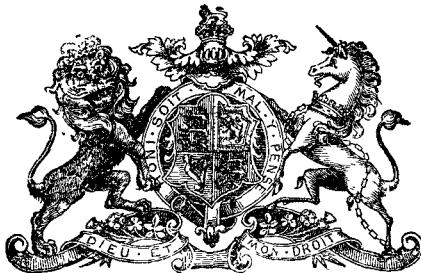


New Zealand.



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1900, No. 64,

An Act to amend "The Mining Act, 1898."

Title.

[20th October, 1900.

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

1. The Short Title of this Act is "The Mining Act Amendment Short Title.
Act, 1900"; and it shall form part of and be read together with "The
Mining Act, 1898" (hereinafter called "the principal Act").

AS TO WATER-RACE LICENSES UNDER FORMER MINING ACTS.

2. Every water-race license granted under any former Mining
Act, and validly subsisting at the commencement of the principal
Act (to wit, the first day of February, one thousand eight hundred
and ninety-nine), shall be deemed to have been lawfully granted
under the principal Act, and the provisions of that Act shall
accordingly apply, subject, however, to the following special modi-
fications:—

- (1.) The licensee's priorities and other rights in respect of the
race and the water (including his right to use, sell, or

Special provisions
saving water-race
licenses issued
under former
Mining Acts.

- otherwise dispose of the water) shall continue as they were immediately prior to the commencement of the principal Act.
- (2.) If the license was granted for a specified term of years with provisions for renewal, those provisions shall continue to apply.
 - (3.) If the license was granted without reference to any specified term of years, but with provisions for annual renewal by renewal of registration, those provisions shall not continue to apply, but, in lieu thereof, the license shall be deemed to have been granted for a term of years commencing on the date of the original grant and expiring on the first day of February, one thousand nine hundred and forty-one (being forty-two years from the commencement of the principal Act).
 - (4.) The provisions of the principal Act relating to exchange of title shall apply.
 - (5.) It shall not be necessary to renew the registration or to hold a miner's right.
 - (6.) This section shall be deemed to have been in operation on and from the commencement of the principal Act.

AS TO LIMIT OF STREAM OR FORESHORE IN CLAIMS.

Extent of claim along stream or foreshore.

3. (1.) In no case shall a claim of any description extend along or comprise more than one mile of the course of a stream or the foreshore of the sea-beach, such mile being measured in the case of the stream along the centre of the bed of the stream, and in the case of the foreshore along the foreshore at high-water mark:

Provided that in the case of a dredging claim the limit imposed by this section may, with the consent of the Minister, be extended to a total of not more than two miles, where he is satisfied that with the original limit the area available for dredging is too small to justify the expense of acquiring a suitable dredge, and that the total area of the claim does not exceed fifty acres.

Repeal.

(2.) Section seventy-six of the principal Act is hereby repealed, and all regulations under that Act are hereby modified in so far as they are in conflict with this section.

(3.) The provisions of this section shall extend to amalgamated claims.

AS TO RENTS OF EXTENDED AND SPECIAL CLAIMS.

Special provisions as to computing rent.

4. In order to simplify the computation of rent in the case of licenses for extended and special claims granted under the principal Act, the following special provisions shall apply:—

(1.) For every acre or fraction of an acre of the area as specified in subsection two of section eighty-seven of the principal Act the rent payable shall in the case of licenses hereafter granted be at the rate of—

(a.) Two shillings and sixpence per year for the period elapsing between the date of the license and the last day of June or December first ensuing after the expiration of one year from the date of the license;

- (b.) Five shillings for the next succeeding year, and seven shillings and sixpence for each subsequent year during the term of the license.
- (2.) In the case of licenses heretofore granted, the instalments of rent accruing due after the commencement of this Act shall be readjusted on the basis of the last preceding subsection hereof, and for that purpose they shall be deemed to be the same in amount as if that subsection had been in operation when the licenses were granted :

Provided that nothing in this subsection shall apply to or affect the instalments due before the commencement of this Act.

AS TO CERTIFICATES OF PROTECTION.

5. In every case where a certificate of protection has been granted and further protection is subsequently desired, a fresh application may be made; and with respect to every such fresh application the following special provisions shall apply :—

Special provisions
as to grant of
further protection.

- (1.) Except in the cases and subject to the limitations specified in subsections three and four hereof, the application shall not be granted unless the prescribed interval of time has elapsed between the filing thereof and the expiration of the period last granted, nor unless during the whole of such interval the mining privilege for which protection is sought has been duly worked and used as required by law.
- (2.) Such prescribed interval shall be one month where the period last granted did not exceed fourteen days, and three months in every other case.
- (3.) The requirements of the preceding subsections of this section may be waived in any case where the Warden, in respect of any application within his discretion, or the Minister in respect of any application subject to his consent, is satisfied,—

(a.) In the case of two or more mining privileges held by the applicant, and to be worked or used together, that the mining privilege to be protected cannot be advantageously worked or used until the operations on another of the mining privileges are further developed, and that such other mining privilege is either protected or is being worked and used as required by law;

(b.) In the case of a special dredging claim, that the applicant is using all reasonable diligence in procuring a dredge, but by reason of pressure of work in the foundries, or other good and sufficient cause (not imputable to his want of capital), it will not be available until the lapse of a specified time; and also

(c.) In the case of every mining privilege, that, having regard to all the circumstances, it is reasonable that such requirements should be waived.

