

New Zealand.



ANALYSIS.

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1895, No. 60.

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| Title. | AN ACT to amend "The Mining Act, 1891" (hereinafter called "the principal Act"). |
| Preamble. | WHEREAS it is expedient to grant extended facilities for prospecting in localities which are difficult of access, and to otherwise amend the principal Act : |
| | BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :— |
| Short Title. | 1. The Short Title of this Act is "The Mining Act Amendment Act, 1895," and it shall be read with the principal Act. |
| | (1.) <i>Extended Prospecting Licenses.</i> |
| Extended prospecting licenses. | 2. The Governor may from time to time grant licenses (to be called "extended prospecting licenses") for prospecting in localities (either within or outside of a mining district) which in his opinion are difficult of access : |

Provided that no such license shall be granted unless the application therefor— Proviso.

- (a.) Has been publicly notified by the applicant by advertisement appearing at least once in each of two consecutive weeks in some newspaper published or circulated in such district;
- (b.) Has been thereafter approved by the Warden of the district in or nearest to which the area applied for is situated :

Provided further that, in the event of the holder of a timber lease applying for the extended prospecting license in respect to any portion of the land comprised within such lease, the Warden may, upon the granting of such application, declare that the balance of the lands, or any part of the same, comprised within such timber lease shall be subject to the provisions of the principal Act and this Act, and the regulations made thereunder; but the Warden shall not use the discretionary power herein conferred so as to prejudicially affect the rights of the holder of such lease thereunder, except so far as may be necessary to search for and get minerals under the provisions of such Acts, or either of them.

3. An extended prospecting license shall, so long as it continues in force, give to the holder thereof the exclusive right to prospect and search for gold, silver, and all other metals and minerals (excepting coal) on all the land comprised therein, and to mark out, apply for, and, when it is intended to mine for gold, to obtain licensed holdings and special claims, not exceeding three in number, and, when it is intended to mine for minerals other than gold, to make out and apply for mineral leases, not exceeding three in number, in accordance with the provisions of the principal Act. Rights acquired under such license.

4. With respect to every such license, the following provisions shall apply:— Term and area.

The term thereof shall not exceed two years, but may be renewed from year to year as the Governor may think fit.

The area comprised therein shall not exceed six hundred and forty acres, and shall not include any river or river-bed.

No part of the land comprised therein shall, at the date of the grant thereof, be situate within two miles of any actual mining operations, any claim, special claim, or licensed holding.

5. Subject to the provisions of this Act, an extended prospecting license may be granted by the Governor for such term, over such area, and in such locality as in each instance he thinks fit. Governor may grant for any term or area.

6. Every extended prospecting license shall be subject to the payment of such fees, and the observance of such restrictions and conditions, as are prescribed by regulations to be made from time to time by the Governor. Fees and conditions.

7. The conditions shall be such as to insure that the holder of the license will vigorously and continuously prospect the whole of the ground comprised therein, and develop its mineral resources, and also will promptly report every discovery of metals or minerals to the Warden of the nearest district. Licensee to prospect vigorously.

8. In particular, the conditions shall prescribe that the holder of the license shall expend a minimum sum per acre per annum in mining operations on the ground, and shall also deposit with the Sum to be expended per annum.

Colonial Treasurer a specified sum as a guarantee for the faithful performance of the terms and conditions subject to which the license is granted.

One person may hold more than one license.

Governor may cancel license.

9. It shall be competent for one person to hold any number of extended prospecting licenses not exceeding three.

10. If, on a complaint lodged at any time during the continuance of the license in the Warden's Court by any Inspector, or holder of a miner's right, the Warden finds that the holder of an extended prospecting license has failed or neglected to faithfully comply with any of the terms or conditions on his part subject to which it is granted, the Warden shall report thereon to the Governor, who, in his discretion, may cancel the license by notification in the *Gazette*, and thereupon all the rights and privileges of the holder shall cease and be deemed forfeited.

