

MINING (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 23, 1975.

An Act relating to the making of applications under the Mining Act, 1973, the constitution of the prospecting board established under that Act and the payment of rent under prospecting licences, mining leases and mining purposes leases; to provide for the appointment of honorary rangers and the removal of gold from fossicking areas; for these and other purposes to amend the Mining Act, 1973; to validate certain matters; and for purposes connected therewith. [Assented to, 14th April, 1975.]

BE

Mining (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 23, 1975 and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Mining (Amendment) Act, 1975". Short title.

2. (1) Except as provided in subsections (2) and (3), this Act shall commence on the date of assent to this Act. Commencement.

(2) Sections 7 (b), 8 (a) (i) and (iii), 8 (b), 8 (c) (ii) and (iii), 8 (d) (i), (iii), (v) and (vii), 8 (l), 8 (r), 8 (t) (i) and 14 (a) (iii) shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Sections 8 (k), 8 (u) and 15 shall be deemed to have commenced on 29th March, 1974.

3. The Mining Act, 1973, is amended by omitting from the long title the words "to amend the Mining Act, 1906, and other Acts;". Amendment of Act No. 42, 1973. Long title.

4. Part I of the Mining Act, 1973, is amended—

Further amendment of Act No. 42, 1973. (Part I.—Preliminary and Interpretation.)

(a) by omitting from the matter relating to Division 3 of Part V in section 2 the matter "76" and by inserting instead the matter "76A"; Sec. 2. (Division of Act.)

(b)

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Sec. 6.
(Interpre-
tation.)

(b) by inserting after the definition of "group of minerals" in section 6 the following definition :—

"honorary ranger" means a person appointed as such under section 17A;

Sec. 7.
(Service of
documents.)

(c) (i) by omitting from section 7 the word "required" wherever occurring and by inserting instead the words "authorised or required";

(ii) by omitting from section 7 (1) (b) the word "person" where firstly occurring and by inserting instead the words "a person".

Further
amendment
of Act No.
42, 1973.
(Part II.—
Admin-
istration.)

5. Part II of the Mining Act, 1973, is amended—

Sec. 15.
(Prospecting
board.)

(a) by inserting after section 15 (3) the following subsection :—

(4) A person may be appointed under subsection (3) to be an alternate member for a member of the board notwithstanding that, as a result of the appointment, there will be, for the time being, more than one alternate member for that member of the board.

Sec. 17.
(Proceed-
ings of
the board.)

(b) by inserting after section 17 (2) the following subsection :—

(2A) If there are two or more alternates for a member of the board, the alternate entitled to attend a meeting of the board by reason of the member's absence or inability to attend the meeting shall be determined in accordance with the directions of the member.

(c)

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(c) by inserting after section 17 the following section :—

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Sec. 17A.

17A. (1) The Minister may, by instrument in writing, appoint a person to be an honorary ranger for the purpose of assisting in the administration or execution of this Act in relation to fossicking areas.

Honorary rangers.

(2) The Minister may furnish to an honorary ranger a certificate stating that he is an honorary ranger under this Act.

(3) Where the appointment of a person under this section is revoked, that person shall forthwith surrender the certificate furnished to him under this section to the Minister, or if the Minister, by instrument in writing served on that person, specifies another person to whom the certificate is to be surrendered, to that other person.

Penalty: \$100.

(4) Nothing in this section affects the functions that any person would have been able to exercise or perform in relation to a fossicking area had this section not been enacted.

6. Part III of the Mining Act, 1973, is amended—

Further amendment of Act No. 42, 1973. (Part III.—Mining Districts, Reserves and Fossicking Areas.)

(a) (i) by omitting section 24 (2) and by inserting instead the following subsection :—

Sec. 24. (Reserves.)

(2) In an order constituting lands as a reserve or in any subsequent order published

in

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in the Gazette, the Governor may, on the recommendation of the Minister, give any one or more of the following directions :—

- (a) that no claim shall be registered over land in the reserve;
- (b) that no authority shall be granted over land in the reserve;
- (c) that no authorisation shall be granted over land in the reserve;
- (d) that no concession shall be granted over land in the reserve.

(ii) by inserting after section 24 (4) the following subsection :—

- (5) Where an application for—
 - (a) an authority is made or pending in respect of land that is the subject of a direction under subsection (2) (b);
 - (b) an authorisation is made or pending in respect of land that is the subject of a direction under subsection (2) (c); or
 - (c) a concession is made or pending in respect of land that is the subject of a direction under subsection (2) (d),

the application is a nullity to the extent to which it is made in respect of the land that is the subject of the direction, but, if the application is also made in respect of other land, the application shall be deemed to have been made in respect of that other land only.