(4.) The power of waiver exercisable under the last preceding subsection hereof shall be so exercised as that the total period of protection granted without the intervention of the prescribed interval shall not exceed six months in the case of applications within the discretion of the Warden, and two years in the case of applications subject to the Minister's consent.

Repeal.

6. The provisions of the last preceding section hereof are in substitution of those contained in section one hundred and thirty-two of the principal Act, and that section is accordingly hereby repealed.

AS TO ABANDONMENT BY OPERATION OF LAW.

When dredging claim deemed abandoned.

7. Irrespective of the cases of intentional abandonment specified in section one hundred and fifty-one of the principal Act, a dredging claim shall be deemed to be abandoned by operation of law if for any continuous period of more than two years, whether protected or not, a suitable dredge is not working or in course of construction on the claim or in the vicinity thereof.

AS TO INSPECTION OF MINES.

Inspection of mine by workmen.

8. Where workmen are employed in a mine, or any of the workmen employed in a mine are members of a society formed in connection with the mining industry and registered under "The Industrial Conciliation and Arbitration Act, 1894," as an industrial union of workers, such workmen or society may, at their own cost, appoint two of the workmen to inspect the mine, and with respect to such inspection the following provisions shall apply:—

- (1.) The inspecting workmen shall have full liberty to visit and inspect every part of the mine, its machinery and workings, once at least in every month.
- (2.) The mine-owner and mine-manager may accompany the inspecting workmen in their inspection, and shall give them full and free facilities for the inspection.
- (3.) The inspecting workmen shall make a full and faithful report in writing of the result of the inspection.
- (4.) Such report shall be signed by the inspecting workmen, and they shall furnish a copy thereof to the owner or manager of the mine, who shall cause the same to be recorded in a book kept at the mine.
- (5.) Such book shall be kept at the office at the mine, and any Inspector under the principal Act, or workman employed in the mine, or officer of the aforesaid society, may at all reasonable times inspect such book, and take copies of or extracts from the reports recorded therein.

AS TO TIMBER-CUTTING RIGHTS.

Warden's and Land Board's timber areas.

9. Subject to regulations under the principal Act, the Governor may from time to time define and specify in any mining district areas (hereinafter referred to as "Warden's timber areas") within which timber licenses and other timber-cutting rights may be granted under the principal Act exclusively, and other areas (herein-

after referred to as "Land Board's timber areas") within which timber licenses and other timber-cutting rights may be granted under sections two hundred and twenty-two and two hundred and twenty-seven of "The Land Act, 1892," exclusively.

10. All rents, royalties, and fees received in respect of timber-cutting rights shall be deemed to be goldfields revenue in the case of rights granted within the Warden's timber areas, and territorial revenue in the case of rights granted within the Land Board's timber areas: Provided nevertheless as follows:—

Application of rents,
fees, and royalties.

- (1.) In the case of timber-cutting rights granted in respect of land which, pursuant to the contract between Her Majesty and the New Zealand Midland Railway Company (Limited), was set apart as reserves for mining purposes, the rents, royalties, and fees shall be deemed to be goldfields revenue, notwithstanding that the land may be within the Land Board's timber areas.
- (2.) In every case where, under any provision of the principal Act or any other Act, any Harbour Board or person is entitled to the rents, royalties, and fees received for mining privileges in respect of any land, such Board or person shall also be entitled to the rents, royalties, and fees received for timber-cutting rights granted in respect of such land, and the same shall in the prescribed manner be paid over to such Board or person accordingly, and shall not be deemed to be territorial revenue.

11. In any case where the Governor is of opinion that applications for timber-cutting rights within a Land Board's timber area may be dealt with by the Warden more conveniently than by the Land Board, he may authorise and direct the Warden to deal with and dispose of the same on behalf of the Land Board, and in such case the following provisions shall apply, anything hereinbefore contained to the contrary notwithstanding:—

Warden may deal
with applications
on behalf of Land
Board in certain
cases.

- (1.) The application shall be made and disposed of in the same manner in all respects as if the area were a Warden's timber area, save that the ultimate disposition of the rents, royalties, and fees shall not be affected, and that the Warden, when signing any license, warrant, or other document relating to the grant of any timber-cutting right, shall state on the document that he does so on behalf of the Land Board.
- (2.) Subject to the foregoing modifications, the timber-cutting rights granted by the Warden on behalf of the Land Board shall operate and have effect as timber-cutting rights granted under the principal Act, and the provisions of that Act and the regulations thereunder shall apply accordingly.
- (3.) The Land Board shall not grant any timber-cutting rights within the area.

