

Hon. Mr. Macmillan.

MINING AMENDMENT.

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A BILL INTITULED

Title.

AN ACT to amend the Mining Act, 1926.

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

Short Title.

1. This Act may be cited as the Mining Amendment Act, 1934, and shall be read together with and deemed part of the Mining Act, 1926 (hereinafter referred to as the principal Act).

See Reprint of Statutes, Vol. V, p. 943
Section 4 of principal Act amended.

2. Section four of the principal Act is hereby amended by adding to the definition of the term " Private lands " the words " not being land comprised in any renewable lease granted or deemed to be granted under the Land Act, 1924, or any former Act relating to Crown land ".

Warden may appoint deputies for certain officers in case of incapacity.

3. (1) Notwithstanding anything to the contrary in any Act, if and as often as any Mining Registrar, Receiver of Gold Revenue, Clerk of the Warden's Court, or Bailiff is incapacitated by illness, absence, or other sufficient cause from performing his duties, the Warden may appoint a fit person to act as deputy, who, whilst so acting, shall have all the functions and duties of the officer for whom he is the deputy.

(2) An entry of every such appointment shall be made by the Warden in the minute-book of the Court.

Entry on land for purpose of geological and geophysical surveys.

4. (1) Any person authorized either specially or generally by the Minister in that behalf may from time to time during the daytime enter upon any land, with such assistants as he thinks fit, for the purpose of making a geological or geophysical survey of such land for mining purposes, and may affix or set up thereon such pegs, marks, or poles as may be required for the purposes of such survey, and may do all other things necessary for such survey or for any inspection or alteration thereof, including the digging of pits and the firing of explosive charges ; provided that all such pits shall be filled up immediately after the purpose for which they were dug has been served and the ground in or on which any such explosive charge has been fired shall, as soon thereafter as practicable, be restored as far as possible to its former condition.

(2) Before entry on any land for the purposes of this section, the person authorized as aforesaid shall, if practicable, give reasonable notice to the owner or

occupier of that land of his intention to enter thereon, and shall, if required by such owner or occupier, produce the authority under which he claims to enter or has entered on such land.

5 (3) The owner and occupier of the land shall be entitled to compensation for any damage done in the making of any such survey. In default of agreement the amount of any such compensation shall, notwithstanding anything to the contrary in the principal Act, be fixed by
10 the Warden, in the case of land situated in a mining district, and in every other case shall be fixed by a Stipendiary Magistrate.

(4) Every person commits an offence and shall be liable on summary conviction to a fine of *fifty* pounds
15 or to imprisonment for *three* months who—

(a) Without lawful authority removes, destroys, or alters the position of any peg, mark, pole, or other thing used for the purposes of any survey made or in course of being made pursuant to this section; or
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(b) Wilfully damages or destroys or otherwise interferes with any peg, mark, or other thing as aforesaid; or

(c) Wilfully obstructs or interferes with any person lawfully engaged in connection with any survey that is being made pursuant to this section.
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(5) This section shall be deemed to have come into force on the *first* day of January, nineteen hundred and thirty-*three*, and every geophysical survey of any land for
30 mining purposes made after that date and before the passing of this Act shall for all purposes be deemed to have been duly made under the authority of this section.

5. (1) Notwithstanding anything contained in the principal Act, it shall not be lawful for the Warden
35 without the prior consent of the Minister to grant any mining privileges in any area or areas in respect of which the Minister has notified the Warden in writing that a geophysical survey is being or will be made.

Consent of Minister before granting of mining privileges in respect of areas geophysically surveyed.

(2) In giving any such consent the Minister may
40 impose such conditions (if any) as he thinks fit, and any mining privileges granted in respect of the area affected shall be subject to such conditions.

6. (1) Notwithstanding anything to the contrary in section fifty-five of the principal Act, it shall be lawful
45 for the Minister without the consent of the owner or occupier to determine that any private land which has

Extending powers of Minister under section 55 of the principal Act.

been subjected to a geophysical survey by the Government, or which the Minister proposes to prospect for gold, shall be resumed pursuant to that section.

