

REP. 19.

No. 3.



ANALYSIS

Title	5. Suspension of rights
1. Short Title	6. Entry on land for purposes of Act
2. Interpretation	7. Taking of land
3. Right to prospect or mine for bauxite in bauxite area vested in Crown	8. Compensation
4. Mining Act 1926 not to apply to bauxite area	9. Royalties
	10. Disposition of rights in respect of land taken
	Schedule

1959, No. 99

An Act to vest in the Crown the right to prospect and mine for bauxite in certain areas [23 October 1959]

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

1. Short Title—This Act may be cited as the Bauxite Act 1959.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Bauxite” includes gibbsite, boehmite, and diasporé:

“Bauxite area” means any area described in the Schedule to this Act for the time being subject to the provisions of this Act:

“Minister” means the Minister of Mines.

3. Right to prospect or mine for bauxite in bauxite area vested in Crown—(1) Except as otherwise provided by this Act and notwithstanding the provisions of any Act or of any

Crown grant, certificate of title, lease, or other instrument of title, the right to prospect and mine for bauxite in any bauxite area is hereby vested in Her Majesty, subject to the provisions of this Act, and no person, other than the Minister, or a person authorised under this Act by the Minister, shall, after the commencement of this Act, prospect or mine for bauxite in any bauxite area.

(2) The Minister, without further authority than this Act, may carry on prospecting or mining operations in respect of bauxite in any bauxite area.

(3) The Minister may by writing under his hand authorise any person to exercise any of the rights or powers conferred on him by subsection two of this section subject to such terms and conditions as he thinks fit and for that purpose the Minister may from time to time, on behalf of Her Majesty, enter into agreements with any person in order to give full effect to the provisions of this subsection.

(4) On the first day of January, nineteen hundred and sixty-five, any land which has not been taken under this Act or purchased or otherwise acquired by the Minister for the purposes of this Act shall cease to be subject to the provisions of this Act and the rights of any person existing at the commencement of this Act and affected by this Act in respect of any land ceasing to be subject to this Act as aforesaid shall be deemed to be re-vested in that person in all respects as if this Act had not been passed.

AMD. 196
No. 84

(5) The provisions of subsection four of this section shall apply in respect of any land which the Minister, by notice in the *Gazette* published at any time before the first day of January, nineteen hundred and sixty-five, declares to be no longer subject to the provisions of this Act.

AMD. 196
No. 84

(6) Except as otherwise provided by this Act no compensation shall be payable to any person in respect of any rights conferred on the Minister or any other person by this Act or in respect of the suspension, taking, postponement, or cancellation of any rights by this Act.

(7) Where prospecting or mining for bauxite in a bauxite area is likely to interfere with any works or property subject to the control of any Minister of the Crown, that Minister may impose such terms and conditions with respect to the prospecting or mining as may be considered necessary in order to protect the works or property, and all persons concerned shall be bound by any such terms and conditions.

4. Mining Act 1926 not to apply to bauxite area—Nothing in the Mining Act 1926 shall apply to bauxite in any bauxite area or to the prospecting or mining for bauxite in any bauxite area, whether or not the land has been taken or acquired under or for the purposes of this Act.

5. Suspension of rights—(1) Any valid rights in existence on the first day of September, nineteen hundred and fifty-nine, in respect of prospecting or mining for bauxite in a bauxite area shall be deemed to be suspended until the land to which they relate ceases to be subject to the provisions of this Act in accordance with section three of this Act.

(2) Any rights granted or acquired between the first day of September, nineteen hundred and fifty-nine, and the date of the commencement of this Act in respect of prospecting or mining for bauxite in a bauxite area shall be deemed to be cancelled.

(3) Where the exercise of any rights relating to the prospecting or mining for any mineral in a bauxite area is likely to interfere with the powers of the Minister under this Act to prospect or mine for bauxite, the Governor-General may by Order in Council suspend those rights until the land to which they relate ceases to be subject to this Act in accordance with section three of this Act.

(4) Any person who suffers any loss owing to the suspension of rights under subsection three of this section shall be entitled to compensation. In default of agreement the amount of compensation shall be fixed by the Warden in the case of land situated in a mining district, and in every other case by a Magistrate.

6. Entry on land for purposes of Act—(1) Any person authorised either specially or generally by the Minister in that behalf may from time to time during the daytime enter upon any land in a bauxite area, with such assistants and such equipment and materials as he thinks fit, for the purpose of prospecting for bauxite or of making such investigations as he thinks necessary in relation thereto.

(2) Any person authorised as aforesaid may do all things which he considers necessary for the purpose of prospecting or investigation including the drilling or digging of holes, the taking and removal of samples of such nature and size as he thinks fit, and the affixing and setting up of such pegs, marks, or poles as may be required:

Provided that any damage to the land caused by any such person in the exercise of his powers under this section shall be repaired as soon as practicable and the land restored as far as possible to its former condition.

(3) Before entry on any land for the purposes of this section the person authorised as aforesaid shall, if practicable, give reasonable notice to the owner or occupier of the land of his intention to enter thereon, and shall, if required by the owner or occupier, produce the authority under which he claims to enter or has entered on the land.

(4) The owner or occupier shall be entitled to compensation for any damage done in exercising any power under this section. In default of agreement the amount of compensation shall be fixed by the Warden in the case of land situated in a mining district, and in every other case by a Magistrate.

