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Hon. Mr. Cadman.

MINING ACT AMENDMENT.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p style="padding-left: 40px;">AS TO ANTEDATED MINERS' RIGHTS.</p> <p>2. Antedated miners' rights may be issued.</p> <p>AS TO POWERS OF COMMISSIONERS OF CROWN LANDS.</p> <p>3. Commissioner of Crown lands to exercise powers and functions when land outside mining district.</p> <p>AS TO APPLICATIONS FOR CLAIMS AND OTHER MINING PRIVILEGES REQUIRING TO BE MARKED OUT.</p> <p>4. Provisions as to marking out mining privileges.</p> <p style="padding-left: 40px;">AS TO BUSINESS-SITE LICENSES.</p> <p>5. Provisions as to business-site licenses modified.</p> <p>6. Repeals to give effect thereto.</p> <p>AS TO COMPENSATION IN THE CASE OF WATER-RACES ON PRIVATE LAND.</p> <p>7. Procedure when compensation to be determined by Warden and Assessors.</p> <p style="padding-left: 40px;">AS TO CERTIFICATES OF EASEMENT.</p> <p>8. Grant of easements to holder of mining privilege over other mining privileges and rights thereunder.</p> <p>AS TO SURRENDER FOR PURPOSES OF EXCHANGE OF TITLE.</p> <p>9. When area of exchanged land may exceed limit.</p> <p>10. Provisions where roads excluded from surrendered area.</p>	<p>AS TO SURRENDER OR DETERMINATION OF OUTSTANDING LEASES OR LICENSES GRANTED BY NATIVE OR OTHER OWNERS PRIOR TO ACQUISITION OF LAND BY THE CROWN.</p> <p>11. Section 59 of principal Act amended.</p> <p>12. Provisions as to determination of leases or licenses when land required for township or public utility.</p> <p style="padding-left: 40px;">AS TO TIMBER-CUTTING RIGHTS.</p> <p>13. Areas within which timber-licenses granted by Land Board or by Warden.</p> <p>14. Application of fees and royalties.</p> <p style="padding-left: 40px;">AS TO TRIBUTE AGREEMENTS.</p> <p>15. Provisions as to agreements for working claims on tribute.</p> <p>AS TO THE PROTECTION OF BRIDGES AND SITES FOR BRIDGES.</p> <p>16. Provisions for protection of bridges and sites therefor from damage.</p> <p style="padding-left: 40px;">AS TO PUBLIC ROADS AND PUBLIC STREETS.</p> <p>17. Procedure when mining privilege includes road or street.</p> <p>18. Rights of holder as to such road or street restricted.</p> <p style="padding-left: 40px;">MISCELLANEOUS.</p> <p>19. Procedure when application includes a surveyed forfeited claim.</p> <p>20. Labour conditions as to dredging claim.</p> <p>21. Drainage areas exempt from survey.</p> <p>22. When additions to be made to plans of mines liable to be flooded.</p> <p>23. Section 297 of principal Act amended.</p> <p>24. Annual renewal of water-race licenses abolished.</p> <p>25. Land-for-settlement lands exempted from Act.</p> <p>26. Principal Act modified.</p>
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A BILL INTITULED

AN ACT to amend "The Mining Act, 1898."

Title.

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 Act, 1899," and it shall form part of and be read together with "The Mining Act, 1898" (hereinafter called "the principal Act").

Short Title.

AS TO ANTEDATED MINERS' RIGHTS.

10 2. (1.) The Governor, by regulations under the principal Act, may provide for the issue of antedated miners' rights in such cases No. 136—1.

Antedated miners' rights may be issued.

and on such terms as to fees and otherwise as he thinks fit, and every such miner's right shall for the purposes of the Mining Act or any former Mining Act operate and take effect as on and from the antedate.

(2.) The regulations heretofore made relating to antedated miners' rights shall be as valid as if made after the commencement of this Act and in exercise of the powers hereby conferred. 5

AS TO POWERS OF COMMISSIONERS OF CROWN LANDS.

