

New Zealand.



ANALYSIS.

- | | |
|--|---|
| <p style="text-align: center;">Title.</p> <p>1. Short Title.</p> <p style="text-align: center;">PROSPECTING ON LAND AND RESUMPTION OF LAND FOR MINING PURPOSES.</p> <p>2. Provisions relating to prospecting and resumption, how applied.</p> <p>3. All lands in existing mining district open for prospecting, and liable to be resumed for mining purposes.</p> <p style="text-align: center;">(1.) <i>Prospecting.</i></p> <p>4. Grant of prospecting licenses. Conditions to which license subject.</p> <p>5. Compensation to be paid to owner for damage.</p> <p>6. Warden to settle amount if disputed.</p> <p>7. Compensation to be paid or secured before entering on land.</p> <p>8. Lands excepted from prospecting.</p> <p>9. Regulations as to prospecting licenses.</p> <p>10. Repeal.</p> <p style="text-align: center;">(2.) <i>Resumption for Mining Purposes.</i></p> <p>11. Resumption as if taken for a public work.</p> <p>12. Application for resumption.</p> <p>13. Application to be referred to Warden.</p> <p>14. Warden to inquire and report. Costs.</p> <p>15. Deposit to be applied towards costs.</p> <p>16. How payable if deposit insufficient.</p> <p>17. Minister to determine whether land to be resumed.</p> <p>18. Resumption of land. Exceptions.</p> <p>19. Limitation as to subsequent application if land not resumed.</p> <p>20. How compensation to be assessed.</p> <p>21. Compensation to be paid out of goldfields revenue.</p> <p>22. Payment when mining district embraces several districts.</p> <p>23. Arrears of fees, &c., to be deducted from compensation.</p> <p>24. Limitation of sections of principal Act.</p> <p>25. Repeal. Land resumed, &c., to be available after not less than twenty-eight days' notice in <i>Gazette</i>. Prior rights during that period. First Schedule.</p> <p>26. Regulations in respect thereof.</p> <p>27. Special provisions in case of lands other than Crown lands.</p> <p>28. Compensation for auriferous or argentiferous value of land if title to deposits established.</p> | <p style="text-align: center;">SURRENDER OR DETERMINATION OF OUTSTANDING LEASES OR LICENSES GRANTED BY NATIVE OR OTHER OWNERS PRIOR TO ACQUISITION OF LAND BY THE CROWN.</p> <p>29. Provisions subject to which Governor may accept surrender of outstanding leases of Native or other lands.</p> <p>30. Determination of lease by resumption of land for mining purposes.</p> <p>31. Extension of provisions to Tairua land.</p> <p style="text-align: center;">MINE-MANAGERS.</p> <p>32. Appointment of provisional mine-managers.</p> <p style="text-align: center;">WATER-RACES BELONGING TO LOCAL AUTHORITIES.</p> <p>33. Section 115 of principal Act amended.</p> <p>34. Section 118 of principal Act limited.</p> <p style="text-align: center;">MISCELLANEOUS.</p> <p>35. Section 49 of principal Act extended.</p> <p>36. Section 71 of principal Act amended.</p> <p>37. Section 87 of principal Act and section 3 of "Mining Act Amendment Act, 1892," amended.</p> <p>38. Survey to be completed within three months. Repeal.</p> <p>39. Section 129 of principal Act amended.</p> <p>40. Section 149 of principal Act amended.</p> <p>41. Delegation of powers of Inspector of Mines to police.</p> <p>42. Section 313 of principal Act amended.</p> <p>43. Section 314 of principal Act amended.</p> <p>44. Accumulation of dust to be prevented.</p> <p>45. Subsection (16) of section 323 of principal Act amended.</p> <p>46. Assistance towards constructing water-races in Otago District.</p> <p>47. Construction of section 16 of Act of 1895.</p> <p>48. Section 31 of "The Mining Act Amendment Act, 1895," amended.</p> <p>49. Provision for protection of mines at Thames from flooding.</p> <p>50. Validation.</p> <p>51. Extended prospecting and tunnel prospecting licenses not prejudicially affected.</p> <p>52. Subsection (2) of section 3 of "The Mining Act Amendment Act, 1892," amended.</p> <p>53. Special provisions affecting mining on timber lands.</p> <p>54. Prevention of injury to surface of land where mining license granted.</p> <p>55. Agreement with owner for mining purposes in lieu of resumption. Owner entitled to certain revenue.</p> <p>56. Native reserves available for mining purposes in certain cases.</p> <p>57. Appeal.</p> <p>58. Acts repealed or amended. Schedules.</p> |
|--|---|

1896, No. 51.

AN ACT to amend "The Mining Act, 1891."

Title.

[17th October, 1896.]

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

1. The Short Title of this Act is "The Mining Act Amendment Act, 1896," and it shall form part of and be read with "The Mining Act, 1891" (hereinafter called "the principal Act").