Sec. 26.
(Rights in
fossicking
areas.)

(b) (i) by inserting in section 26 (1) after the words “from that area,” the word “gold,”;

(ii)

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(ii) by inserting in section 26 (2) after the words No. 23, 1975 "from that area," the word "gold,";

(iii) by omitting section 26 (6) and by inserting instead the following subsections :—

- (6) On payment of the prescribed fee to—
- (a) a mining registrar;
 - (b) an honorary ranger; or
 - (c) a person authorised under subsection (6A),

the mining registrar, honorary ranger or person so authorised, as the case may be, shall issue a fossicking licence to any person applying therefor.

(6A) The Minister may, by order in writing, authorise any person specified in the order to issue fossicking licences.

(iv) by inserting after section 26 (7) the following subsection :—

(7A) A reference in this section to the holder of a licence includes a reference to a person who is a member of a family group, any one of whom is the holder of a fossicking licence.

(v) by inserting before the definition of "gemstones" in section 26 (8) the following definition :—

"family group" means a group of persons consisting of—

- (a) a man and his wife and his, her or their children (if any);
- (b) a man and his children; or
- (c) a woman and her children,

but

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but a reference in this definition to children does not include a reference to children who have attained the age of sixteen years.

Further amendment of Act No. 42, 1973. (Part IV.—Claims.)

7. Part IV of the Mining Act, 1973, is amended—

Sec. 36. (Cancellation of the registration of a claim.)

- (a) (i) by omitting section 36 (1) (b) and by inserting instead the following paragraph :—
- (b) cancel the registration of a claim on the ground that the registered holder of the claim—
- (i) has failed to comply with any of the conditions of the claim;
 - (ii) has failed to comply with any of the requirements of this Act with which he is obliged to comply (whether before or after the registration of the claim); or
 - (iii) has done any act, matter or thing in the claim area not authorised by or under this Act.
- (ii) by omitting from section 36 (2) the words “served on the registered holder of the claim”;
- (iii) by omitting from section 36 (2) the words “from the date specified in that instrument”;
- (iv)

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- (iv) by inserting after section 36 (2) the following No. 23, 1975 subsection :—

(2A) If the Minister cancels the registration of a claim under subsection (2) he shall cause to be served on the registered holder of the claim a notice informing him of the cancellation, and the cancellation of the registration has effect from and including the date on which that notice is served or another date specified in the instrument under subsection (2), whichever is the later.

- (v) by omitting from section 36 (4) the words “specified in an instrument served on him pursuant to subsection (2)” and by inserting instead the words “on which the cancellation, if effected under subsection (2A), has effect”;

- (b) by inserting after section 36 the following Sec. 36A. section :—

36A. (1) A person who wishes to enter upon any Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes for the purpose of marking out any land under section 27 (1), or removing any post or other object as required by section 28 (8) or 36 (4), may apply to the mining registrar for a division for a permit to enter upon any such lands in that division.

Permit
to enter
certain
Crown
lands.

(2) Upon payment of the prescribed fee by any person making application under subsection (1) the mining registrar may grant a permit in writing for such term (not exceeding fourteen days from the date thereof) as he thinks fit and specifies in the permit, and subject to such conditions as he thinks fit and so specifies.

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(3) A permit issued under subsection (2) entitles the holder thereof either personally or by his agent, subject to the conditions of the permit, to enter the lands to which the permit relates for the purpose of marking out the area of land, whether on those lands or on any other Crown lands, over which he wishes a claim to be registered, or removing any post or other object as required by section 28 (8) or 36 (4).

(4) A person shall not, without lawful excuse, hinder or obstruct a person to whom a permit is granted under this section in the exercise of his powers under subsection (3).

Penalty: \$500.

(5) A permit issued under this section shall be exhibited on demand to the occupier of any lands to which the permit relates.

Penalty: \$500.

(6) This section shall not operate so as to prevent a person or his agent from entering any lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes with the consent of the occupier thereof, for the purpose of marking out those or any other lands under section 27 (1), or removing any post or other object from those or any other lands as required by section 28 (8) or 36 (4).

Sec. 37.
(Rights of
registered
holder of
claim.)

