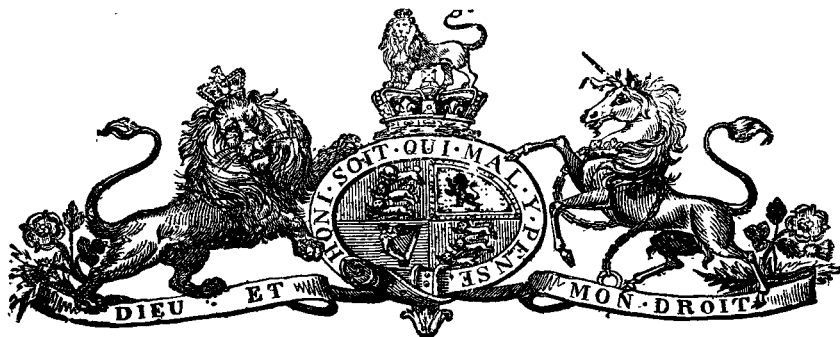


# NEW ZEALAND



ANNO VICESIMO PRIMO ET VICESIMO SECUNDO

VICTORIÆ REGINÆ,

No. 74.

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Title.

**AN ACT to make provision for the management of Gold Fields in the Colony of New Zealand.***[Reserved for the signification of Her Majesty's pleasure thereon, 19th August, 1858.]*

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

Interpretation.

I. In the construction, and for the purposes of this Act, the following terms shall have the respective meanings hereby assigned to them, if such meanings be not inconsistent with the context or subject matter thereof; that is to say—

The verb “Mine” shall be understood to include any mode or method of working whatsoever whereby the soil or earth, or any rock or stone may be disturbed, removed, carted, carried, washed, sifted, smelted, refined, crushed or otherwise dealt with for the purpose of obtaining Gold, whether the same may have been previously disturbed or not.

The word “Gold” shall signify as well any Gold as any earth, clay, quartz, stone, mineral, or other substance containing Gold, or having Gold mixed therein, or set apart for the purpose of extracting Gold therefrom.

The words “Gold Mine” and “Gold Field” shall mean that part of the Waste Lands of the Crown in the Colony, on which any persons are or may be actually engaged in mining for Gold, and which shall be proclaimed to be Gold Fields as hereinafter provided.

The word “Claim” shall mean the portion of land which each person or party shall be entitled to occupy, or to occupy and mine in, under any Miner's Right, License, or Lease, to be issued under the provisions of this Act.

The expression “Holder of a Miner's Right,” or “Holder of a Business License,” shall mean the person in whose favor the same respectively shall have been issued.

The word “Business” shall mean and include any profession, trade, calling or occupation (except mining), and any vending or disposing of any goods, merchandise or chattels, whether by hawking or in any other manner.

The words “authorised persons” shall mean and include all holders of any License or Lease, Ministers of Religion, and Schoolmasters, and any Warden or Commissioner for the Gold Fields, or Constable, or other person employed exclusively in the Government

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service, and the servants of such persons respectively there residing with and in the actual employment of any of them, and all females and all children under the age of fourteen years who shall only reside and not mine for Gold upon any Gold Field.

## OCCUPATION OF GOLD FIELDS.

II. It shall be lawful for the Governor from time to time by Proclamation to constitute and appoint any portion of the Colony, to be a "Gold Field" under the provisions of this Act, and the limits of such Gold Field from time to time to alter as occasion may require, and also if he shall see fit to revoke the Proclamation by which such Gold Field shall have been constituted; and whenever any District shall have been proclaimed a "Gold Field," the same shall be subject to the provisions of this Act.

Governor to proclaim district to be Gold Fields.

III. It shall be lawful for the Governor to cause documents to be issued, each of which shall be called "The Miner's Right" and shall be granted to any person applying for the same upon payment of the sum of One Pound, and every such document shall be dated on the day and at the place of issuing the same, and shall be in force for the period of twelve months from the date thereof, and shall contain the Christian and Surname of the person in whose favour the same shall be issued.

Miners' rights to be issued.

IV. Every Miner's Right to be issued as aforesaid shall during the continuance thereof, subject to the provisions of this Act, and to the Rules and Regulations to be made as herein provided, authorise the holder to mine for Gold upon and to occupy for mining purposes and for residence (except as against Her Majesty) so much of the Waste Lands of the Crown comprised in any Gold Field as may be prescribed by such Rules and Regulations.