Commissioner of Crown Lands to exercise powers and functions when land outside mining district.

3. In the case of land situate outside a mining district all the powers and functions which by the principal Act or this Act are conferred upon the Warden and Registrar respectively for receiving and disposing of applications for prospecting warrants, prospecting licenses, and licenses for mining privileges in respect of water, are hereby transferred to and shall hereafter be exercisable by the Commissioner of Crown Lands of the land district in which the land is situate: 10 15

Provided that this section shall not operate in the case of applications relating to Native land or to land situate partly within a mining district and partly outside the same.

AS TO APPLICATIONS FOR CLAIMS AND OTHER MINING PRIVILEGES REQUIRING TO BE MARKED OUT. 20

Provisions as to marking out mining privileges.

4. Subsection two of section ninety-eight of the principal Act is hereby repealed, and in lieu thereof it is hereby declared that in every case where the application is for a claim or other mining privilege requiring to be marked out the following provisions shall apply:— 25

(1.) The applicant shall mark out the land before filing the application.

(2.) For the purpose of marking out the land, surveying the same, and posting notices thereon in connection with the application, he may, by himself, his agents or workmen, enter on the land without the consent of the owner or occupier, and there do whatever is reasonably necessary for such purpose: Provided, nevertheless, as follows:— 30 35

(a.) He shall do no damage that can possibly be avoided, and shall be liable for all damage actually done.

(b.) In the case of private land, he shall not enter without the previous consent of the Warden (who, before giving such consent, shall be satisfied that the owner or occupier has received at least twenty-four hours' previous notice of the intention to apply therefor), nor (having obtained such consent) shall he enter unless he gives to the owner or occupier at least twenty-four hours' previous notice of intention so to do, and enters within seven days after giving such notice. 40 45

(c.) In any case where the Warden is satisfied that after the service of the notice referred to in paragraph (b) hereof, and before the applicant could with reasonable diligence have marked out the land and filed his applica- 50

tion, some other person has anticipated him by filing an application in respect of the same subject-matter, then the Warden, if he thinks it equitable so to do, may, for the purpose of determining the respective priorities of the applications (but for no other purpose), treat the first-mentioned application as if it had been duly filed at the time of the service of the aforesaid notice, and pursuant to a previous marking-out.

- (3.) Except with the consent of the owner or occupier nothing in this section contained shall be construed to authorise the entry on land which is not open for prospecting or mining without such consent.

AS TO BUSINESS-SITE LICENSES.

5. The provisions of the principal Act relating to business-site licenses are hereby modified as follows:—

Provisions as to business-site licenses modified.

- (1.) The applicant for the license shall mark out the land before filing his application.
- (2.) The license shall in every case be granted with reference to the site specified therein at the time of the grant.
- (3.) The license shall during its currency entitle the licensee to the exclusive occupation of the surface of the site specified therein for the purpose of there carrying on any business.
- (4.) Any person may lawfully carry on business in a mining district without being the holder of a business-site license.

6. In order to give formal effect to the *last-preceding* section hereof, the provisions of the principal Act relating to business sites, and the licenses therefor, are hereby specifically amended as follows:—

Repeals to give effect thereto.

- (1.) As to section five: By repealing the definition of "business."
- (2.) As to section thirteen: By repealing so much of subsection three thereof as relates to business-site licenses.
- (3.) As to section one hundred and eighteen: By repealing subsection one thereof.
- (4.) As to section one hundred and twenty: By repealing subsections one, two, three, and six thereof.

AS TO COMPENSATION IN THE CASE OF WATER-RACES ON PRIVATE LAND.

7. The following special provisions shall apply in every case where the amount of the compensation referred to in subsection five of section ninety-nine of the principal Act is to be determined by the Warden and two Assessors, as therein provided:—

Procedure when compensation to be determined by Warden and Assessors.