12. The Receiver to whom the rents, royalties, and fees in respect of timber-cutting rights are paid shall keep separate accounts to be kept.

Regulations.

13. (1.) The Governor may from time to time make regulations for the purpose of giving full effect to the foregoing provisions relating to timber-cutting rights.

Saving.

(2.) The regulations of the thirty-first day of August, one thousand nine hundred, and all things done thereunder, shall be deemed to be as valid and effectual as if this Act had been in force when the regulations were made; and those regulations shall be deemed to have been in force when by *Gazette* notice of the same date the Governor defined and set apart the Counties of Buller, Inangahua, Grey, and Westland as Land Board timber areas.

AS TO ADMINISTRATION OF JUSTICE.

Procedure when action not commenced in appropriate Warden's Court.

14. Where an action which should have been commenced in the Warden's Court is commenced in another Court other than the Warden's Court, or an action which should have been commenced in the Warden's Court in one district is commenced in the Warden's Court in another district, the following provisions shall apply:—

(1.) At any stage of the proceedings, of its own motion or on the application of any of the parties, and on such terms as to costs and otherwise as it thinks fit, the Court in which the action is commenced may by order remove it into the appropriate Warden's Court.

(2.) The Registrar or Clerk of the Court by which the order is made shall transmit the papers filed in that Court to the Clerk of the appropriate Warden's Court, who shall file the same, whereupon the action shall be heard and disposed of in that Court in like manner as if it had been duly commenced therein on the day on which the papers are filed by the Clerk as aforesaid:

Provided that the day of trial, unless fixed in the aforesaid order, shall be fixed by the Warden, or, with the consent of all the parties, by the Clerk of the appropriate Warden's Court.

(3.) The Governor may from time to time make such regulations as he thinks fit in order to give effect to this section, and prescribe the practice as to the removal of actions.

Decisions outside district.

15. Where the Warden gives, or heretofore has given, a decision outside a district, such decision shall for all the purposes of the principal Act be deemed to be given in the district in which he usually exercises jurisdiction.

As to right of appeal under section 281.

16. The right of appeal conferred by section two hundred and eighty-one of the principal Act shall not be in any way limited or affected merely by the fact that the decision forming the subject-matter of the appeal is one which by the principal Act is declared to be in the discretion of the Warden or the Court.

Order for stay of proceedings on appeal.

17. Whenever any appeal is brought, or about to be brought, the Warden or the Judge of the Appellate Court, on the application of the appellant, may make such order for an injunction, or receiver, or payment of money into the hands of the Clerk of the Warden's Court, to abide the event of the appeal, or for stay of proceedings or otherwise, and upon such terms as such Warden or Judge

shall think proper; but without such order, or an order to the same effect, no appeal shall operate as a stay of proceedings; and the said Warden or Judge may at any time thereafter, if he thinks fit, discharge or vary such order.

18. Service of notice of appeal may be effected by personal service on the respondent, or upon the solicitor or mining agent who appeared for the respondent at the hearing of the suit or application in which the decision was given which is appealed against, or by leaving the same at the place of residence where the respondent was residing when the decision appealed against was given, or by leaving the same at the office of the said solicitor or mining agent of the respondent. When service cannot conveniently be effected in manner aforesaid, it may be effected by filing a copy of the notice, within the prescribed time, in the office of the Warden's Court in which the decision appealed against was given.

Service of notice of
appeal.

19. Subject to regulations under the principal Act, a registered mining agent lawfully appearing and acting for any person in proceedings before the Warden, or the Warden's Court, may charge, receive, and be allowed reasonable costs and charges for his services; and this provision shall be deemed to have been in force from the commencement of the principal Act.

Mining agent may
be allowed costs
and charges.

MISCELLANEOUS.

20. Where the land in respect of which an application is made under the principal Act, or any Act amending the same, comprises the whole of the land granted by or included in any original Crown grant or any certificate of title under "The Land Transfer Act, 1885," no survey of such land in consequence of any such application shall be necessary or be required under the principal Act or any Act amending the same, or under any regulation or rule made thereunder, unless the Warden specially orders the survey to be made:

No survey require
in certain cases.

Provided that nothing in this section shall operate to dispense with the necessity of the surveyor's report to the Warden, or of a plan where the plan is required in order to illustrate the report, and the costs of the report and plan shall in each case be fixed by the Warden.

Proviso.

21. Subsection seven of section one hundred and seventy-one of the principal Act is hereby amended by substituting the words "thirty days" in lieu of the words "seven days" in paragraphs (a) and (b) of the said subsection.

Subsection (7) of
section 171 of prin-
cipal Act amended.