Short Title.

PROSPECTING ON LAND AND RESUMPTION OF LAND FOR MINING PURPOSES.

2. The provisions of this Act relating to prospecting and resumption shall, except where otherwise expressly mentioned, apply only to lands which are situate within a now-existing mining district and were alienated from the Crown prior to the twenty-ninth day of September, one thousand eight hundred and seventy-three, or, being Native lands, were alienated from the Native owners thereof to any person other than Her Majesty prior to the thirtieth day of August, one thousand eight hundred and eighty-eight.

Provisions relating to prospecting and resumption, how applied.

3. Notwithstanding anything to the contrary contained in section two hundred and twelve of the principal Act, or subsection five of section three of "The Mining Act Amendment Act, 1892," or elsewhere in either of those Acts or in any other Act relating to mining, it is hereby declared that all such lands as aforesaid shall, without the consent of the owners or occupiers thereof, be open for prospecting for gold and silver, and also be liable to be resumed for mining purposes, subject nevertheless to the provisions hereinafter contained:

All lands in existing mining district open for prospecting, and liable to be resumed for mining purposes.

Provided that nothing in this Act contained shall be construed to in any way affect the rights and privileges of the Crown in respect of any such lands as aforesaid the mining rights in and over which have been or may hereafter be reserved or acquired by or ceded to the Crown.

(1.) *Prospecting.*

4. (1.) With respect to such lands as are hereinbefore declared to be open for prospecting, it shall not be lawful for any person other than the owner or occupier thereof, or any person duly authorised by him to carry on prospecting operations thereon save pursuant to a prospecting license granted by the Warden of the district wherein the land is situate.

Grant of prospecting licenses.

(2.) Every such prospecting license shall authorise the person named therein to prospect for gold or silver in or upon the land specified therein; subject to such terms and conditions and the payment of such fees as the Warden granting the same thinks fit, and subject also to the conditions hereinafter contained.

Conditions to which license subject.

5. The holder of any such prospecting license shall pay to the owner and occupier of the land comprised therein full compensation (according to their respective interests) for all damage that may be done to such land by such holder in prospecting for gold or silver pursuant to the license.

Compensation to be paid to owner for damage.

Warden to settle amount if disputed.

6. The Warden shall, when necessary, assess from time to time the amount of such compensation in such manner as he deems just, and shall have jurisdiction to hear, determine, and enforce all claims in respect thereof.

Compensation to be paid or secured before entering on land.

7. No prospecting license shall be granted unless and until the applicant therefor either has actually paid the aforesaid compensation to the owner or occupier entitled thereto, or has entered into an agreement with such owner or occupier as to such compensation and the payment thereof, or has given security to the satisfaction of the Warden for payment of all claims for compensation as they arise and are determined.

Lands excepted from prospecting.

8. Nothing contained in this Act, or in any such prospecting license as aforesaid, shall authorise the holder of such license to enter upon—

- (1.) Any land actually used as a garden, orchard, vineyard, nursery, plantation, or ornamental pleasure-ground, or used or set apart as a cemetery; nor upon
- (2.) Any land whilst actually under cereal or root crop; nor upon
- (3.) Any land situated within one hundred feet of any spring, artificial reservoir, dam, waterworks, or building; nor upon
- (4.) Any land the owner or occupier whereof satisfies the Warden of the district wherein such land is situate that the same is being prospected for gold or silver with reasonable diligence, and that an average sum of not less than one pound per acre is being expended in so doing; nor upon
- (5.) Any land which is being mined for gold or silver in manner hereinafter provided in subsection five of section eighteen hereof,—

unless in each case the written consent of the owner and occupier of such land is given.

Regulations as to prospecting licenses.

9. The Governor may from time to time make regulations prescribing—

- (1.) The form and mode of application for such prospecting licenses as aforesaid, and the fees payable in respect thereof;
- (2.) The form of such licenses, and the conditions subject to which they may be issued and held, including due provisions for the filling-up by the licensee of all holes made by him whilst prospecting on the land, and for the lodging of sufficient security to insure the fulfilment of such provisions; and including also, in every case, due provision for the prevention of damage to standing bush by fire, or to live-stock by dogs or otherwise;
- (3.) The mode in which, and the events on the happening of which, such licenses may be forfeited;
- (4.) All such other matters and things as he deems necessary in order to give full effect to the provisions of this Act relating to such licenses;
- (5.) Penalties (not exceeding five pounds) for the breach of any such regulation.

10. The provisions of the six last-preceding sections of this Act, relating to prospecting, are in substitution of those contained in sections ninety-four, one hundred, and one hundred and one of the principal Act, none of which shall henceforth apply to lands which are open to prospecting under this Act. Repeal.