- (c) (i) by omitting from section 37 (1) (b) the word "and" where secondly occurring and by inserting instead the words "for purposes connected with the prospecting for or mining of minerals in the claim area and the right to";
- (ii) by inserting in section 37 (1) (d) after the word "purposes" the words ", being purposes connected with the prospecting for or mining of minerals in the claim area".

*Mining (Amendment).***8. Part V of the Mining Act, 1973, is amended—****No. 23, 1975**Further
amendment
of Act No.
42, 1973.
(Part V.—
Authorities.)

- (a) (i) by omitting from section 38 the word “seven” and by inserting instead the word “twenty-one”;
- (ii) by omitting from section 38 the word “district” and by inserting instead the word “locality”;
- (iii) by omitting section 38 (b) and by inserting instead the following paragraph :—
- (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area and a statement indicating the approximate direction and approximate distance of the town nearest to that area.
- (b) by omitting from section 39 (5) the word “seven” and by inserting instead the word “twenty-one”;
- (c) (i) by omitting from section 41 (1) the words “An applicant” and by inserting instead the words “Subject to subsection (2), an applicant”;
- (ii) by omitting from section 41 (1) the word “seven” and by inserting instead the word “twenty-one”;
- (iii) by omitting section 41 (2) and by inserting instead the following subsection :—
- (2) Where the application made, or intended to be made, for a prospecting licence, a mining lease or a mining purposes lease does
- not

Sec. 38.
(Notice of application for exploration licence to be published.)Sec. 39.
(Application for exploration licence.)Sec. 41.
(Intending applicant for prospecting licence, etc., over private lands, etc., to give notice to owner, etc.)

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not or will not relate to the surface of any private lands or to the surface of any Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, the applicant, or the person intending to apply, may, instead of serving any notice required by subsection (1) to be served, cause to be published, either before, or within twenty-one days after, lodging the application under section 43, in a newspaper, or more than one newspaper, circulating in the locality in which is situated the area of land over which the licence or lease is, or is to be, sought, a notice—

- (a) stating that an application for the grant of a licence or a lease, as the case may be, has been, or will be, lodged, as the case may be; and
- (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area and a statement indicating the approximate direction and approximate distance of the town nearest to that area.

Sec. 43.
(Application for a prospecting licence, a mining lease or a mining purposes lease.)

(d) (i) by omitting section 43 (1) (d) and by inserting instead the following paragraph :—

(d) be accompanied by—

- (i) a copy of every notice relating to the application served on an owner or occupier of land pursuant to section 41 (1) before the application was lodged; and
- (ii) a written statement to the effect that each such notice was served on such an owner or occupier and

setting

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setting out the name and address No. 23, 1975
of each such owner or occupier,

or by a copy of every notice relating to the application and published pursuant to section 41 (2) before the application was lodged.

- (ii) by omitting from section 43 (3) the words "An applicant" and by inserting instead the words "Subject to subsection (3A), an applicant";
- (iii) by omitting from section 43 (3) the word "seven" wherever occurring and by inserting instead the word "twenty-one";
- (iv) by omitting from section 43 (3) the word "district" and by inserting instead the word "locality";
- (v) by omitting section 43 (3) (b) and by inserting instead the following paragraph :—
 - (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area and a statement indicating the approximate direction and approximate distance of the town nearest to that area,
- (vi) by inserting after section 43 (3) the following subsection :—

(3A) Subsection (3) does not apply in any case where an applicant, or a person intending to apply for, a prospecting licence, a mining lease or a mining purposes lease causes a notice to be published pursuant to section 41 (2).

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(vii) by omitting section 43 (4) and by inserting instead the following subsections :—

(4) A copy of every notice relating to an application lodged under this section and served pursuant to section 41 (1) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of the notice, together with a written statement to the effect that each such notice was served on an owner or occupier of land pursuant to section 41 (1) and setting out the name and address of each such owner or occupier.

(4A) A copy of every notice relating to an application lodged under this section and published pursuant to section 41 (2) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of publication of the notice.

Sec. 47.
(Minister may require further information from applicant.)

(e) (i) by omitting from section 47 the words “by instrument in writing served on an applicant for an authority, require” and by inserting instead the words “cause to be served on an applicant for an authority an instrument in writing requiring”;

(ii) by omitting from section 47 (b) the word “Australia.” and by inserting instead the following words :—

“Australia,

and the applicant shall comply with the requirement.”;

(f)

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- (f) by omitting section 50 (4) and by inserting instead No. 23, 1975 the following subsections :—

(4) An application for an authority over land to which subsection (1), (2) or (3) applies, and over no other land, is a nullity if it is made by a person not having the exclusive right to apply for the authority or not applying with the consent of the person having that exclusive right.