(5) Every person commits an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds who—

- (a) Without lawful authority removes, destroys, or alters any peg, mark, pole, or other thing used for the purpose of any survey or investigation made or in the course of being made under this section; or
- (b) Wilfully damages or destroys or otherwise interferes with any peg, mark, pole, or other thing as aforesaid; or
- (c) Wilfully obstructs or interferes with any person lawfully engaged in connection with any survey or investigation being made under this section.

7. Taking of land—(1) Where the Minister is of the opinion that any land in a bauxite area is required for the mining of bauxite, the land may be taken under this Act.

(2) The power conferred by this section to take land shall be deemed to include a power to take any estate or interest in land or any right, easement, or *profit à prendre* in respect of any land, and any reference in this Act to the taking of land shall be deemed to include a reference to the taking of any such estate, interest, right easement, or *profit à prendre* as aforesaid.

(3) Subject to the provisions of this Act, where any land is to be taken under this Act it shall be taken or set apart in accordance with the provisions of the Public Works Act 1928 in all respects as if the land were required for a public work under that Act and as if this Act were a special Act within the meaning of section eighteen of the Public Works

Act 1928 and all land set apart as aforesaid shall, for the purposes of this Act, be deemed to be taken under this Act.

(4) Nothing in this section shall be deemed to affect the power of the Crown to acquire, for the purposes of this Act, land or any interest in land by way of purchase or by way of gift or otherwise under the Land Act 1948 or any other Act.

8. Compensation—(1) Every person having any estate or interest in any land taken under this Act shall be entitled to compensation therefor.

(2) Compensation under this section shall be ascertained and paid in all respects as if the land had been taken for a public work under the Public Works Act 1928:

Provided that in assessing compensation under this section, the value of any bauxite which is or may be on or in the land taken shall be excluded.

9. Royalties—(1) Every person having an estate or interest in any land taken under this Act shall be entitled in accordance with this section to receive royalties in respect of any bauxite mined from the land.

(2) There shall be payable in respect of any bauxite mined from any land in a bauxite area taken under this Act, a royalty of such amount, not exceeding ninepence for every long ton of wet crude bauxite mined from the land, as may be agreed upon by the Minister and the person entitled to receive the royalty, or in default of agreement, as may be fixed by arbitration in accordance with the provisions of the Arbitration Act 1908:

Provided that where the land is set apart under this Act, the rate of royalty shall be fixed by the Minister.

(3) This section, for the purposes of any such arbitration, shall be deemed to be a submission within the meaning of the Arbitration Act 1908, and the reference shall be deemed to be to two arbitrators, one to be appointed by the person entitled to receive the royalty, and the other by the Minister.

(4) It shall be a term of every award made pursuant to any such arbitration that the rate of royalty fixed by the award shall be reviewed every seven years and the rate of royalty (which shall not exceed the maximum rate specified in subsection two of this section) in respect of each seven-year period shall be fixed either by agreement or by arbitration as aforesaid.

(5) Notwithstanding the provisions of subsection two or subsection four of this section, the parties may agree, either before or after the claim is submitted to arbitration, that full settlement of any claim for royalties under this section may be effected by payment of an agreed sum or by payment of royalty at an agreed rate (not exceeding the maximum rate specified in subsection two of this section), and, if the agreement is made after the date of any award of arbitration under this section relating to the claim, the award shall be deemed to be cancelled.

(6) The Minister shall, in granting any rights to any person under section ten of this Act, provide for the payment by that person to the Minister of any royalty payable under this section in respect of the rights granted.

(7) All royalties and other money received pursuant to the provisions of this Act shall be paid into the Public Account:

Provided that the Minister of Finance shall, subject to any lawful charges connected with the cost of collection, pay, without further appropriation than this section, any royalties received as aforesaid to the person entitled thereto under this section.

10. Disposition of rights in respect of land taken—

(1) Where any land is taken under this Act, the Minister may, on such terms and conditions as he thinks fit,—

- (a) Grant a lease, sublease, or tenancy of the land or any part thereof:
- (b) Sell or otherwise dispose of the land or any part thereof to any person who intends to use the land in connection with the mining of bauxite:
- (c) Grant such rights, leases, subleases, licences, or easements with respect to the prospecting for or the mining or extracting of bauxite from the land or any part thereof as he thinks fit.

(2) Where any land taken under this Act is no longer required for any purposes relating to the mining of bauxite, the Minister may, by notice in the *Gazette*, declare the land to be Crown land and thereupon the land shall be Crown land subject to the Land Act 1948.

(3) The Minister, on behalf of Her Majesty, may from time to time enter into agreements with any person for the purpose of giving full effect to this section.

Section 2

SCHEDULE

BAUXITE AREA

1959, 1958

No. s.

Substituted

ALL that area in the North Auckland Land District bounded by a line commencing at the south-western corner of Waipoua Survey District and proceeding generally northerly, easterly, and southerly along the sea coast to the south-eastern corner of Taiharuru Survey District; thence westerly along the southern boundaries of that survey district, the Whangarei, Purua, Mangakahia, Tutamoe, and Waipoua Survey Districts to the point of commencement; together with the Three Kings Islands, Stephenson Island, Cavalli Islands, Poor Knights Islands, and all other adjacent islands, including those in the Bay of Islands.