(2.) Tunnel Prospecting Licenses.

Tunnel prospecting licenses.

11. In any case where a person is constructing a tunnel for mining purposes, or proposes so to do, the Governor may grant to such person a tunnel prospecting license.

Application of sections 2, 3, 5, 6, and 10.

12. Sections three, five, six, ten, and the proviso to section two of this Act shall apply, *mutatis mutandis*, to every tunnel prospecting license and the holder thereof.

Term and area.

13. With respect to every such license the following provisions shall apply:—

- (1.) The term thereof shall not exceed two years, but may be renewed from year to year as the Governor may think fit.
- (2.) The area comprised therein shall not exceed one hundred and fifty yards on each side of the middle line of the tunnel along the whole length or proposed length of the tunnel, and shall not include any river or river-bed.

Conditions under which license issued.

14. The conditions subject to which a tunnel prospecting license may be granted shall be such as to insure that the holder thereof will vigorously and continuously prosecute the construction of the tunnel, and develop the mineral resources of the ground, and also will promptly report every discovery of metals or minerals to the Warden of the district.

Expenditure per annum.

15. In particular, the conditions shall prescribe that the holder of the license shall expend a minimum sum per annum in mining operations on the ground.

(3.) Forfeiture of Claims by Operation of Law.

When claim, special claim, &c., forfeited.

16. Notwithstanding anything contained in the principal Act, it is hereby declared that any claim, special claim, or licensed holding shall thereupon be and be deemed to be forfeited,—

- (1.) If the prescribed rent or license-fee in respect thereof continue unpaid for twelve months after the due date thereof; or
- (2.) If for any period of six months at any one time it has been neither protected nor *bonâ fide* used for the purpose for which the same was granted, nor have operations been carried out in the same or in connection therewith with reasonable diligence and in accordance with the provisions of the principal Act:

Provided that this section shall not apply to any claim, special claim, or licensed holding on which no plant or machinery is erected.

17. In any such case the ground shall be open for application, without the necessity of taking any proceedings to have such claim, special claim, or licensed holding declared forfeited.

Ground at once open for application.

18. Upon the hearing of any application for the ground which has been forfeited under the provisions of section sixteen hereof, the Warden may hear and determine any objection to such application, or in the case where no objection is made the Warden may, on his own motion, postpone the application for any period not exceeding fourteen days, and direct that in the meantime a notice be advertised in the name of the Warden, but at the cost of the applicant, calling on the alleged defaulting holder of such claim, special claim, or licensed holding to appear at the adjourned hearing and show cause why the forfeiture should not be recorded.

Warden may then record forfeiture, or postpone and give notice.

19. Such advertisement shall be published twice in each of two consecutive weeks in some newspaper published or circulating in the district, and a copy thereof shall be posted or affixed on the ground to which the advertisement relates, as soon as conveniently may be after the first publication thereof.

Publication of notice.

20. If at such adjourned hearing the alleged defaulter does not appear, or, appearing, fails to satisfy the Warden that the forfeiture has not taken place by virtue of this Act, the forfeiture shall be forthwith recorded, and the application for the ground disposed of; such record shall be final and conclusive.

At adjourned hearing Warden may forfeit.

21. If the forfeiture is recorded at the time of the original hearing of the application for the ground, the Warden shall cause to be advertised in manner aforesaid a notice setting forth the alleged fact of the forfeiture and the date of the record, and stating that the record will be final and conclusive unless within fourteen days from such date application is made to the Warden to reverse it.

Application to reverse forfeiture recorded at original hearing.

22. If such application is made, all parties interested shall be summoned to attend, and the Warden shall allow or dismiss the appeal as on the evidence he deems just, and his decision shall be final and conclusive.

All parties interested to be summoned.