- (1.) If any party fails or neglects to appoint an Assessor within seven days after being requested by the Warden so to do, the Warden may appoint an Assessor in his stead.
- (2.) If the Assessor appointed by any party or by the Warden dies or resigns, or refuses to act, or becomes incapable of acting, the party or Warden who appointed him may appoint an Assessor in his stead.
- (3.) The Warden shall fix and direct the procedure for determining the amount of the compensation, and shall also

fix the reasonable costs of the proceedings (including Assessors' fees), and direct how and by whom the same shall be paid.

- (4.) The amount of the compensation shall be determined by the Warden and Assessors, or by a majority of them, and such determination shall be final and conclusive: 5

Provided that if a majority cannot agree, then the Warden shall notify the parties to that effect, whereupon the Assessors shall be deemed to be discharged, and each party shall appoint a fresh Assessor. 10

- (5.) The fresh Assessors, with the Warden, shall proceed to determine the amount of the compensation in the same manner and subject to the same provisions as in the case of the original Assessors.

- (6.) The provisions of this section shall apply to claims for compensation pending or not finally disposed of at the time of the commencement of this Act. 15

AS TO CERTIFICATES OF EASEMENT.

Grant of easements to holder of mining privileges over other mining privileges and rights thereunder.

8. Section one hundred and sixty-four of the principal Act is hereby repealed, and in lieu thereof it is hereby enacted that, for the purpose of facilitating mining operations under the principal Act, the following special provisions shall apply in the case of every mining privilege:— 20

- (1.) Subject to regulations under the principal Act, the Warden, on application in that behalf, may, by certificate of easement in the prescribed form, grant to any person, being the holder of a mining privilege, the right to enter upon, occupy, and use any specified portion of the land comprised in any other mining privilege, for any of the following purposes:— 25 30

(a.) To cut, make, dredge, or otherwise construct and maintain, and use upon, over, or under such specified portion of land, any road, tramway, bridge, race, tunnel, drive, ditch, channel, or other mining work;

(b.) To convey over or discharge upon such specified portion of land any tailings, *débris*, or waste waters resulting from such mining operations, including therein any operation authorised under this section; 35

(c.) Such other purposes as are prescribed.

- (2.) The application shall be made, notified, and disposed of in manner prescribed by section one hundred and thirty-six of the principal Act. 40

- (3.) The application, if granted, may be granted on such terms and conditions as the Warden thinks fit, and shall in every case be deemed to be granted subject to the condition that the grantee in acting under the grant will not interfere with the reasonable and lawful use of such other mining privilege by the holder thereof, or with his lawful mining operations thereon, except in so far as is reasonably necessary in order to give effect to the grant. 45 50

- (4.) All gold obtained from such specified portion of land by the grantee as the result of any operation authorised by the grant shall be the property of such holder, and shall be delivered to him by the grantee accordingly.
- 5 (5.) Before acting under the grant, the grantee shall pay compensation to such holder for all actual or prospective loss or damage that may be suffered by him by reason of the grant or the exercise by the grantee of the rights thereby conferred upon him.
- 10 (6.) If within one month after the issue of the certificate the amount of the compensation is not agreed on between the parties, the same shall be determined by the Warden and Assessors, in manner provided by section *seven* of this Act, the provisions whereof shall accordingly apply.
- 15 (7.) The certificate shall be registered against the mining privilege over which the rights thereby granted are exercisable.

AS TO SURRENDER FOR PURPOSES OF EXCHANGE OF TITLE.

9. In every case where the area of the land comprised in the mining privilege to be surrendered for purposes of exchange exceeds the limit of area as fixed by the principal Act, the area of the land comprised in the corresponding mining privilege may to the same extent exceed such limit.

When area of exchanged land may exceed limit.

10. In every case where, in the computation of the area of the land comprised in the mining privilege to be surrendered, the roads existing thereon have been excluded, the following special provisions shall apply :—

Provisions where roads excluded from surrendered area.