(2) In respect of any land so resumed the amount of compensation payable by the Crown shall not include the value of any gold or minerals contained therein, but shall include all sums reasonably expended by the owner or occupier in carrying on mining operations on such land. 5

Repeal.

(3) This section is in substitution for section twenty-one of the Finance Act, 1932-33 (No. 2), and that section is hereby accordingly repealed. 10

Disposal of land geophysically surveyed or prospected or mining privileges in respect thereof.

7. (1) Notwithstanding anything to the contrary in the principal Act, or any other Act, where any land subject to the principal Act has been geophysically surveyed or has been prospected for gold by the Minister, such land and any mining privileges in respect thereof, where such land is vested in the Crown, or any mining privileges in respect of such land held by or on behalf of the Crown where such land is not vested in the Crown, may be disposed of by the Minister upon such terms and subject to such conditions as he thinks fit. The proceeds of every such disposal shall be credited to the Consolidated Fund, and shall be dealt with otherwise than as goldfields revenue. 15 20 25

Repeal.

(2) This section is in substitution for section twenty-two of the Finance Act, 1932-33 (No. 2), and that section is hereby accordingly repealed.

Section 73 of principal Act amended.

8. Section seventy-three of the principal Act is hereby amended by omitting from paragraph (f) the words "one hundred acres", and substituting the words "one thousand acres". 30

Application for ordinary prospecting license in respect of more than 100 acres to be accompanied by deposit of 5s. an acre.

9. (1) Every application for an ordinary prospecting license in respect of an area of more than one hundred acres shall be accompanied by a deposit of *five* shillings for every acre applied for in excess of one hundred acres. 35

(2) The power to make regulations conferred on the Governor-General by section four hundred and twenty-seven of the principal Act is hereby extended to enable him to make regulations providing for the refund in whole or in part, in accordance with such conditions as may be prescribed by such regulations, of deposits made pursuant to the *last preceding* subsection. 40

(3) Any such deposit or balance thereof which cannot lawfully be refunded pursuant to such regulations as aforesaid shall become the property of the Crown, and shall be paid into the Public Account to the credit of the Consolidated Fund.

10 **10.** Any deposit or balance of any deposit made with an application for a mineral prospecting warrant or a mineral lease under section seventy-seven or section eighty-one of the principal Act, as the case may be, which cannot lawfully be refunded pursuant to regulations made under section eighty-two of that Act shall become the property of the Crown, and shall be paid into the Public Account to the credit of the Consolidated Fund.

Disposal of deposits or balance of deposits made under section 77 or section 81 of principal Act which cannot lawfully be refunded.

15 **11.** Notwithstanding anything to the contrary in the principal Act, no ordinary prospecting-license or license for a claim, granted after the passing of this Act, shall, without the written consent of the Minister and subject to such terms and conditions as he thinks fit, be so disposed of as to transfer from the holder to another person the title to such license.

Restriction on disposal of ordinary prospecting licenses and licenses for claims.

12. Subsection one of section eighty-eight of the principal Act is hereby amended as follows:—

Section 88 of principal Act amended.

(a) As to the first proviso:—

25 (i) By inserting, after the word "Minister", the words "and subject to such terms and conditions as he may impose":

(ii) By omitting the words "three miles", and substituting the words "sixteen miles":

30 (iii) By omitting the word "acquiring", and substituting the words "constructing and operating":

(iv) By omitting the words "seventy-five acres", and substituting the words "six hundred acres":

35 (b) As to the second proviso: By inserting, after the word "Minister", the words "and subject to such terms and conditions as he may impose".

13. Section eighty-nine of the principal Act is hereby repealed.

Repeal.

40 **14.** Section one hundred and forty-four of the principal Act, as amended by section seven of the Mining Amendment Act, 1927, is hereby further amended by adding thereto the following proviso:—

Section 144 of principal Act amended.