Sec. 50.
(Exclusive right to apply for an authority.)

(5) An application for an authority over both—

(a) land to which subsection (1), (2) or (3) applies and in respect of which the applicant neither has the exclusive right to apply for an authority nor is applying with the consent of the person having that exclusive right; and

(b) other land, being—

(i) land to which subsection (1), (2) or (3) applies and in respect of which the applicant either has the exclusive right to apply for an authority or is applying with the consent of the person having that exclusive right; or

(ii) land to which none of those subsections applies,

or both,

shall be deemed to have been made in respect of the land referred to in paragraph (b) only.

- (g) (i) by omitting from section 52 (5) the words “an authority” and by inserting instead the words “a prospecting licence, a mining lease, a mining purposes lease”;

Sec. 52.
(Shape and dimensions of area over which exploration licence may be granted.)

(ii)

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(ii) by omitting from section 52 (5) (a) the word "authority" and by inserting instead the words "prospecting licence, mining lease, mining purposes lease";

(iii) by omitting from section 52 (5) (b) the words "when it does so, the land is not subject to" and by inserting instead the words "if, when it so ceases to have effect, the land is not subject to a";

Sec. 53.
(Powers in relation to application for prospecting licence or mining lease.)

(h) (i) by omitting from section 53 (5) the word "lease" where secondly occurring and by inserting instead the word "lease,";

(ii) by omitting from section 53 (5) the word "holders" and by inserting instead the word "holder's";

Sec. 55.
(Powers in relation to application for mining purposes lease.)

(i) by omitting from section 55 (4) the word "holders" and by inserting instead the word "holder's";

Sec. 57.
(Grant of mining lease or mining purposes lease subject to amendment.)

(j) by omitting from section 57 (2) (c) the words "relating to expenditure or";

Sec. 59.
(Exercise of powers under this Act.)

(k) (i) by inserting in section 59 (2) after the word "Act" the words "or the Mining Act, 1906, and the regulations under that Act";

(ii) by inserting in section 59 (4) after the word "not" the words "in every respect";

(iii) by inserting in section 59 (4) after the word "regulations" the words "or the regulations under the Mining Act, 1906";

(1)

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- (1) by omitting section 66 (7) and by inserting instead the following subsections :—

Sec. 66.
(Lodging of application for renewal of authority with Under Secretary.)

(7) Subject to subsection (8), where the registered holder of an authority (other than an exploration licence) applies, or intends to apply, for the renewal of the authority over any private lands or Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, he shall, either before, or within twenty-one days after, lodging the application, serve on every owner and occupier of private lands and on every occupier of the Crown lands, a notice—

- (a) stating that an application for the renewal of an authority has been, or will be, lodged, as the case may be; and
- (b) containing particulars sufficient to lead to the ready identification of the area of land to which the application relates, consisting of a plan and a description of that area and a statement indicating the approximate direction and approximate distance of the town nearest to that area.

(8) Where the application made, or intended to be made, for the renewal of an authority (other than an exploration licence) does not or will not relate to the surface of any private lands or to the surface of any Crown lands held under a Crown lease for pastoral purposes or a special lease for pastoral purposes, the applicant, or the person intending to apply, may, instead of serving any notice required by subsection (7) to be served, cause to be published, either before, or within

twenty-one

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twenty-one days after, lodging the application under this section, in a newspaper, or more than one newspaper, circulating in the locality in which is situated the area of land over which the renewal of the authority is, or is to be, sought, a notice—

- (a) stating that an application for the renewal of a prospecting licence, a mining lease or a mining purposes lease, as the case may be, has been, or will be, lodged, as the case may be; and
- (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area and a statement indicating the approximate direction and approximate distance of the town nearest to that area.

(9) Where the registered holder of an exploration licence applies after the commencement of this subsection, or intends so to apply, for the renewal of the licence, he shall, either before, or within twenty-one days after, lodging the application, cause to be published in a newspaper, or more than one newspaper, circulating in the locality in which is situated the area of land over which the renewal of the licence is, or is to be, sought, a notice—

- (a) stating that an application for the renewal of an exploration licence has been, or will be, lodged, as the case may be; and
- (b) containing particulars sufficient to lead to the ready identification of that area, consisting of a plan and a description of that area and a statement indicating the approximate direction and approximate distance of the town nearest to that area.

