

New Zealand



ANALYSIS

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1941, No. 16

AN ACT to amend the Mining Act, 1926.

Title.

[13th October, 1941

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

1. This Act may be cited as the Mining Amendment Act, 1941, and shall be read together with and deemed part of the Mining Act, 1926 (hereinafter referred to as the principal Act).

Short Title.

See Reprint
of Statutes,
Vol. V, p. 943

Appointment
of Electrical
Inspector
of Mines.

2. (1) For the purposes of the principal Act there may be appointed as an officer of the Public Service a fit person to be known as the Electrical Inspector of Mines.

(2) It shall be the function of the Electrical Inspector of Mines to inspect electrical apparatus used in mining operations, and for the purpose of enabling him more effectually to carry out his duties the provisions of sections two hundred and eighty-six and two hundred and ninety-nine of the principal Act shall, with the necessary modifications, apply as if he were an Inspector of Mines.

(3) Section four of the principal Act is hereby consequentially amended by adding to the definition of the term "Inspector of Mines", the words "but does not include the Electrical Inspector of Mines".

Restricting
employment
of youths
on dredges.

3. (1) No male person under the age of sixteen years shall be employed on or about any dredge engaged in mining operations.

(2) The provisions of this section shall be in addition to and not in derogation of any provisions of the principal Act restricting the employment of young persons.

As to
subdivision of
business-site
and residence-
site licenses.

4. (1) Any holder of a business-site license or a residence-site license that has not been subdivided before the passing of this Act may, subject to any condition contained in the license, subdivide his interest in the land to which the license relates and transfer any subdivision thereof.

(2) For the purpose of giving effect to any such transfer, the Warden, pursuant to an application made in that behalf by the licensee or by any transferee, and on payment of the prescribed fees, shall, subject to the provisions of this section, cancel the original license and issue new licenses in respect of the several subdivisions for the residue of the term of the original license and, save for any necessary modifications, subject to the same terms and conditions.

(3) Where any transfer of a subdivision of an interest in land subject to a business-site license or a residence-site license has been registered before the passing of this Act the licensee or the registered proprietor of any such subdivision may apply to the Warden for a new license.

(4) In respect of any application under the last preceding subsection the following provisions shall apply:—

(a) The applicant shall produce with his application the consent in writing of every person who is the registered proprietor of any subdivision of an interest in the land to which the license relates or, in the event of such consent not being obtainable in any case, proof to the satisfaction of the Warden that not less than fourteen days' notice in writing of the application has been given to the person concerned:

(b) Every such notice shall be in the prescribed form, and service thereof may be effected in such manner as may be prescribed:

(c) If any person who has been served with a notice as aforesaid objects to the application within fourteen days from the date of such service, the Warden shall not grant the application until the objector has been given a reasonable opportunity of being heard in support of the objection and in any such case may, if he thinks fit, refuse the application:

(d) Subject to the provisions of this section, the Warden, on payment of the prescribed fees, shall cancel the original license, and issue new licenses in respect of the several subdivisions for the residue of the term of the original license and, save for any necessary modifications, subject to the same terms and conditions.

(5) No transfer of any subdivision or part of any subdivision to which subsection three hereof relates shall hereafter be registered until the original license is cancelled and new licenses issued in accordance with the last preceding subsection.

(6) In respect of any application under this section the following provisions shall apply:—

(a) The application shall be made in the prescribed manner and shall specify or identify the area, dimensions, and situation of each of the several subdivisions:

(b) The Warden may, if he thinks fit, direct that each of such subdivisions shall be surveyed before the application is granted:

(c) Before granting the application the Warden shall be satisfied—

(i) That the license to be cancelled is validly subsisting; and

(ii) That no proceedings are pending in respect of the abandonment or forfeiture of the license; and

(iii) That all sums in respect of rent, fees, or penalties, or otherwise owing to His Majesty in respect of the license have been fully paid.

(7) Any license issued under this section shall be subject to all encumbrances, liens, and interests registered against the cancelled license and affecting any interest in the land to which the new license relates. The Registrar shall record on the new license all such encumbrances, liens, and interests in the order of their registered priority.

(8) The license fee payable in respect of any license issued under this section shall be the same as would have been payable if it had been granted at the date of the issue of the cancelled license:

Provided that for the purpose of assessing such fee in any case where the cancelled license was granted subject to the provisions of section thirty-six of the Statutes Amendment Act, 1940, the unimproved value of the land shall be the unimproved value as at the date of the granting of the new license.