(4.) *Colonial Registers of Foreign Companies.*

23. From and after the first day of March, one thousand eight hundred and ninety-six, it shall be lawful for and the duty of every foreign company within the meaning of section three hundred and fifty-four of the principal Act, whether or not authorised so to do by its Act or charter of incorporation or by its articles or regulations, to make adequate provision for the registration in the colony of transfers of its shares, and the execution and issue in the colony of scrip certificates or other documents of title in respect of the shares so transferred.

Foreign company to provide for registration of transfers of shares.

24. (1.) For such purpose, every such company—

(a.) Shall cause to be kept at its office or place of business in the colony a branch register (to be called "the Colonial Register"), wherein shall be entered the name of every shareholder who in the prescribed manner applies to be entered therein, as also the numbers and other necessary particulars of the shares to which his application relates:

Company to provide branch register and appoint attorney.

(b.) Shall duly appoint and empower an attorney in the colony to there register transfers of shares entered in the colonial register, and execute and issue on behalf of the company the scrip certificates or other documents of title in respect of the shares so transferred :

(c.) May prescribe the mode in which a shareholder shall apply to be entered in the colonial register, or to be removed from the colonial register to the register (if any) kept abroad (hereinafter called "the Foreign Register"), and, generally, from one register to the other :

Provided that it shall not be lawful for any shareholder to be entered on both the colonial and the foreign register in respect of the same shares :

(d.) May prescribe reasonable fees (not exceeding one shilling) to be paid on each application for entry in the colonial register or removal from one register to another, and a reasonable time (not exceeding four months) to elapse between the application being made and the entry or removal being effected.

(2.) The provisions of sections forty-three to fifty-two of "The Mining Companies Act, 1894," shall apply to every colonial register, and to every shareholder and share entered therein, and to every transfer of any such share.

Penalty on failure to comply with these provisions.

25. If any such foreign company fails or neglects to faithfully comply with any of the provisions of the two last-preceding sections hereof, such company is liable to a penalty of not exceeding five pounds for every day during which such failure or neglect continues ; and, in addition thereto, if such failure or neglect continues for the space of three months, the company shall be incapable thereafter of carrying on business in New Zealand.

(5.) *Miscellaneous.*

Amendments of principal Act.

26. The principal Act is hereby amended as follows :—

(1.) As to section one hundred and fifty-two, by adding at the end of the section the words : " 'Tributary' includes every natural channel in which water flows to another natural channel, whether such flow is constant or not " :

(2.) As to section one hundred and fifty-three, by repealing the words "From and after any such Proclamation taking effect," in the first line of that section, and substituting in lieu thereof the following : "At any time after the publication of the *Gazette* notice referred to in section one hundred and fifty-two " :

(3.) As to subsection one of section one hundred and sixty-six, by adding the following proviso :—

"Provided that where there are more transferors than one of the same share or other interest, the date of the transfer shall be the date on which the transferor who last executed it affixes his signature " :

(4.) As to the Fourth Schedule, by repealing the words "five shillings annually," and substituting in lieu thereof the words "an annual registration fee of one shilling."

27. The Governor may from time to time make regulations subject to which mining operations in rivers or river-beds shall be carried on and dredges shall be worked.

Regulations for mining in rivers.

28. (1.) Subject to the approval of the Minister, and the provisions of the principal Act, the Warden may grant special dredging claims extending from high-water mark to any distance seawards not exceeding half a mile from low-water mark, and may impose such conditions for the working thereof and otherwise as he deems expedient.

Special dredging claims may be granted.

(2.) The rental of such special dredging claims shall be the same as for licensed holdings.

(3.) Every such special dredging claim shall be deemed to be within the boundaries of the mining district of the Warden who grants such claim.

(4.) Section five of "The Mining Act 1891 Amendment Act, 1894," is hereby repealed.

29. (1.) Every dredge used for mining purposes shall at all times be equipped with life-saving appliances to the satisfaction of the Inspector, and shall have at least one suitable boat.