(10)

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(10) An application for the renewal of an authority shall be accompanied by a copy of every notice served or published under subsection (7), (8) or (9) in relation to the application before the application was lodged. No. 23, 1975

(11) A copy of every notice relating to an application for the renewal of an authority served pursuant to subsection (7) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of the notice, together with a written statement to the effect that each such notice was served on an owner or occupier of land pursuant to subsection (7) and setting out the name and address of each such owner or occupier.

(12) A copy of every notice relating to an application for the renewal of an authority published pursuant to subsection (8) or (9) after the application was lodged shall be lodged with the Under Secretary within twenty-one days of the date of publication of the notice.

(m) by inserting after section 69 (5) the following subsection :—

(5A) The period for which a mining lease or mining purposes lease is renewed shall not on any one occasion exceed twenty-one years.

Sec. 69.
(Powers of Minister or Governor on application for renewal of authority.)

(n) (i) by omitting from section 70 (1) (b) the word "and";

(ii) by omitting from section 70 (1) (c) the word "renewed." and by inserting instead the words "renewed; and";

Sec. 70.
(Notice of renewal, etc., to be served on registered holder of authority.)

(iii)

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(iii) by inserting after section 70 (1) (c) the following paragraph :—

(d) if the area of land over which the authority is renewed differs from the area that was subject to the authority immediately before the renewal—containing a description of the land over which the authority is renewed.

Sec. 72.
(Authority to have effect until application for renewal dealt with.)

(o) (i) by omitting from section 72 (2) the words “served on the registered holder of the authority”;

(ii) by omitting from section 72 (2) the words “, and the amendment has effect from and including the date on which the instrument is so served”;

(iii) by inserting after section 72 (2) the following subsection :—

(3) Where the Minister amends any of the conditions of an authority under subsection (2), he shall cause to be served on the registered holder of the authority a notice informing him of the amendment, and the amendment has effect from and including the date on which the notice is served.

Sec. 76.
(Suspension of conditions of authority.)

(p) (i) by omitting from section 76 (2) the words “served on the registered holder of the authority”;

(ii) by inserting after section 76 (2) the following subsection :—

(2A) Where the Minister suspends any of the conditions of an authority under this section, he shall cause to be served on the registered holder of the authority a notice informing him of the suspension.

(q)

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- (q) by inserting after section 76 the following No. 23, 1975
section :—

Sec. 76A.

76A. (1) The Governor may, during the Amendment of mining lease in respect of certain conditions. currency of a mining lease containing a condition relating to labour, amend the lease so as to allow the registered holder of the lease to comply with a condition relating to expenditure instead of the condition relating to labour.

(2) The Minister shall cause to be served on the registered holder of a mining lease an instrument in writing setting out any amendment made under subsection (1) to the lease, and the amendment has effect as from the date on which the instrument is served.

- (r) by inserting in section 77 (3) (b) after the word Sec. 77.
“on” the words “and the name and address of the (Authority not to be granted over private lands on which bona fide mining operations being carried on.) owner of the mineral”;

- (s) (i) by omitting from section 89 (4) the words Sec. 89.
“served on the registered holder of a mining (Rights of registered holder of mining lease.) lease”;

- (ii) by inserting in section 89 (4) after the words “the mining lease” the words “to which the order relates”;

- (iii) by inserting after section 89 (4) the following subsection :—

(4A) The Minister shall cause to be served on the registered holder of a mining lease to which an order under subsection (4) relates

an

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an instrument in writing setting out the details of the order, and the order has effect as from the date on which the instrument is served.

Sec. 92.
(Addition
of mineral
or mining
purpose to
licence or
lease.)

- (t) (i) by omitting from section 92 (6) the word “fourteen” and by inserting instead the word “twenty-one”;
- (ii) by omitting from section 92 (6) the word “subsections” and by inserting instead the word “subsection”;

Sec. 95.
(Rent.)

- (u) (i) by omitting section 95 (4) and by inserting instead the following subsections :—

(4) The appropriate authority referred to in subsection (5A) may, by instrument in writing, increase or decrease, or waive payment of, the rent payable in respect of a prospecting licence, a mining lease or a mining purposes lease for any period when the licence or lease has effect under section 72 (being a period that is before or after, or partly before and partly after, the date of the instrument).