(9) Nothing in this section shall be deemed to affect the provisions of the Public Works Act, 1928, section three hundred and twenty-two of the Municipal Corporations Act, 1933, or any other enactment in respect of the subdivision of land.

5. If any license, certificate, or other document issued under the principal Act has become defaced or dilapidated it may be surrendered to the Registrar, who shall cancel the document and issue a duplicate thereof in such manner and upon such conditions as may be prescribed.

1940, No. 18

See Reprint
of Statutes,
Vol. VII, p. 622
1933, No. 30

Provisions as
to defaced
licenses, &c.

6. The provisions of the second proviso to section one hundred and forty-four of the principal Act, as set out in section thirty-five of the Statutes Amendment Act, 1940, and of subsections one, two, and three of section thirty-six of the Statutes Amendment Act, 1940, shall not apply or be deemed at any time heretofore to have applied to the renewal of any business-site license or residence-site license that was granted before the passing of the last-mentioned Act.

Provisions of sections 35 and 36 of Statutes Amendment Act, 1940, not to apply to renewals of existing licenses.
1940, No. 18

7. Paragraph (w) of section one hundred and sixty-nine of the principal Act is hereby amended by omitting the words "and the practice and procedure of that Court", and substituting the words "including the power of reserving any question for the opinion of the Supreme Court, and the practice and procedure of the Warden's Court".

Section 169 of principal Act amended.

8. Subsection three of section two hundred and eighty-three of the principal Act is hereby amended by inserting, after the words "New Zealand", the words "an Inspector of Mines".

Section 283 of principal Act amended.

9. (1) The power to appoint workmen's inspectors conferred by section two hundred and eighty-nine of the principal Act may be exercised in any case by the appointment of a qualified person as a sole inspector, and in the application of the said section to any such case the provisions as to two inspectors shall be read as references to the sole inspector.

Provisions as to workmen's inspectors.

(2) The said section is hereby consequentially amended by omitting from subsection one the words "any two persons", and substituting the words "not more than two persons":

(3) The said section is hereby further amended as follows:—

(a) By inserting in subsection one, after the words "experience as miners", the words "or, in the case of persons appointed to inspect a dredge, at least three years' practical experience as workers on a dredge engaged in mining operations":

(b) By omitting from subsection two the words "every month", and substituting the words "every two weeks":

(c) By omitting from subsection three the words "and stating the grounds of such belief", and substituting the words "or injurious to the health of the workmen employed therein, and stating the grounds of any such belief".

Section 295 of principal Act amended.

10. Section two hundred and ninety-five of the principal Act is hereby amended by repealing subsection two thereof.

Appeals to be by way of rehearing unless parties otherwise agree.

11. (1) Except as otherwise provided by the next succeeding subsection, every appeal under section three hundred and sixty-six of the principal Act that is on matter of fact alone, or of both fact and law, shall be by way of a rehearing of the original proceedings, in like manner as if the proceedings had been properly and duly commenced in the appellate Court:

Provided that the Judge of the appellate Court may, in his discretion, or on the application of either of the parties, and upon such terms as to costs or otherwise as he thinks fit, direct any issue of fact to be tried by jury.

LED. 12

No. a.

See Reprint of Statutes, Vol. II, p. 98

(2) If both parties agree, such appeal shall be held in manner provided by section one hundred and sixty-six of the Magistrates' Courts Act, 1928, and the provisions of that section shall apply, and for that purpose the reference in that section to the Magistrate shall be read as a reference to the Warden.

1934, No. 26

(3) Section thirty-four of the Mining Amendment Act, 1934, is hereby amended by omitting from subsection one the words "one hundred and sixty-six".

Accidents to dredges to be reported to Inspector.

12. Section thirty-two of the Mining Amendment Act, 1937, is hereby amended by inserting, after subsection five, the following subsection:—

“(5A) The dredgemaster or other person in charge of the dredge shall forthwith report in writing to the Inspector any accident or serious leak connected with the pontoon of the dredge and every case of the dredge sinking.”

Warden's Court not to have jurisdiction in claims for damages in respect of death or bodily injury.

13. (1) Notwithstanding any provisions of the principal Act the Warden's Court shall have no jurisdiction to hear or determine any action claiming damages or compensation in respect of the death or bodily injury of any person.

(2) Any such action commenced before the passing of this Act may be continued as if this section had not been passed.