45 "Provided further that no business-site license or residence-site license shall be granted in respect of any

land reserved under section one hundred and twenty-nine of the Land Act, 1924, or the corresponding provisions of any former Land Act, without the previous consent in writing of the Minister and subject to such terms and conditions as he may impose.” 5

Section 159 of principal Act amended.

15. Section one hundred and fifty-nine of the principal Act is hereby amended by adding to paragraph (d) the following proviso :—

“ Provided that rent shall be payable in respect of the several areas of the amalgamated claim in all respects as if the claims in which they were originally comprised had not been amalgamated but were held under mining privileges continuing for the term of the amalgamated claim.” 10

Section 169 of principal Act amended.

16. Paragraph (y) of section one hundred and sixty-nine of the principal Act is hereby amended as follows :— 15

(a) By inserting in subparagraph (ii), after the words “ thirty acres ”, the words “ or for an ordinary prospecting license in respect of an area exceeding one hundred acres ” : 20

(b) By repealing subparagraph (iii).

Section 176 of principal Act amended.

17. Section one hundred and seventy-six of the principal Act is hereby amended by omitting from paragraph (f) thereof all words after the words “ would apply ”, and substituting the words “ if the term for which the license is renewed were part of the original term of the license ”. 25

Section 179 of principal Act amended.

18. Section one hundred and seventy-nine of the principal Act is hereby amended by adding to paragraph (e) the following words : “ and in any case where the consent of the Minister is necessary before the instrument may be registered the Warden, if satisfied that failure to deposit the instrument within such period was not due to any act or default of the transferee, may grant such authority without payment of any fine ”. 30

Section 195 of principal Act amended.

19. Section one hundred and ninety-five of the principal Act is hereby amended by omitting the words “ or in course of construction on the claim or in the vicinity thereof ”, and substituting the words “ on the claim unless the construction of a suitable dredge begun before the expiration of such two years or within such time thereafter as the Minister before such expiration approves by writing under his hand endorsed on the license ”. 35 40

20. Section two hundred and eighteen of the principal Act is hereby amended as follows:—

Section 218 of principal Act amended.

(a) By inserting in subsection one, after the word “dredging”, the words “or sluicing away”:

5 (b) By adding the following subsection:—

10 “(3) No special terms, conditions, and reservations under the last preceding subsection shall be of such a nature that the cost of complying with them is likely to be greater than the improved value of the land affected for agricultural or pastoral purposes at the date on which the application for the mining privilege was filed in the Warden’s Court.”

15 21. (1) Notwithstanding anything contained in the principal Act, every person who by reason of his mining operations causes damage to any Crown land shall be liable to pay compensation for such damage to the Crown in respect of its interest in such land.

Compensation payable to the Crown in respect of damage done by mining operations.

20 (2) The compensation so payable shall, notwithstanding anything to the contrary in the principal Act, be of such amount as is fixed jointly by the Minister and the Minister of Lands, or where the land affected is subject to the Forests Act, 1921–22, by the Minister and the
25 Commissioner of State Forests. Every amount so fixed shall constitute a debt due to the Crown, and shall be recoverable accordingly in any Court of competent jurisdiction.

30 (3) Nothing in this section shall relieve any person from any liability imposed on him by the principal Act to pay compensation to the occupier of any Crown land in respect of damage caused by reason of his mining operations.

35 22. Section two hundred and forty-one of the principal Act is hereby amended by omitting the words “all of whom shall be holders of first-class mine-managers’ certificates”, and substituting the words “of whom three shall be holders of first-class mine-managers’ certificates and one shall be the holder of a battery superintendent’s
40 certificate”.

Section 241 of principal Act amended.

23. Section two hundred and forty-five of the principal Act is hereby amended by adding the following as subsection two thereof:—

Section 245 of principal Act amended.