Effect of Miners' rights.

V. It shall be lawful for the Governor in Council, subject to the provisions of this Act, and to such Rules and Regulations as he may think fit to make for the purpose, to cause Licenses to be issued, which shall be in force for the period of twelve months from the date thereof respectively, authorising the Holder to occupy Waste Lands of the Crown for the purpose of carrying on business upon any Gold Fields, and the fees to be paid for every such License shall be Five Pounds: Provided always, that no person shall be entitled under this Act, or any Rules or Regulations to be made in pursuance thereof, to occupy, except under a Lease, more than twenty perches of land.

Business licenses may be issued.

VI. It shall be lawful for the Governor to License any person to sell, or to License any house for the sale of spirituous liquors, wine, ale, beer, or porter, in any quantity, in any Gold Field, at such times, in such manner, and upon such

Governor may license for the sale of spirits, &c.

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terms and conditions, and upon payment of such fees as the Governor may think fit; and no license for the sale of any spirituous liquor, wine, ale, beer, or porter, in any quantity, within any Gold Field, or within three miles from the boundaries thereof, shall be issued except under the authority of this Act; and every person who shall sell any spirituous liquor, wine, ale, beer, or porter, in any Gold Field, or within three miles of any boundary thereof, except he be Licensed for the purpose under this Act, shall forfeit and pay any sum not exceeding Fifty Pounds.

Mining Leases may be granted.

VII. It shall be lawful for the Governor in Council to demise to any person, for any term not exceeding fifteen years from the making of the Lease, any auriferous Crown Land for mining purposes, and also to grant water rights and other easements for such purposes, and to fix the amount to be paid by way of Rent or Royalty for the same respectively: Provided always that no such Lease shall be granted until the expiration of three months after notice of the intention to grant the same shall have been published in the *Government Gazette*, and at least one of the local Newspapers best calculated, in the opinion of the Governor, to give publicity to the same amongst the persons specially interested.

Governor in Council may make regulations for granting leases.

VIII. It shall be lawful for the Governor in Council, from time to time, to make such Regulations, not being contrary to the provisions of this Act, as he shall think fit, for regulating the granting of Leases for mining purposes, and the terms and conditions on which such Leases shall be granted, and such regulations from time to time to alter or abolish.

Certain lands exempted.

IX. Nothing hereinbefore contained shall authorise any person to occupy as aforesaid any Crown Land which shall have been exempted by the Governor from the operations of mining, or which shall have been applied to any public use or purpose, or be lawfully and *bona fide* used as a Garden or Orchard, or for any race or dam, or for any house, outhouse, shed, or other building, or to cut or remove from such Crown land any trees growing thereon, or to cut or construct any race or dam, through or upon any such Crown Land, but nevertheless it shall be lawful for the Governor to authorise the holders of Miner's Rights to occupy under such rights and also to cut and construct races and dams for the purposes aforesaid through or upon any Crown Lands which may have been so exempted or applied as aforesaid, subject to such conditions and restrictions as the Governor shall impose.

Power to cancel pastoral licenses extending over Gold Fields.

X. When any Gold Mine or Gold Field shall have been discovered upon any Crown Lands then under lease or license for pastoral purposes, it shall be lawful for the Governor to suspend the said lease or license so far only as may be necessary for the accommodation of the horses and cattle, required for the subsistence and convenience of the persons holding "The Miner's Right" and Licences and Leases under this Act, and for

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the supply of water to the said Gold Field and otherwise for effectually working the said Gold Mine or Gold Field, and thereupon to return or remit as the case may require such portion of the rent of the Lessee of the said land as may be thought reasonable and just, and also to pay him out of the revenue derived from the Gold Mines or Gold Fields of the Colony full compensation for loss if any be sustained by him by reason of such suspension, and such compensation shall be ascertained by the appointment of two indifferent persons, one to be chosen by the Governor and the other by the holder of such lease or license, or by an Umpire to be chosen by such two Appraisers.

XI. It shall also be lawful for the Governor in Council, subject to the provisions of this Act, to make rules and regulations relating the terms and conditions upon which Miner's Rights shall be granted, and the forms of such Miner's Rights, and of Licenses and Leases, to be issued under this Act, and the modes, times, and places of the issue thereof, and also touching the extent and position of any claim, and the conditions under which it shall be worked, held, assigned, or forfeited, the application and use of machinery, and all such other rules and regulations relating to Mining under Miner's Rights or otherwise, in any Gold Field, as he may deem most beneficial.

