveat the Minister shall stay registration for fourteen days, unless the caveat is sooner withdrawn, but may then register the instrument, unless the person lodging the caveat has obtained and served upon him an order of some competent court forbidding such registration.
- 15 (d) by inserting in subsection one of section one hundred and ten after the words "hereby repealed," the words "or to the applicant for any such lease,"; Sec. 110. (Warden may allow pipeline, etc., to be constructed on public road, etc.)
- 20 (e) (i) by omitting from subsection one of section one hundred and eleven the words "claim or lease" and by inserting in lieu thereof the words "lease, claim, authority or other holding, or any applicant for a lease,"; Sec. 111. (Authority to construct tunnels, etc., on holding.)
- 25 (ii) by omitting from the same subsection the words "or other holding" and by inserting in lieu thereof the words ", authority or other holding, or the subject of an application for a lease,";
- 30 (iii) by omitting from the same subsection the words "or lessee" and by inserting in lieu thereof the words ", lessee or applicant, or to or from any land the subject of any such application";
- 35 (iv) by omitting from the same subsection the words "such land" and by inserting in lieu thereof the words "the land held under such lease, claim, authority or other holding, or the subject of an application for a lease, as aforesaid";
- (v)

Mining (Amendment).

(v) by omitting subsection four of the same section and by inserting in lieu thereof the following new subsection :—

5 (4) The rights and duties under any authority issued under this section may be assigned and transferred with the claim, lease or other holding in connection with which it was issued or to the nominee of any applicant for a lease.

10 (vi) by omitting from subsection five of the same section the words “or lease” and by inserting in lieu thereof the words “lease or holding”;

15 (vii) by inserting in the same subsection after the word “period” where secondly occurring the words “or notwithstanding that the application for the lease has been granted or refused”;

(f) (i) by inserting at the end of paragraph (c) of subsection three of section one hundred and thirteen the following word and new paragraph :—

Sec. 113.
(Registered owners may apply.)

20 ; or

(d) that in the case of a lease, the lessee requires time to enable him to plan the development and make preparatory arrangements for the working of the lease :

25 Provided that the warden shall not grant any such authority only on the ground specified in this paragraph for a period which would expire after the expiration of the first twelve months of the term of the lease.

30 (ii) by inserting at the end of subsection six of the same section the words “or as to the continuance by the lessee of restoration work during the period of suspension”;

35 (g) (i) by inserting in subsection one of section one hundred and fifteen after the word “repealed” the words “, and every applicant for any such lease

Sec. 115.
(Return to be furnished by holder of lease, etc.)

Mining (Amendment).

lease or other title to mine, carrying on mining operations under this Act”;

5 (ii) by inserting in the same subsection after the words “to mine” where lastly occurring the words “or applied for, as the case may be,”;

(iii) by inserting in the same subsection after the words “such holder” the words “or applicant”;

10 (iv) by inserting in subsection two of the same section after the words “holder of” the words “, or applicant for,”;

(v) by inserting next after the same subsection the following new subsection : —

15 (2A) Notwithstanding the foregoing provisions of this section, the Minister may by notice served upon any such holder of or applicant for a lease or other title to mine call upon him to furnish, within such time as may be specified in the notice, a return in the prescribed form covering any period so specified.

20 (vi) by inserting in subsection three of the same section after the word “holder” the words “or applicant”;

25 (vii) by inserting in the same subsection after the words “extended time” where firstly occurring the words “, or within the time specified in any notice referred to in subsection (2A) of this section, as the case may be,”;

30 (viii) by inserting in the same subsection after the word “extended” where secondly occurring the words “or specified”;

(h) (i) by omitting subsection one of section one hundred and eighteen and by inserting in lieu thereof the following subsection : —

35 (1) (a) On application in the prescribed manner by the lessee or lessees of two or more leases (whether such leases have been granted under

Sec. 118.
(Minister
may
authorise
amalgama-
tion.)

Mining (Amendment).

5 under the provisions of the same Act or not),
and after investigation and report by the Chief
Inspector of Mines or the Chief Inspector of
Coal Mines as to whether the lands comprised
in such leases can be more effectively worked as
one mine, the Minister may subject to such
stipulations or conditions, including conditions
as to the payment of royalty, as he may think
10 necessary in the public interest to impose,
authorise the amalgamation of the said leases
upon payment of a fee of two pounds for each
lease so amalgamated, or he may refuse such
application.

15 (b) Where any two or more leases have
been amalgamated, whether before or after the
commencement of this subsection and such
amalgamated leases are the subject of any appli-
cation made under this subsection after such
commencement, they shall, for the purpose of
20 calculating the fee payable in respect of such
application, be regarded as one lease.

(ii) by omitting subsection (1A) of the same section ;

25 (iii) by omitting subsection two of the same section
and by inserting in lieu thereof the following
subsection : —

(2) Upon application by the lessee under any
amalgamated leases and after investigation and
report by the Chief Inspector of Mines or the
Chief Inspector of Coal Mines, the Minister
30 may, subject to such stipulations or conditions,
including conditions as to the payment of
royalty, as he may think necessary in the public
interest to impose, cancel any amalgamation of
such leases, or he may refuse to cancel any such
35 amalgamation.

Mining (Amendment).