(4A) Where the rent payable for a period in respect of a prospecting licence, a mining lease or a mining purposes lease is increased or decreased, or payment thereof is waived, under subsection (4), the Minister shall cause to be served on the person who was or is, as the case may be, the registered holder of the licence or lease an instrument in writing setting out the details of the increase, decrease or waiver, and—

- (a) as from the date on which the instrument is served, the increase, decrease or waiver has effect in relation to that

period

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period (whether that period is before or after, or partly before and partly after, that date);

- (b) where the rent is increased or decreased—the rent as so increased or decreased is payable by that person or, if when that instrument is served the rent for the period has been paid, the amount of any increase is payable by, or the amount of any decrease is payable to, that person; and
- (c) where payment of the rent is waived—the rent for the period is not payable by that person and, if when that instrument is served the rent for the period has been paid, the amount of that rent so paid is payable to that person.
- (ii) by omitting from section 95 (5) the words “of the Governor under subsection (4)” and by inserting instead the words “under subsection (4) of the appropriate authority referred to in subsection (5A)”;
- (iii) by inserting after section 95 (5) the following subsection :—
- (5A) For the purposes of subsections (4) and (5), the appropriate authority is—
- (a) in the case of a mining lease or a mining purposes lease—the Governor;
or
- (b) in the case of a prospecting licence—the Minister.
- (iv) by inserting in section 95 (6) after the word “increase” the words “or decrease”;

(v)

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- (v) by inserting in section 95 (6) after the word "renewed" the words "or waive payment of the rent payable during that period";

Sec. 97.
(Rate of
royalty.)

- (v) (i) by omitting from section 97 (5) the words "served on the registered holder of the lease";
- (ii) by omitting from section 97 (5) the words "that notice is so served" and by inserting instead the words "notice of the rate so fixed is served pursuant to subsection (5A)";
- (iii) by inserting after section 97 (5) the following subsection :—

(5A) The Minister shall cause to be served on the registered holder of a lease to which an instrument under subsection (5) relates a notice in writing setting out the details of the rate fixed thereby, and the rate so fixed is payable as from the date on which the notice is served.

Sec. 99.
(Trust
fund, etc.)

- (w) by omitting from section 99 the words " , by instrument in writing served on the registered holder of a mining lease, require" and by inserting instead the words "cause to be served on the registered holder of a mining lease an instrument in writing requiring";

Sec. 101.
(Minister
may require
information
to be
furnished,
etc.)

- (x) by omitting from section 101 (1) the words " , by instrument in writing served on that person, require" and by inserting instead the words "cause to be served on that person an instrument in writing requiring";

Sec. 105.
(Records.)

- (y) by omitting from section 105 (3) the word "mining" and by inserting instead the word "minerals";

(z)

Mining (Amendment).

- (z) by omitting from section 110 (1) the words “require any person making application under section 107 or 108 to furnish to him” and by inserting instead the words “cause to be served on any person making application under section 107 or 108 an instrument in writing requiring him to furnish to the Minister”.

No. 23, 1975
Sec. 110.
(Power of Minister to require information.)

9. Part VI of the Mining Act, 1973, is amended—

Further amendment of Act No. 42, 1973. (Part VI.—Objections to Granting Mining Leases and Mining Purposes Leases, and Reference of Applications to Government Departments and Other Authorities.)

- (a) by omitting from section 112 (1) the words “within thirty days after” and by inserting instead the words “before, or within thirty days after.”;
- (b) (i) by omitting from section 114 (3) the words “served on the registered holder of the lease”;
- (ii) by inserting after section 114 (3) the following subsection :—

Sec. 112. (Objections to grant of mining leases or mining purposes leases.)

Sec. 114. (Granting of mining lease if objection or proposal made under sec. 113.)

(3A) The Minister shall cause to be served on the registered holder of a lease amended under subsection (3) a notice in writing setting out the details of the amendment, and the amendment has effect from the date on which the notice is served.

(c)

Mining (Amendment).

No. 23, 1975

Sec. 116.
(Grant of
mining
lease over
land subject
to a
scheme.)

- (c) (i) by omitting from section 116 (1) the words “by instrument in writing served” and by inserting instead the words “, cause an instrument in writing to be served”;
- (ii) by omitting from section 116 (1) (a) the word “require” and by inserting instead the word “requiring”;
- (iii) by omitting from section 116 (1) (b) (i) the word “notify” and by inserting instead the word “notifying”;
- (iv) by omitting from section 116 (1) (b) (i) the word “state” and by inserting instead the word “stating”;
- (v) by omitting from section 116 (1) (b) (ii) the word “inform” and by inserting instead the word “informing”;
- (vi) by omitting from section 116 the words “by the Minister” wherever occurring;
- (vii) by omitting from section 116 (4) (a) the words “of the Minister”.