*Governor in Council may make rules regulating mining in Gold Fields.*

## LOCAL LEGISLATION.

XII. Upon petition of not less than one hundred persons holding Miner's Rights or Leases under this Act at any Gold Field, and having held such rights, or leases for not less than three Calendar Months, it shall be lawful for the Governor in Council, by proclamation, to declare such Gold Field or any part thereof, containing not less than one hundred persons holding Miner's Rights or leases to be a district for the purpose of forming a "Mining Board," with the powers and authority hereinafter described, and to declare the name of such district, and define the limits thereof, and from time to time to alter such limits and make others, and to revoke such proclamation if he shall think fit; and after the publication of any such proclamation the locality so described shall be and become a "Mining District" for the purposes aforesaid.

*District may be proclaimed for purpose of forming "Mining Boards."*

XIII. The Governor, by order in Council, shall from time to time prescribe what shall be the number of Members of each such Mining Board; what qualification shall be required to render them eligible; who shall act as Returning Officer; when, where, and in what manner the elections of such Members shall be conducted; in what manner erroneous returns shall be corrected; for what period such members shall be elected; when and in what manner vacancies in any Mining Board shall be created, and how the same shall be filled up; and generally shall make provision for ensuring the orderly, effective, and impartial conduct of the Elections of Members of such Mining Board.

*Governor, by order in Council, to regulate Elections of Members of Mining Boards.*

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Powers of Mining  
Boards.

XIV. Every Mining Board shall, subject to the provisions of this Act, have power to frame rules and regulations touching their own proceedings, and for regulating the quantity and form of land which may be occupied under any Miner's Rights, or Business Licenses, and the conditions under, and mode in which such land shall be worked, assigned, or forfeited; and all such other rules and regulations, relating to mining under Miners' Rights, and applicable to the "Mining District" for which they may be elected, as they shall deem most beneficial: Provided always that when any "Mining Board" shall be established in any "Mining District" the power of the Governor to make rules and regulations for such District for any of the purposes mentioned in this section shall cease: Provided also that no such rule shall be in force until it shall have received the assent of the Governor, and been published in the *New Zealand Gazette*, and at least one of the local newspapers best calculated, in the opinion of the Governor, to give publicity to the same amongst the persons specially interested.

## ADMINISTRATION OF JUSTICE.

Governor to constitute  
Wardens' Courts.

XV. It shall be lawful for the Governor, by Order in Council, from time to time to constitute for any Gold Field, or for any part thereof, Wardens' Courts for the administration of Justice therein, and to appoint Wardens as Judges of such Courts, with power to act alone or with Assessors or Juries, and in such manner, and to exercise all or any of the powers hereinafter mentioned as the Governor shall think fit to direct.

General powers of  
Courts.

XVI. It shall be lawful for every such Court, subject to the provisions of this Act, to hear and determine all complaints respecting boundaries of claims, or respecting any encroachments upon the same, to enquire into and decide upon breaches of Rules and Regulations of Mining Boards, or of any Laws Rules or Regulations relating to the Gold Fields in force for the time being, and to inflict the Penalties imposed by the same, to entertain Partnership questions, and generally to hear and determine all disputes between Miners relating to Gold mining, and to ascertain damages, and award compensation, as hereinafter more particularly provided.

Summary powers of  
Courts to remove  
encroachers and award  
damages.

XVII. It shall be lawful for any such Court, upon the complaint of any person holding the Miners' Right, or any License or Lease under the provisions of this Act, that any other person has encroached upon the claim of the complainant to proceed forthwith to the spot for the purpose of investigating the matter of such complaint, and to enquire into the case, and, on view, or upon the Oath of any Witness, to determine the same in a summary way; and if it shall appear to such Court that the person so complained against has so encroached, by occupying, mining, or undermining such claim, or unlawfully interfered therewith in any other way whatsoever, whereby the right, title, or interest of such applicant in or to such claim shall have been

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injuriously affected, it shall be lawful for such Court to adjudge accordingly, and to assess and award to the complainant the amount of damage, if any, sustained by the complainant, and to cause the encroaching persons, his servants, implements, goods, and chattels to be removed from the claim so encroached upon.