45 “(2) Every person employed or acting in the capacity of an engine-driver in charge of an engine which is used

for hauling material up an inclined plane exceeding one hundred feet in length at any time while driving operations are being actually carried out on that plane shall be the holder of a winding-engine driver's certificate, granted under the Inspection of Machinery Act, 1928, or be the holder of a permit issued by an Inspector of Mines, entitling him to drive or have charge of such engine. Such permit shall be granted subject to such conditions (if any) as are prescribed, and shall not be granted until the person affected has undergone a practical test in driving the engine and generally has satisfied the Inspector that he is competent to work the same." 5 10

See Reprint
of Statutes,
Vol. V, p. 527

Section 248 of
principal Act
amended.

24. Subsection one of section two hundred and forty-eight of the principal Act is hereby amended by omitting all words after the words "forward with his application", and substituting the words "the prescribed fee": 15

"Provided that if the candidate obtains a partial pass at such examination he may, on payment of such fee as is prescribed in that behalf (being less than the original fee), be examined again at a time or times fixed for that purpose by the Chairman of the Board of Examiners." 20

Section 250 of
principal Act
amended.

25. Section two hundred and fifty of the principal Act is hereby amended as follows:—

(a) By omitting the words "a fee of one pound one shilling", and substituting the words "the prescribed fee": 25

(b) By adding the following words: "and that he has a satisfactory knowledge of the provisions of this Act relating to the working, regulation, and inspection of mines". 30

Section 253 of
principal Act
amended.

26. Subsection one of section two hundred and fifty-three of the principal Act is hereby amended as follows:—

(a) By omitting the words "he or the agent of the mine shall in writing appoint some person, being the holder of a mine-manager's certificate", and substituting the words "he or the owner or agent of the mine shall in writing appoint some person approved by the Inspector": 35 40

(b) By omitting all words after the words "such incapacity or absence", and substituting the words "but no such deputy shall act for more

than fourteen days unless authorized so to do by the Inspector, who shall not, without the approval of the Minister, authorize such deputy to act for a period of more than thirty days”.

- 5 **27.** Whenever any person proves to the satisfaction of the Board of Examiners that he has, without fault on his part, lost or been deprived of any certificate granted to him under the principal Act, the Board shall, on payment of such fee (if any) as may be prescribed, cause a copy of the certificate to which the applicant appears by the register to be entitled to be made out and certified by the person who keeps the register and delivered to the applicant; and any copy which purports to be so made and certified as aforesaid shall have the same effect in all respects as the original certificate.

Replacement of lost certificates.

28. Paragraph three of section two hundred and seventy-four of the principal Act is hereby amended as follows:—

Section 274 of principal Act amended.

- 20 (a) By repealing subparagraph (h), and substituting the following:—

“ (h) No iron or steel tool shall be used for charging or tamping shots and no iron or steel tamping-bar shall be taken into any mine.”

- 25 (b) By repealing subparagraph (i).

29. (1) Section two hundred and eighty-three of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection:—

Section 283 of principal Act amended.

- 30 “ (1) Every holder of a mining privilege who in the exercise of his rights thereunder, and every other person who in the exercise of rights under any option or other authority duly obtained from the holder of a mining privilege, puts down or causes to be put down any borehole exceeding fifteen feet in depth in alluvial ground, or fifty feet in depth in any other case, or extends an existing borehole beyond those limits, shall forthwith on commencing the work notify the Inspector thereof, at the same time furnishing him with particulars of the location of the borehole, and shall from time to time thereafter, as required by the Inspector but in no case later than *one* month after completion of the boring operations, furnish to the Inspector such other particulars as are prescribed. No information furnished pursuant

to this subsection shall, while the mining privilege remains in force, be made public without the consent of the holder of the privilege."

(2) Subsection two of the said section two hundred and eighty-three is hereby amended as follows:— 5

- (a) By omitting from the first proviso the words "or alluvial ground", and substituting the words "or in alluvial ground other than cement conglomerate or quartz conglomerate":
- (b) By omitting from the second proviso the words "by the holder of the mining privilege to the Minister", and substituting the words "to the Minister by the holder of the mining privilege or, as the case may require, by such other person as aforesaid". 15

Inquests.
1925, No. 39,
s. 146

30. (1) Where a Coroner holds an inquest on the body of any person whose death may have been caused by any accident of which notice is required by the principal Act to be given to the Inspector, the Coroner shall adjourn the inquest, unless an Inspector, 20 or some other person on behalf of the Minister, is present to watch the proceedings.