(2.) *Resumption for Mining Purposes.*

11. The resumption of land for mining purposes shall be deemed to be the taking of land for a public work within the meaning of "The Public Works Act, 1894," and shall be effected subject to the provisions of the principal Act and the provisions hereinafter contained. Resumption as if taken for a public work.

12. Any person may make application in writing to the Minister for the resumption of any such lands as aforesaid for mining purposes, and shall forward with such application the sum of twenty-five pounds, to be dealt with as hereinafter provided. Application for resumption.

13. The Minister shall refer such application to the Warden of the mining district in which the land is situate, and shall inform the applicant thereof. Application to be referred to Warden.

14. (1.) The Warden shall inquire into the matter of such application, and report thereon to the Minister. Warden to inquire and report.

(2.) Such report shall state the reasonable costs (if any) properly incurred in connection with the inquiry (including any reasonable costs properly incurred by any owner or occupier), and also what proportion thereof (if any) the applicant ought to pay. Costs.

15. The aforesaid sum of twenty-five pounds shall be applied in paying such proportion of costs as aforesaid, and the balance (if any) of that sum shall be returned to the applicant. Deposit to be applied towards costs.

16. If the said sum of twenty-five pounds is not sufficient to pay such proportion as aforesaid, the deficiency, or, if the report states that no costs should be paid by the applicant, the total amount thereof, shall be paid, charged, and recouped in the same manner as the compensation payable in the event of the land being resumed, or, if the land is not resumed, shall be paid out of moneys to be appropriated by Parliament. How payable if deposit insufficient.

17. Upon receipt of such report the Minister shall determine whether the land should or should not be resumed in whole or in part. Minister to determine whether land to be resumed.

18. In all cases where the Minister determines to resume land, the land to be resumed shall be taken on behalf of Her Majesty in manner prescribed by "The Public Works Act, 1894," and the principal Act: Provided that no land shall be resumed— Resumption of land.

- (1.) Which is actually used as a garden, orchard, vineyard, nursery, plantation, or ornamental pleasure-ground; nor Exceptions.
- (2.) Which, being situate within any city, town, or borough, is of less area than a quarter of an acre; nor
- (3.) Which is the site of or situate within one hundred feet of the site of any house, factory, hospital, asylum, church, public building, cemetery, or waterworks; nor
- (4.) Which cannot lawfully be resumed without the consent of the owner and occupier; nor

- (5.) Which is being mined for gold or silver by the owner or occupier thereof, or some person duly authorised by him, in claims that in no case exceed the maximum area prescribed by the principal Act for a special claim: Provided that in every case the mining operations shall be conducted subject to the principal Act and the regulations thereunder in like manner, *mutatis mutandis*, as if the claim were granted by the Warden on Crown land; nor
- (6.) Which is being prospected for gold or silver in manner hereinbefore provided in subsection four of section eight hereof,—

unless in each case the consent in writing of the owner and occupier of such land is given.

Limitation as to subsequent application if land not resumed.

19. If, after receipt of such report as aforesaid, the Minister determines that the land to which it relates should not be resumed, either in whole or in part, he shall inform the applicant thereof; and no further application for resumption of that land shall, unless by his special direction, be entertained for a period of twelve months thereafter.

How compensation to be assessed.

20. All claims for compensation in respect of the land so resumed shall be assessed and settled in manner and to the extent provided by the principal Act.

Compensation to be paid out of gold-fields revenue.

21. The compensation payable in respect of the land so resumed shall be paid by the Colonial Treasurer out of moneys to be appropriated by Parliament for that purpose, and, together with the costs hereinbefore referred to, shall be charged upon and deducted from the goldfields revenue derived from the mining district wherein the land is situate, or other revenue derived from such district in respect of mining, until out of such revenues all moneys paid in respect of such compensation and costs have been fully recouped to the Treasury: Provided, further, that before the local body is committed to the payment of such compensation for resumption, its consent shall be given:

Payment when mining district embraces several districts.

Provided that in special cases, and on the recommendation of the Minister, one moiety only of the moneys paid in respect of such compensation and costs shall be so charged and deducted as aforesaid.

22. If such district embraces two or more local authorities entitled to the aforesaid revenues, then the aforesaid charge and deduction in respect of such compensation and costs shall be apportioned as the Minister thinks just.

Arrears of fees, &c., to be deducted from compensation.

23. In every case where any land is resumed for mining purposes before the same has been actually granted by the Crown in fee-simple, there shall be deducted from the compensation payable to any person in respect of such resumption the amount of all unpaid license-fees, rents, purchase-money, or other money payable by him in respect of such land, computed up to the date of such resumption.

Limitation of sections of principal Act.

24. The provisions of the thirteen last-preceding sections of this Act, relating to resumption of land for mining purposes, are in substitution of those contained in sections two hundred and thirteen to two hundred and nineteen of the principal Act, and section ten of "The Mining Act Amendment Act, 1892," none of which shall henceforth apply to land which is liable to be resumed under this Act.