- (1.) The area of the land in the corresponding mining privilege shall include the estimated area of the roads, notwithstanding that the total area thus computed may exceed the area specified in the surrendered mining privilege or the limit of area as fixed by the principal Act.
- 30 (2.) The license for the corresponding mining privilege shall specify the area of the land in the surrendered mining privilege, the estimated area of the roads, and the total area of the land in the corresponding mining privilege.
- 35 (3.) It shall not be necessary to make any survey for the purpose of estimating the area of the roads, but the Warden shall estimate the same in such manner as he thinks fit.
- 40 (4.) The license for the corresponding mining privilege shall be deemed to be granted, and shall be held subject to the provisions of section *eighteen* hereof.

AS TO SURRENDER OR DETERMINATION OF OUTSTANDING LEASES OR LICENSES GRANTED BY NATIVE OR OTHER OWNERS PRIOR TO ACQUISITION OF LAND BY THE CROWN.

45 11. Section fifty-nine of the principal Act is hereby amended by substituting the words "lawfully created therein by lease or license from such owners" in lieu of the words "lawfully created therein by such owners."

Section 59 of principal Act amended.

Provisions as to determination of leases or licenses when land required for township or public utility.

12. The provisions of sections fifty-nine and sixty of the principal Act, relating to the surrender or determination of outstanding leases or licenses granted by the Native or other owners prior to the acquisition of the land by the Crown, are hereby extended to cases where the land (whether the same is or is not Crown land open for mining) is situate in a mining district, and is, in the opinion of the Governor, required for township purposes or any other purpose of public utility, as specified by the Governor: Provided that in every such case those sections shall be construed subject to the following special modifications, that is to say:—
- (1.) The determination of the lease or license as to the whole or any part of the land comprised therein shall be effected by resuming the land for the purposes specified by the Governor.
 - (2.) Such resumption shall be deemed to be the taking of the land for a public work within the meaning of "The Public Works Act, 1894," and the provisions of that Act shall accordingly, *mutatis mutandis*, apply, subject, nevertheless, to the provisions of this Act.
 - (3.) Such resumption may, if and in so far as the Governor thinks fit, be effected without affecting the rights of persons holding under subleases or sublicenses from the original lessees or licensees; and in such case those persons shall thereafter be deemed to hold from the Crown, subject to the conditions of their subleases or sublicenses.
 - (4.) In satisfaction in whole or in part of the compensation payable to the lessee or licensee in respect of the surrender or resumption, the Governor may grant to him for an estate in fee-simple such portion of the land as may be agreed on.
 - (5.) Subject to the provisions of this Act, the compensation payable in respect of such resumption shall be assessed and settled in the manner and to the extent provided in Part VII. of the principal Act, and shall be payable out of moneys appropriated by Parliament.
 - (6.) Subject to the rights of the persons (if any) holding from the Crown as aforesaid, the land as to which the lease or license is surrendered or determined shall be held and disposed of by sale, lease, reservation, or otherwise, in such manner, for such purposes, at such prices or rents, and on such terms and conditions in all things as the Governor from time to time prescribes.
 - (7.) All moneys received by or on behalf of the Crown in respect of such land or the disposal thereof shall be paid into the Public Account as part of the fund or account out of which the compensation has been appropriated and paid until the full amount thereof has been thereby recouped to that fund or account, and thereafter all such moneys (other than the proceeds of any sale in fee-simple) shall be deemed to be goldfields revenue, and the proceeds of every sale in fee-simple shall be paid into the Public Works Fund.

AS TO TIMBER-CUTTING RIGHTS.

13. Subject to regulations under the principal Act, the Governor may from time to time define and specify, in any mining district, areas within which timber-licenses and other timber-cutting rights may be granted under section two hundred and twenty-seven of "The Land Act, 1892," exclusively, and other areas within which timber-licenses and other timber-cutting rights may be granted by the Warden exclusively.

Areas within which timber-licenses granted by Land Board or by Warden.

14. All fees and royalties received in respect of timber-cutting rights shall, in the case of rights granted under "The Land Act, 1892," be deemed to be territorial revenue, and form part of the Consolidated Fund, and in the case of rights granted by the Warden, be deemed to be goldfields revenue.