XVIII. It shall be lawful for such Court, upon the hearing of any complaint as aforesaid, upon proof of any Gold having been unlawfully or improperly removed from any claim, to cause any Gold which may have been so taken or removed, to be summarily seized and delivered to the person whose claim has been encroached upon.

To seize and restore Gold unlawfully removed.

XIX. It shall be lawful for any such Court, upon any complaint made by the holder of any Miner's Right, Lease, or License as aforesaid, that he is or has been whilst such holder engaged in a Gold Mining Partnership with any other person within the Mining District wherein the Land held or occupied under such Miners' Right, Lease, or License is situated, and that a Balance is due to him on account thereof, or upon the application of any such holder so engaged in such Partnership that the Partnership may be dissolved, and that the sums respectively due to the several Members thereof may be ascertained and paid, to issue a Summons requiring such Members of the said Partnership as he shall deem necessary, to appear before such Court, and upon such appearance, or in default thereof, after service of such a Summons, to procure and compel the same as hereinafter provided, or in the absence of such Members as shall not appear to be necessary parties to such case, to enquire into and hear such complaint or application, and order that such Partnership shall be dissolved, and ascertain and determine the amount to be paid by any Member or Members thereof, and to exercise all such powers in making and enforcing any award, judgment or order in the matter, as are hereinafter more particularly provided.

To hear and decide Partnership questions.

XX. Every such Court shall have power to summon Witnesses, and Parties necessary to any case to be heard by such Court, and to administer an Oath to any such Witness, and any Party to the suit, and to issue Warrants to compel the attendance of any such Witnesses, Parties, Jurymen, and Assessors; and no proceedings taken before any such Court shall be quashed for want of form, or be removed into the Supreme Court by *certiorari* or otherwise.

Powers of Courts to summon Witnesses.

XXI. Before any Jurymen or Assessor shall proceed to hear any case in any such Court, the Judge thereof shall administer to him an Oath to the effect that he will well and truly enquire into the matter of complaint, or in dispute then submitted, and a true finding and decision give, according to the evidence, and thereupon the Court shall proceed to hear such complaint.

Judge to administer Oath to Jurymen and Assessors.

XXII. Every such Court shall have power in every case brought before it, to make such decree or give such Judgment as shall be just, without regard to any Rule of Law, or the

Decision of Courts to be irrespective of Rules of Law, &c.

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practice of any Court of Law or Equity, and to award damages and reasonable costs, or direct payments to be made to either party: Provided that the amount of damages, payments, and costs, to be made by or to any one party, shall not exceed one hundred pounds.

Judge to keep record of decisions.

XXIII. A Minute of every such Decision shall be entered by the Judge of every such Court in a book to be kept for that purpose, and shall be signed by the persons who concur in making such decision, and no formal order shall be necessary, and a copy of such minute shall, on demand, be given to any of the parties interested therein.

Decisions to be enforced by summary proceeding.

XXIV. Every Order, Decree, or Judgment, made by any such Court, shall be carried out and enforced in the same manner as any Order or Judgment of a Resident Magistrate may be enforced according to the law for the time being in force for regulating summary proceedings before Justices of the Peace.

Appeal.

XXV. If any person ordered, decreed, or adjudged, under the authority of this Act, to forfeit or pay any fine, or penalty, damages, or compensation, (exclusive of costs) amounting to twenty pounds, or upwards, shall feel aggrieved by any such Order, Decree, or Judgment, and shall, within five days after the making of the same, give notice of Appeal, and of the matter and ground thereof, to the Court, and to the other party to the case in respect whereof the Order, Decree, or Judgment to be appealed against was made, and also, shall, within seven days, give sufficient security by Bond, or otherwise, to the satisfaction of such Court, to appear and try such Appeal, and abide the judgment of the Court of Appeal thereon, and to pay such costs as shall be awarded, it shall be lawful for the person so feeling aggrieved to appeal to the District Court, having jurisdiction over the District within which the matter in dispute shall have arisen, at the first sitting thereof, which shall be holden after the expiration of ten days next after the security shall have been given as aforesaid, and upon such security being given the Appellant if in custody shall be forthwith liberated: Provided always, that if there be no District Court having such jurisdiction, an Appeal in like manner shall lie to the Supreme Court, at the first sitting thereof, which shall be held after the expiration of ten days as aforesaid, in the Province within which the matter in dispute shall have arisen.