(2) The Coroner, at least four days before holding the adjourned inquest, shall send to the Inspector notice in writing of the time and place of holding the adjourned 25 inquest.

(3) The Coroner, before the adjournment, may take evidence to identify the body, and may order the interment thereof.

(4) If an accident has not occasioned the death of 30 more than one person, and the Coroner has sent to the Inspector notice of the time and place of holding the inquest at such time as to reach the Inspector not less than forty-eight hours before the time of holding the same, it shall not be imperative on him to adjourn the 35 inquest in pursuance of this section if, sitting without a jury, he thinks it unnecessary so to adjourn, or, sitting with a jury, the majority of the jury think it unnecessary.

(5) An Inspector, or other person authorized in that 40 behalf by the Minister, shall be at liberty at any such inquest to examine any witness, subject nevertheless to the power of the Coroner to disallow any question which in his opinion is not relevant or is otherwise not a proper question. 45

(6) Where evidence is given at an inquest at which an Inspector is not present of any neglect as having caused or contributed to the accident, or of any defect in or about the mine appearing to the Coroner or jury to require a remedy, the Coroner shall send to the Inspector notice in writing of such neglect or defect.

(7) Where an inquest is taken by jurors, any person having a personal interest in or employed in or about or in the management of the mine in or about which the accident occurred shall not be qualified to serve on the jury empanelled on the inquest; and it shall be the duty of the constable or other officer not to summon any person disqualified under this provision, and it shall be the duty of the Coroner not to allow any such person to be sworn or to sit on the jury. One-half of the jurors shall, however, whenever it is practicable, be miners.

(8) The following persons shall be at liberty to attend at any inquest and examine any witness, either in person or by counsel, subject nevertheless to the power of the Coroner to disallow any question which in his opinion is not relevant or is otherwise not a proper question:—

- (a) Any relative of any person whose death may have been caused by the accident:
- (b) The owner or manager of the mine in which the accident occurred:
- (c) Any person appointed in writing by any association of workmen to which the deceased at the time of his death belonged.

(9) This section is in substitution for section two hundred and ninety-eight of the principal Act, and that section is hereby accordingly repealed. Repeal.

31. Paragraph (a) of section three hundred and sixty-eight of the principal Act is hereby amended by omitting the words “ten pounds”, and substituting the words “fifteen pounds”; and by omitting the words “twenty pounds”, and substituting the words “thirty pounds”. Section 368 of principal Act amended.

32. Section three hundred and eighty-one of the principal Act is hereby amended by inserting, after the words “a Solicitor of the Supreme Court”, the words “not engaged in the proceedings”. Section 381 of principal Act amended.

Section 2 of
Mining
Amendment Act,
1927, amended.
See Reprint
of Statutes,
Vol. V, p. 1167

Section 13 of
Mining
Amendment Act,
1927, amended.

Restricting right
of Wardens to
grant mining
privileges in
certain areas.

Repeal.

33. Section two of the Mining Amendment Act, 1927, is hereby amended by inserting in subsection one and also in subsection two, in each case after the words "business-site license", the words "or a special-site license".

34. Section thirteen of the Mining Amendment Act, 1927, is hereby amended by inserting, after subsection four, the following new subsection.

"(4A) Nothing in the foregoing provisions of this section shall in any way derogate from the powers of the Inspector or the Minister under paragraph fifty of section two hundred and seventy-four of the principal Act."

35. (1) Notwithstanding anything contained in the principal Act, it shall not be lawful for the Warden, without the prior consent of the Minister, to grant any mining privileges in any area or areas in respect of which the Unemployment Board has notified the Warden in writing that it is granting or intends to grant financial assistance for prospecting or development.

(2) This section is in substitution for section thirty-seven of the Finance Act, 1932-33 (No. 2), and that section is hereby accordingly repealed.