14. Notwithstanding any provisions of the principal Act where any person is the holder of several mineral licenses granted in respect of the same mineral and is actively engaged in mining operations on the land comprised in any one of such licenses and has installed and is operating plant and equipment for the treatment of ore obtained from that land, the Warden, with the consent in writing of the Minister, and upon or subject to such conditions as the Warden thinks fit, may protect any one or more of the other licenses held by the licensee if the Warden is of opinion that such mineral does not exist on the land subject to the license to be protected in sufficient quantity to justify the installation of further plant and equipment for the treatment of ore obtained from that land.

Mineral
licenses may
be protected
in certain
cases.

AMB. 19
No. 4

15. (1) Every person in charge of the electrical apparatus in any mine shall be the holder of a mine electrician's certificate under this Act.

Provision as to
appointment
of mine
electricians.

(2) The Governor-General may by Order in Council make regulations for all or any of the following purposes:—

- (a) Prescribing the subjects for and conditions relating to examinations for mine electricians' certificates:
- (b) Providing for the times when and the conditions subject to which a deputy for a mine electrician may be appointed:
- (c) Making such other provisions relating to the employment of mine electricians as he thinks fit.

(3) Section two hundred and forty-eight of the principal Act, as amended by section twenty-six of the Mining Amendment Act, 1934, is hereby further amended by omitting from subsection one the words "or dredgemaster", and substituting the words "dredgemaster or mine electrician".

1934, No. 26

(4) Section two hundred and forty-one of the principal Act, as amended by section twenty-three of the Mining Amendment Act, 1937, is hereby further amended as follows:—

1937, No. 19

- (a) By omitting the words "or dredgemasters", and substituting the words "dredgemasters or mine electricians":

(b) By omitting all words after the words "Metalliferous Mines, and", and substituting the words "Six other persons to be appointed by the Governor-General, of whom three shall be holders of first-class mine-managers' certificates, one shall be the holder of a battery superintendent's certificate, one shall be the holder of a Class A dredgemaster's certificate, and one shall be a registered electrical engineer or a registered electrical wireman nominated in that behalf by the Electrical Wiremen's Registration Board constituted under section three of the Electrical Wiremen's Registration Act, 1925".

See Reprint
of Statutes,
Vol. III, p. 74

Repeal.

(5) Section twenty-three of the Mining Amendment Act, 1937, is hereby consequentially repealed.

(6) This section shall come into force on a date to be specified in that behalf in a notice under the hand of the Minister published in the *Gazette*.

Provisions
for levy and
collection of
additional
moneys from
licensees of
dredging
claims.

16. (1) In every case where, after the passing of this Act, a mining license authorizing the dredging of any land (whether Crown land or not) is granted or renewed it shall be deemed a condition attached to the license that the licensee shall be liable to pay an amount calculated and payable in accordance with the provisions of this section.

(2) On the first day of the months of April, July, October, and January in each year that the license continues in force, or within fourteen days thereafter the licensee shall forward to the Under-Secretary of Mines a statement specifying the area dredged under the license during the three months ended on the last day of the preceding month, and an amount calculated at the rate of seven pounds ten shillings for every acre shown in such statement to have been dredged shall thereupon be payable by the licensee to the Crown:

Provided that if the license is granted subject to a condition that the licensee shall take steps in respect of the land or any part thereof comprised in the license to render it fit for agricultural or pastoral purposes, any area in respect of which such steps have been taken, pursuant to the condition, to the satisfaction of the Commissioner of Crown Lands, shall be deemed to be excluded from the provisions of this section.

(3) Every licensee who furnishes a statement under the last preceding subsection that is false or misleading in any material particular shall be deemed to have committed a breach of the conditions of his license and to have committed an offence against the principal Act.

(4) All moneys received pursuant to this section shall be paid into the Public Account to the credit of the Consolidated Fund.

(5) Notwithstanding the foregoing provisions of this section, if the Minister is of opinion that the whole or any part of the land comprised in any license affected by this section is totally unfit for agricultural, pastoral, or afforestation purposes or that any such land will not be injuriously affected by dredging operations, he may, by writing under his hand, on application in writing by the licensee, exempt such land or part thereof from the provisions of this section.

(6) Any amount payable pursuant to this section shall be in addition to any amount payable by way of license fees, compensation, or otherwise howsoever under the principal Act.

(7) Any conditions imposed before the passing of this Act by the Warden or by the Minister requiring the licensee of any dredging claim to pay to the Crown any moneys in addition to the moneys payable as license fees or compensation under the principal Act shall be deemed to have been lawfully imposed, and any moneys collected pursuant to any such condition shall be deemed to have been lawfully collected.