Power to suspend working of claims.

XXVI. It shall be lawful for any such Wardens Court, whenever it shall seem fit or requisite so to do, to order the Working of any claim affected by any matter in dispute brought before it, to be suspended until such matter shall have been investigated and adjudicated upon as herein provided.

Governor may make rules of procedure and Court regulations for orderly conduct of business.

XXVII. It shall be lawful for the Governor in Council, from time to time, to make, alter, and revoke rules regulating the procedure and practice in the Courts to be established



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under this Act, and in cases of Appeal therefrom; and also to fix the fees to be taken in respect of proceedings therein, and it shall be lawful for the Wardens or Judges of the said Courts to prescribe such regulations as may from time to time be necessary for the orderly transaction of the business of the said Courts respectively.

## PENALTIES, ETC.

XXVIII. Any person not being the holder of a Miner's Right or of a Lease under this Act, who shall mine for gold upon any proclaimed gold-field, and any person who shall employ any such unauthorised person so to mine, and any person not being the holder of a Miner's Right, License, or Lease, duly empowering him in that behalf, and not being an authorised person within the meaning of this Act, who shall occupy any Waste Lands in or become resident upon or at any proclaimed Gold-Field, shall be liable to the penalties following, that is to say:—For the first offence a sum not exceeding Five pounds, for the second, or any subsequent offence a sum not exceeding Ten pounds, nor less than Five pounds.

Persons mining without authority liable to penalty.

XXIX. Any person who shall knowingly mine or employ any person to mine for gold on any land belonging to a private individual, without the consent of the owner thereof, or his duly authorised agent, shall be subject to the like penalties as are mentioned in the last preceding clause.

Penalty for mining on private lands.

XXX. If any person shall forge or alter any "Miners' Right," License, Lease or other document issued under the authority of this Act, with intent to defeat the provisions thereof, or to defraud any person whomsoever, shall be guilty of a Misdemeanour, and on conviction thereof before any Court of competent jurisdiction, shall be subject to fine or imprisonment, with or without hard labour, not exceeding three years, or both, at the discretion of the Court.

Forging Lease, or other document, a Misdemeanour.

XXXI. If any person shall use, or exhibit any forged Miner's Right, License, or Lease, issued or purporting to be issued under the authority of this Act, knowing the same to be forged or if any person shall fraudulently personate the holder of any such Miner's Right, License, or Lease, or shall falsely and fraudulently represent that any servant or other person, is an authorised person within the meaning of this Act, or shall fraudulently use or exhibit as his own, any Miner's Right, License, or Lease, belonging to or granted to any other person or shall use or exhibit as valid a Miner's Right, License, or Lease, which shall have expired, he shall be liable to a penalty for every such offence not exceeding Fifty pounds.

Punishment for personation, &c.

XXXII. Every person committing any breach, whether of omission or commission, of any of the rules or regulations, made under the authority of this Act, shall for every such breach be

Penalty for breach of rules.

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liable to a fine or penalty not exceeding Ten pounds for the first offence, and Twenty pounds for any second or subsequent offence.

Penalty for non-attendance, refusal to be sworn or serve, &c.

XXXIII. If any person summoned to attend the hearing of any suit or matter to be heard or determined under the provisions of this Act, whether as Juryman, Assessor, Witness, or party to the suit having been duly summoned, shall neglect or refuse to attend at such time and place as shall be named in the Summons, or if he shall refuse to be sworn as Witness, or to be sworn or serve as a Juryman or Assessor, it shall be lawful for the Judge of any such Court in any such case, unless some reasonable cause for such non-attendance or refusal, be made to appear to such Judge, to fine such person any sum not exceeding Five pounds as to the Judge shall seem fit.

Penalty for resisting Judge, &c., or encroaching.

XXXIV. If any person shall assault or resist any Judge of any Court constituted under this Act, or any Resident Magistrate, or any other person whilst in the execution of the duties provided to be performed by him under this Act, or if any person having had the boundaries of his claim pointed out by any such Court, shall encroach or trespass upon the claim of any other person, every such person so assaulting, resisting, or encroaching, shall be fined any sum not exceeding Fifty pounds, with imprisonment till payment, in some Gaol or House of Correction, there to remain for any time not exceeding One calendar month for every Five pounds or fractional part of Five pounds so to be paid: Provided that the time of imprisonment shall in no case exceed Six calendar months, and shall cease upon payment of the penalty ordered to be paid together with costs.