Dredges to have life-saving appliances.

(2.) Every manager who fails or neglects to comply with the provisions of this section is liable for each offence to a penalty not exceeding twenty pounds.

Penalty.

30. No claim, special claim, or licensed holding shall comprise more than one mile in length of any river, river-bed, or river-bank.

Length of claim, special claim, or licensed holding.

31. In every case where two or more special claims contiguous to one another are held by the same person, it shall be a sufficient compliance with the labour conditions of any mining regulations for the time being in force if the total number of men employed on all such claims, taken collectively, is equal to the total number prescribed for all such claims, taken separately.

Compliance with labour conditions where several contiguous claims held.

32. All mining rights which, from and after the first day of January, one thousand eight hundred and ninety, have been acquired, or which at any time hereafter may be acquired, by or on behalf of Her Majesty, in respect of any lands held by Natives, shall inure to Her Majesty and remain unaffected, notwithstanding the extinguishment of the Native title, or the issue of a Crown grant or other instrument of title for such lands or any portion thereof, at any time subsequent to the acquisition of such rights.

Mining rights over Native lands when Native title extinguished.

33. (1.) In any case where the Governor—

By Order in Council made under section four of "The Local Bodies' Finance and Powers Act, 1885," has vested any water-race in any local body or in any number of local bodies united for that purpose; or

By Proclamation made under section two hundred and seventy-four of "The Public Works Act, 1894," or any Act by that Act repealed, has vested any water-race in the corporation of any county, or jointly in the corporation of two or more counties—

Water-race vested in local body or Corporation may by Order in Council be re-vested in Crown.

he may at any time in like manner, but in every case with the consent of the local bodies or corporations concerned, re-vest such water-race in the Crown; and from the date of the gazetting of the Order in Council or Proclamation made by him in that behalf the water-race therein mentioned shall re-vest in the Crown; and the

Governor may, by Order in Council, dispose of by public tender any such water-race, as provided by "The Local Bodies' Finance and Powers Act, 1885."

(2.) No compensation shall be payable in respect of the revesting of any water-race in the Government under the provisions of this section.

When rent in arrear,
notice to be sent.

34. Whenever any rent or license-fee payable under the principal Act or this Act is in arrear for one month it shall be the duty of the Mining Registrar of the district to send notice thereof to the person in default; but the non-sending or non-receipt of such notice shall not in any way relieve such person from any forfeiture or other penalty consequent on non-payment of such rent or fee.

Claims, &c., not
forfeited for want
of miner's right in
certain cases.

35. No claim, special claim, licensed holding, water license, grant, lease, mining tenement or easement, or any other mining right whatsoever granted prior to the passing of this Act shall be liable to forfeiture, or the title thereto be in anywise prejudicially affected, by reason that the grantee, lessee, licensee, owner, or holder thereof was not at the time of the application therefor, or of the granting thereof, or on the day of the date thereof, or at any other time prior to the passing of this Act, the holder of a miner's right in respect thereof. And no claim, special claim, licensed holding, water license, grant, lease, mining tenement or easement, or other mining right whatsoever granted under "The Mining Act, 1886," or "The Mining Act, 1891," or under any Act amending the said Acts, or either of them, shall be open to objection by reason that the grantee, lessee, licensee, owner, or holder thereof may not have been the holder of any miner's right in respect thereof at any time before the passing of this Act, or may not have been the continuous holder of a miner's right in respect thereof from the first day of December, one thousand eight hundred and eighty-six, to the time of the passing of this Act: Provided that on and after the first day of January, one thousand eight hundred and ninety-six, the applicant for any claim, special claim, licensed holding, water license, grant, lease, mining tenement or easement, or any other mining right whatsoever, shall be the holder of a miner's right at the time of such application, and for the period during which he shall be owner or retain possession: Provided, further, that nothing herein shall affect any action, suit, or claim now pending or which shall have been adjudicated upon.