Application of fees and royalties.

AS TO TRIBUTE AGREEMENTS.

15. With respect to every agreement entered into after the commencement of this Act for the working of a claim on tribute the following provisions shall apply:—

Provisions as to agreements for working claims on tribute.

(1.) The agreement shall be in writing, signed by or on behalf of the parties, and shall have no force or effect unless and until by memorandum thereon under his hand the Warden certifies that the terms and conditions are reasonable and proper in so far as concerns the interests of the tributers.

(2.) Notwithstanding anything to the contrary in the agreement, no provision contained therein for the forfeiture or cancellation thereof or of the tributer's rights thereunder, shall operate or be enforceable by the claim-holder or his successor in title without the consent in writing of the Warden.

(3.) Notice of the intended application for such consent shall be given to the tributers, or to at least one of them, by the applicant.

(4.) On the hearing of the application the Warden shall have regard to the equities of the case, and, after hearing the parties, may grant or refuse the application, or relieve from forfeiture or cancellation, on such terms as he thinks equitable, or make such other order in the premises as he thinks equitable; and every such order shall be binding on the parties.

(5.) Nothing in this section or in any such agreement shall operate to limit the rights of tributers under section one hundred and eighty-one of the principal Act.

AS TO THE PROTECTION OF BRIDGES AND SITES FOR BRIDGES.

16. In every case where a public or private bridge exists or where land is reserved as a site for a public bridge the following special provisions shall apply:—

Provisions for protection of bridges and sites therefor from damage.

(1.) It shall not be lawful for any person, being the holder of a mining privilege, howsoever or whensoever acquired, to carry on mining operations as such holder by sluicing, dredging, tunnelling, or driving within five

chains of such public bridge or site, or three chains of such private bridge, except with the written consent, in the case of the public bridge or site, of the local or other authority having control thereof, and in the case of the private bridge, of the owner thereof, nor in any case except in accordance with the terms and conditions subject to which the consent is given :

Provided that in the case of a private bridge the Warden, on application in that behalf, may negative, modify, or vary as he thinks fit any term or condition which the owner has imposed otherwise than for the *bona fide* purpose of insuring the safety of the bridge.

- (2.) The powers by this section conferred upon the local authority may be exercised either by resolution of the local authority or by writing under the hands of the Chairman or Mayor and any two other members thereof appointed either generally or specially in that behalf by resolution of the local authority.
- (3.) In the case of bridges hereafter constructed or sites hereafter reserved, this section shall extend and apply as from the date on which the construction is commenced or the reservation is made.
- (4.) For the purposes of this section,—
- (a.) “Public bridge” means any bridge intended for public use, or for use in connection with any public work within the meaning of “The Public Works Act, 1894,” and under the control of the Government or any local authority ; and
- (b.) “Private bridge” means any bridge (other than a footbridge) intended for use in connection with the business of any person or company, and owned by any person or company.
- (5.) If the holder of the mining privilege, by himself, his agents or workmen, commits any breach of any of the provisions of this section, or of the terms or conditions subject to which the aforesaid consent is given, he shall be civilly liable for all damage thereby done, and in addition thereto his mining privilege shall be liable to forfeiture, and, if the breach is committed in respect of a public bridge or site, he shall also be liable as for committing an injury to a public work.

AS TO PUBLIC ROADS AND PUBLIC STREETS.

17. Section one hundred and sixty-five of the principal Act (relating to roads and streets) is hereby repealed, and in lieu thereof the following provisions shall apply with respect to every public road and public street :—

- (1.) The license for a mining privilege, being a claim, race, or tramway, or a prospecting or mineral area, may be applied for and granted notwithstanding that any public road or public street exists on the land comprised in the application.

Procedure when mining privilege includes road or street.

(2.) It shall not be necessary to separately mark off the road or street for the purposes of the application.

(3.) The road or street shall be included in the area of the land comprised in the license.