Penalty for working claim after order to suspend.

XXXV. If any person after having been ordered to suspend the working of any claim, as hereinbefore provided, shall work such claim, he shall be liable to a penalty not exceeding Twenty pounds.

Penalties, &c., how recoverable.

XXXVI. All proceedings for any infringements in any Gold Field, of the provisions of this Act, or of any rules or regulations to be made in pursuance hereof, shall, if there be any Court constituted under this Act for such Gold Field, be had and taken in such Court, and if there be no such Court, then before a Resident Magistrate or Justice of the Peace, according to the law for the time being in force, for regulating summary proceedings before Justices of the Peace.

## REVENUE AND EXPENSES.

Rents, &c., to be paid to Receiver of Land Revenue.

XXXVII. All Rents and Royalties which shall be receivable under this Act shall be paid to a Receiver of Land Revenue, and shall for all purposes be deemed to be Revenue and receipts arising from the sale, letting, disposal and occupation of the

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Waste Lands of the Crown, and shall be chargeable in the first instance with all the costs, charges, and expenses of carrying this Act into execution.

XXXVIII. All the costs, charges, and expenses incident to the management, and administration of the Gold Fields of the Colony, and to the construction and repair of works of public utility and convenience therein, or leading thereto, shall be from time to time regulated in such manner as shall be directed by the Governor in Council, and shall be paid out of the Revenue and Receipts to arise from Fees, Fines, Rents, Royalties, or in any other manner howsoever under this Act.

Expenses, how to be regulated and charged.

XXXIX. Provided always that whenever the Governor shall have delegated to the Superintendent of any Province, as hereinafter provided, all or any the powers vested in the Governor, or in the Governor in Council, by this Act, it shall be lawful for the Governor, by order in Council, to appoint and declare that all the costs, charges, and expenses incident to the management and administration of the Gold Fields within such Province shall be regulated by Acts or Ordinances to be passed by the Superintendent and Provincial Council of such Province.

Costs, &c., of management of Gold Fields when to be regulated by Acts or Ordinances of Provincial Councils.

## GENERAL PROVISIONS.

XL. In all cases where no provision, or no sufficient provision, is made by this Act, it shall be lawful for the Governor in Council, from time to time, for the purpose of facilitating or more effectually carrying into execution any of the objects thereof, to make and prescribe all such rules and regulations touching any of the matters intended to be hereby provided for, and touching all matters having reference to the provisions of this Act, as to the said Governor in Council may seem expedient, and such rules and regulations from time to time to alter and revoke, as to the Governor in Council may appear requisite.

Governor in Council may make regulations for carrying this Act into effect.

XLI. It shall be lawful for the Governor in Council, under his hand and the Public Seal of the Colony, from time to time to delegate to the Superintendent of any Province, or to such other person as the Governor may deem fit, all or any of the powers vested in the Governor, or the Governor in Council, by this Act, except the powers conferred by Sections 7, 8, 27, and 40, thereof, subject or not to any limitations or restrictions as he may think fit, and in like manner to alter or revoke any such powers.

Governor may delegate powers under this Act.

XLII. Every rule or regulation made under the authority of this Act, shall be laid before both Houses of the General Assembly within twenty-eight days from the issuing thereof, if the General Assembly be then in session, and if not, then within fourteen days after the commencement of the next session thereof.

Rules, &c., to be laid before General Assembly.

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Royal Prerogative not  
interfered with.

**XLIII.** Nothing in this Act contained shall be deemed to abridge or control the Prerogative, Rights, and Powers, of Her Majesty the Queen in respect of the Gold Mines and Gold-Fields of the Colony,

Commencement of  
Act.

**XLIV.** This Act shall not come into operation until Her Majesty's pleasure shall have been taken thereon, and the same shall have been confirmed by Her Majesty, with the advice of the Privy Council, and a Proclamation of such confirmation having been given, shall have been made by the Governor of the Colony.

Short Title.

**XLV.** The Short Title of this Act shall be "The Gold Fields Act, 1858."