- (i) (i) by omitting from section 121A the words "geological surveyor" wherever occurring and by inserting in lieu thereof the word "geologist"; (Sec. 121A. (Geologist may enter and inspect.)
- 5 (ii) by omitting from subsection two of the same section the words "Such surveyor" and by inserting in lieu thereof the words "Such geologist";
- 10 (j) by omitting from section 121B the words "geological surveyor" and by inserting in lieu thereof the word "geologist"; (Sec. 121B. (Power of geologist to enter private lands.)
- (k) by inserting in section one hundred and twenty-three after the word "Governor" where firstly occurring the words "and on payment of a fee of two pounds"; (Sec. 123. (Lessee may surrender lease wholly or in part.)
- 15 (l) (i) by inserting in subsection one of section 124A after the word "cancelled." the words "No such notice by complaint shall be given in respect of any non-compliance with labour conditions relating to a period greater than two years before the date of the notice and any such notice by complaint shall be lodged within three months after the last day of the period of non-compliance referred to in such notice."; (Sec. 124A. (Complaint as to non-compliance with labour conditions.)
- 20 (ii) by omitting from subsection two of the same section the words "five pounds" and by inserting in lieu thereof the words "twenty-five pounds";
- 25 (iii) by omitting from subsection eight of the same section the words "The notification of the approval of the Governor to the grant of such lease shall be published at the same time as the notification of cancellation of the cancelled lease, and thereupon the complainant shall be
- 30 entitled

Mining (Amendment).

entitled upon making all the prescribed payments to the same rights as are conferred by the provisions of this Act upon an applicant for a lease of the same class as the cancelled lease." and by inserting in lieu thereof the following paragraph :—

Upon the notification of the cancellation of the lease, the complainant shall be entitled, upon making all the prescribed payments, to the same rights and be subject to the same duties as are conferred or imposed by the provisions of this Act upon an applicant for a lease of the same class as the cancelled lease.

(m) (i) by inserting in section 124B after the word "repealed" the words ", or upon the refusal of any application for any such lease,"; Sec. 124B. (Writing off Crown rent.)

(ii) by inserting at the end of the same section after the words "on such lease" the words "or application, whereupon such debt shall be extinguished";

(n) by omitting subsection two of section 125C; Sec. 125C. (Cancellation of abandoned tenements.)

(o) by omitting section one hundred and twenty-seven and by inserting in lieu thereof the following section :— Sec. 127. (Inquiry may be directed.)

127. The Minister may direct a warden to hold an inquiry with reference to any proposal relating to mining or any matter affecting any tenure or application therefor under this Act. Minister may direct inquiry by warden.

Every inquiry under this section shall be conducted in open court and the warden shall have the powers of a warden's court.

Mining (Amendment).

8. Part VII of the Principal Act is amended—

Amendment
of Act No.
49, 1906.
Part VII—
(Wardens'
Courts.)

- (a) by omitting from section one hundred and thirty-four the words "twenty-five pounds" and by inserting in lieu thereof the words "one hundred pounds";

Sec. 134.
(Wages to
be a first
charge.)

- 5 (b) by inserting at the end of section one hundred and fifty-seven the words "or the application refused".

Sec. 157.
(Additional
assessment.)

9. Part IX of the Principal Act is amended by omitting from subsection one of section one hundred and seventy-eight the words "land not Crown land" and by inserting in lieu thereof the words "the owner of any mineral".

Amendment
of Act No.
49, 1906.
Part IX—
(General
provisions.)
Sec. 178.
(Service of
notices.)

10. Part X of the Principal Act is amended by omitting paragraph (xxxiii) of section one hundred and eighty-four.

Amendment
of Act No.
49, 1906.
Part X—
(Regula-
tions and
rules.)
Sec. 184.
(Purposes
for which
regulations
may be
made.)

11. Part XI of the Principal Act is amended—

Amendment
of Act No.
49, 1906.
Part XI—
(Penalties.)

- 15 (a) by omitting from section one hundred and eighty-seven the words "ten pounds" and by inserting in lieu thereof the words "five hundred pounds";

Sec. 187.
(Un-
authorised
mining,
etc.)

(b)

Mining (Amendment).

- (b) by omitting from section one hundred and eighty-eight the words "ten pounds" and by inserting in lieu thereof the words "five hundred pounds"; Sec. 188. (Un-
authorised
occupation
of Crown
land.)
- 5 (c) by omitting from section one hundred and eighty-nine the words "ten pounds" and by inserting in lieu thereof the words "fifty pounds"; Sec. 189. (Breach of
regulation.)
- 10 (d) by omitting from section one hundred and ninety-three the words "fifty pounds" and by inserting in lieu thereof the words "two hundred and fifty pounds"; Sec. 193. (Wrongful
exaction
of moneys.)
- 15 (e) (i) by omitting from section one hundred and ninety-five the words and figures "Part IV, or of any land which is not Crown land as defined in Part V of this Act" and by inserting in lieu thereof the words and figures "Parts IV and V of this Act"; Sec. 195. (Wrongful
obstruction
on private
lands.)
- 20 (ii) by inserting in paragraph (b) of the same section, after the word "Act", the words "or the regulations thereunder";
- (f) (i) by inserting in section one hundred and ninety-six after the word and symbols "Part IV" the word and symbol "or V"; Sec. 196. (Wrongful
mining on
private
lands.)
- 25 (ii) by omitting from the same section the words "ten pounds" and by inserting in lieu thereof the words "five hundred pounds".