5 (4.) The license, if granted, shall be deemed to be granted and shall be held subject to the provisions of the *next succeeding* section hereof.

10 18. (1.) It shall not be lawful for any person, being the holder of a mining privilege (howsoever or whensoever acquired), to exercise upon, over, or under any public road or public street any of his rights as such holder, or to carry on mining operations by dredging or sluicing within one chain of such road or street (whether situate within or outside the limits of the land comprised in his mining privilege), except with the written consent of the
15 local or other authority having the control of such road or street, nor except in accordance with the terms and conditions subject to which such consent is given.

(2.) The powers by this section conferred upon the local authority may be exercised in manner provided in section *sixteen*
20 hereof.

(3.) In the case of public roads or public streets hereafter constituted, this section shall extend and apply as from the date of constitution.

25 (4.) If such holder, by himself, his agents or workmen, commits any breach of any of the provisions of this section, or of the terms or conditions subject to which such consent is given, he shall be civilly liable for all damage done, and in addition thereto his mining privilege shall be liable to forfeiture, and if the breach is in respect of a Government road or street he shall also be liable as for com-
30 mitting an injury to a public work.

MISCELLANEOUS.

35 19. In any case where a duly surveyed claim has been forfeited, abandoned, or absolutely surrendered, and any person desires to take up the whole of the land as a claim, the following special provisions shall apply :—

40 (1.) The applicant may deposit the old survey plans in the Warden's office, or, if they are already deposited there, may refer to them in his application; and in any such case they shall be available for the purposes of the application, and no fresh survey shall be necessary unless the Warden so directs:

45 Provided that in lieu of or prior to directing such fresh survey the Warden may at the cost of the applicant require a surveyor to inspect the land and report to the Warden as to whether the boundaries marked out by the applicant are coterminous with those shown by the old plans.

50 (2.) Where in the computation of the area of the abandoned, forfeited, or surrendered claim, as shown by the survey plans thereof, the area of roads has been excluded, the

Rights of holder as to such road or street restricted.

Procedure when application includes a surveyed forfeited claim.

provision of section *eight* hereof shall, *mutatis mutandis*, apply, notwithstanding that the area of the fresh claim may thereby exceed the prescribed limit.

Labour conditions as to dredging claim.

20. For the purpose of complying with the labour conditions in the case of a dredging claim, it shall not be necessary to use more than one dredge, except where the Warden otherwise orders, having regard to the area of the claim and the facilities for working it:

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Provided that no order shall be made under this section save on the report of an Inspector, and after the holder of the claim has had an opportunity of showing cause against the order.

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Drainage areas exempt from survey.

21. Section one hundred and thirty-seven of the principal Act (relating to survey) shall not apply nor be deemed to have applied in the case of drainage areas, except in so far as in special circumstances the Warden otherwise directs.

When additions to be made to plans of mines liable to be flooded.

22. Subsection three of section two hundred and nine of the principal Act (relating to plans in the case of mines liable to be flooded) is hereby repealed, and the following subsection is substituted in lieu thereof:—

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“(3.) All additions of any kind to the underground workings of such mine made after the date of such order shall, at such periodical intervals as on the report of the Inspector the Warden from time to time prescribes, be correctly marked upon the original plan and sections, and also upon the copy or tracing deposited in the Warden’s office:

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“Provided that such periodical intervals shall in no case be longer than two months, or shorter than one week.”

Section 297 of principal Act amended.

23. Section two hundred and ninety-seven of the principal Act (empowering local authorities to apply their funds in assisting the development of the mining industry) is hereby amended by repealing the words “within its district.”

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Annual renewal of water-race licenses abolished.

24. The annual renewal of the registration of water-race licenses issued under any former Mining Act shall hereafter not be necessary.

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Land-for-settlements lands exempted from Act.

25. All lands acquired under “The Land for Settlements Act, 1894,” are hereby declared to be exempted from the operation of the principal Act.

Principal Act modified.

26. The principal Act is hereby modified in so far as it is in conflict with this Act, but not further or otherwise.

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