Further
amendment
of Act No.
42, 1973.
(Part VII.—
Protection
of Environ-
ment.)

Sec. 119.
(Rehabilita-
tion, etc., of
area
damaged
by mining.)

10. Part VII of the Mining Act, 1973, is amended—

- (a) by omitting from section 119 (2) the words “require the applicant for the lease to lodge with him, within such time as he may require” and by inserting instead the words “cause to be served on the applicant for the lease an instrument in writing requiring the applicant to lodge with him, within such time as is specified in the instrument”;

(b)

Mining (Amendment).

- (b) (i) by omitting from section 120 (1) the words “, by instrument in writing” and by inserting instead the words “cause to be”; **No. 23, 1975**
 (Direction to comply with conditions of authority for protection of environment.)
- (ii) by omitting from section 120 (1) the word “, direct” and by inserting instead the words “an instrument in writing directing”. **Sec. 120.**
 (Direction to comply with conditions of authority for protection of environment.)

11. Part VIII of the Mining Act, 1973, is amended by omitting section 124 (1) (a) and by inserting instead the following paragraphs :— **Further amendment of Act No. 42, 1973.**
 (Part VIII.— Compensation.)

- (a) shall be made in the manner prescribed; **Sec. 124.**
 (Assessment of compensation.)
- (a1) shall not be made until after either—
- (i) if there are ten or more persons who appear to the warden to be interested in the assessment—notice in the approved form is published in a newspaper circulating generally in the State and in a newspaper, or more than one newspaper, circulating in the locality in which the land concerned is situated; or
- (ii) in any case—notice in the approved form is served on each person who appears to the warden to be interested in the assessment.

12. Part IX of the Mining Act, 1973, is amended by omitting from section 153 (3) the matter “165” and by inserting instead the matter “159”. **Further amendment of Act No. 42, 1973.**
 (Part IX.— Legal Proceedings.)

Sec. 153.
 (The hearing of the appeal.)

13.

No. 23, 1975 **13.** Part X of the Mining Act, 1973, is amended—

Further
amendment
of Act No.
42, 1973.
(Part X.—
Miscel-
laneous.)

Sec. 171.
(Minister
may direct
survey of
land to be
carried out.)

- (a) (i) by omitting from section 171 the words “, by instrument in writing, direct the applicant or the registered holder of the authority, as the case may be,” and by inserting instead the words “cause to be served on the applicant or the registered holder of the authority, as the case may be, an instrument in writing directing him”;
- (ii) by inserting in section 171 after the word “concerned” the words “, and the applicant or the registered holder, as the case may be, shall comply with the direction”;

Sec. 172.
(Removal
of mining
plant.)

- (b) (i) by omitting from section 172 (2) (b) the word “required” and by inserting instead the word “directed”;
- (ii) by omitting from section 172 (2) (b) the words “served on him”;
- (iii) by inserting after section 172 (2) the following subsection :—

(2A) Where the Minister gives a direction to a person under subsection (2) (b), the Minister shall cause to be served on that person a notice setting out the details of the direction, and the direction shall have effect from the date on which the notice is served.

- (iv) by omitting from the definition of “mining plant” in section 172 (8) the words “plant machinery” and by inserting instead the words “plant, machinery”;

(c)

Mining (Amendment).

- (c) by inserting in section 184 (1) (a) after the word "area" the word " or";
- No. 23, 1975
Sec. 184.
(Powers of inspectors.)
- (d) by inserting after section 189 (1) (b) the following words :—
- Sec. 189.
(Offence of prospecting, etc., without authority.)
- Penalty: \$2,000 for each day on which the offence continues.

14. Part XI of the Mining Act, 1973, is amended—

Further amendment of Act No. 42, 1973.
(Part XI.—Regulations and Rules.)

- (a) (i) by inserting in section 195 (2) (c) after the word "registrars" the words " , honorary rangers, persons authorised under section 26 (6A)";
- Sec. 195.
(Regulations.)
- (ii) by omitting from section 195 (2) (f) the words "or mining leases" and by inserting instead the words " , mining leases or mining purposes leases";
- (iii) by omitting section 195 (2) (o) and by inserting instead the following paragraphs :—
- (o) authorising the refund of the whole or any part of—
- (i) any fee paid under this Act; or
- (ii) any fee, deposit or rent paid under the Mining Act, 1906, other than a fee, deposit or rent paid in connection with an application deemed by the Coal Mining Act, 1973, to be an application for the grant of a concession;

(o1)

Mining (Amendment).

No. 23, 1975

(o1) determining the person to whom a refund referred to in paragraph (o) is payable, and, in particular, providing that such a refund of any fee, deposit or rent referred to in paragraph (o) (i) or (ii) and paid in connection with an application for an authority is payable to the applicant for the authority;

Sec. 196.
(Exercise of power under sec. 195.)

(b) by inserting after section 196 (2) the following subsection :—

(3) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by any person or body specified therein.

Sec. 197.
(Power to make rules of practice.)

(c) by omitting from section 197 (1) (a) the word “warden’s” and by inserting instead the word “wardens”.

Further amendment of Act No. 42, 1973.
(Second Schedule.)

15. The Second Schedule to the Mining Act, 1973, is amended—

Para. 9A.

(a) by inserting after paragraph 9 the following paragraph :—

Saving of notifications under sec. 10 of State Coal Mines Act, 1912.

9A. A notification in force under section 10 of the State Coal Mines Act, 1912, immediately before the commencement shall be deemed to be a notification in force under that section as amended by the Coal Mining Act, 1973, exempting from the operation of Parts IV and V of this Act the lands to which the notification relates.

(b)

Mining (Amendment).

- (b) (i) by omitting from paragraph 14 (3) the word "duly" wherever occurring; No. 23, 1975
- (ii) by omitting from paragraph 14 (4) the matter "and 46" and by inserting instead the matter ", 46 and 54 (1)"; Para. 14.
(Authority to prospect, etc., deemed to be prospecting licence in certain cases.)
- (iii) by omitting from paragraph 14 (5) (a) the word "and" where secondly occurring;
- (iv) by omitting from paragraph 14 (5) (b) the word "prescribed." and by inserting instead the words "prescribed; and";
- (v) by inserting after paragraph 14 (5) (b) the following matter :—
(c) section 54 (1) do not apply.
- (vi) by omitting from paragraph 14 (7) the word "duly" wherever occurring;
- (vii) by inserting in paragraph 14 (8) after the words "application for" where firstly occurring the words "the renewal of";
- (c) by omitting from paragraph 15 (3) and (4) the word "duly" wherever occurring; Para. 15.
(Exploration licenses.)
- (d) by omitting from paragraph 16 (5) and (10) the word "duly" wherever occurring; Para. 16.
(Mining leases.)
- (e) by omitting from paragraph 17 (2) and (7) the word "duly" wherever occurring; Para. 17.
(Mining purposes leases.)
- (f) (i) by inserting in paragraph 18 (1) after the word "Act" where firstly occurring the words ", or a consent entitling any person to construct and use works upon and in any lands given under section 28 or 60 of the 1906 Act,"; Para. 18.
(Consents.)

(ii)

Mining (Amendment).

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(ii) by inserting in paragraph 18 (3) after the word "mine" the words ", or to construct and use works,";

(iii) by inserting in paragraph 18 (3) after the matter "28," the matter "60,";

Para. 20.
(Bona fide
mining
operations.)

(g) by inserting at the end of paragraph 20 the following subparagraph :—

(2) Section 77 (1) (c) does not apply in relation to bona fide mining operations commenced before the commencement, if the provisions of section 70 (12) (f) of the 1906 Act were complied with in relation thereto.

Savings and
transitional
provisions.

16. (1) Section 24 (5) of the Mining Act, 1973, as amended by section 6 (a) (ii), applies to and in respect of applications made before, and pending at, the date of assent to this Act, as well as to applications made after that date.

(2) An amendment made by section 8 (section 8 (k) excepted) does not affect, or apply to or in respect of, an application lodged or made under the Mining Act, 1973, before the commencement of that amendment.

(3) Nothing in section 8 (k) applies to an application that was made under the Mining Act, 1906, and was refused after the commencement of the Mining Act, 1973, but before the date of assent to this Act.

(4) An amendment made by this Act does not affect, or apply to or in respect of, a direction, order, requirement, notice or instrument given, made, served, published or lodged before the commencement of that amendment.

(5)

Mining (Amendment).

(5) Without affecting the generality of subsection ^{No. 23, 1975} (4), a direction in force under section 24 (2) of the Mining Act, 1973, immediately before the date of assent to this Act shall be deemed to have been given under section 24 (2) of that Act, as amended by section 6 (a) (i).

(6) Nothing in section 15 applies to an application that was made under the Mining Act, 1906, and was refused after the commencement of the Mining Act, 1973, but before the date of assent to this Act.