25. Section ninety-six of the principal Act is hereby repealed, and in lieu thereof it is hereby enacted, with respect to all lands whatsoever in the colony, that in any of the following cases, that is to say,—

Repeal.

- (1.) Where land is resumed for mining purposes, whether under this Act or the principal Act ; or
- (2.) Where land the property of aboriginal natives is ceded to the Crown for mining purposes ; or
- (3.) Where gold or silver is discovered on Crown land not within a mining district, and in consequence of such discovery the land is brought within a mining district,—

Land resumed, &c., to be available after not less than twenty-eight days' notice in *Gazette*.

the following provisions shall apply :—

- (a.) If the land is then within a mining district, it shall be available for mining purposes under the provisions of the principal Act on and after a day to be named by the Governor by notice published in the *Gazette*, being not sooner than twenty-eight days after the first publication of such notice in the *Gazette*, anything in the principal Act to the contrary notwithstanding.
- (b.) If the land is not then within a mining district, then the provisions of the last-preceding paragraph shall apply, subject to the modification that the therein-mentioned *Gazette* notice shall be published simultaneously with the Proclamation constituting the mining district.
- (c.) During the period between the first publication of the aforesaid *Gazette* notice and the day on which the land becomes available for mining purposes as aforesaid, claims as specified in the First Schedule hereto may be marked out and taken up on the land by the persons, in the order of priority, and subject to the provisions, in that Schedule set forth.

Prior rights during that period.

First Schedule.

26. The Governor may from time to time make such regulations as he thinks fit in order to give full effect to the provisions of the last-preceding section hereof.

Regulations in respect thereof.

27. Notwithstanding anything hereinbefore contained, the following special provisions shall apply in the case of all lands whatsoever in the colony other than Crown lands :—

Special provisions in case of lands other than Crown lands.

- (1.) The owner, or occupier, or any person with his written consent, may apply to the Warden for any description of claim authorised by the principal Act in the case of Crown lands in a mining district, and the Warden may grant the same.
- (2.) Every claim so granted by the Warden shall be deemed to be granted subject to the principal Act and the regulations thereunder ; and subject also to any agreement made between the grantee and the owner or occupier in so far as such agreement is not inconsistent with such Act and regulations.
- (3.) So long as such grant continues in force the land comprised therein shall not be resumed for mining purposes, nor shall any prospecting license be granted in respect thereof.

- (4.) The expression "Warden" in this section means the Warden of the district wherein the land is situate, or, if the land is not situate within a mining district, the Warden of any neighbouring district.

Compensation for auriferous or argenteriferous value of land if title to deposits established.

28. Whereas it has been suggested that in some cases the owner or occupier of land may, as against Her Majesty, be entitled in law to the deposits of gold and silver on or in such land, and it is just that in any such case the owner's or occupier's claim to compensation in respect thereof should not be prejudicially affected by any of the provisions of the principal Act or this Act. Be it therefore enacted as follows:—

- (1.) If any such person establishes his title as aforesaid to such deposits by judgment of the Supreme Court or on appeal, then, in the event of such land being resumed for mining purposes, the compensation payable to him in respect thereof shall include the auriferous and argenteriferous value of the land, anything in the principal Act or this Act to the contrary notwithstanding:

Provided the proceedings to establish such title as aforesaid are commenced either before the gazetting of the Proclamation declaring the lands to be taken on behalf of Her Majesty, or not later than six months thereafter.

- (2.) Nothing hereinbefore contained shall be construed to in any way create or recognise the existence of any right or title of any nature or kind whatsoever to such deposits as aforesaid in any person as against Her Majesty.

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

Provisions subject to which Governor may accept surrender of outstanding leases of Native or other lands.

29. In any case where any land whatsoever in the colony at any time acquired by the Crown from the Native or other owners thereof, is subject to any valid estate or interest lawfully created by such owners at any time prior to such alienation, the following provisions shall apply:—

- (1.) The Governor, on behalf of Her Majesty, may at any time, and upon such terms as to compensation as may be agreed on, accept the surrender of any such lease or license as to either the whole or any part of the land comprised therein, and, in the case of surrender as to part, may make such reduction as he deems equitable in the rent (if any) thereafter payable in respect of the residue.
- (2.) Such surrender may be made by memorandum under the hands of the Governor and the occupier.
- (3.) Such memorandum may be by indorsement on the lease or license, or by separate instrument, and, in the case of surrender as to part, shall set forth the part surrendered, and the terms and conditions upon which the surrender is made.

- (4.) For the purposes of registration, such memorandum shall, as the circumstances require, be deemed to be a deed within the meaning of "The Deeds Registration Act, 1868," or an instrument within the meaning of "The Land Transfer Act, 1885," and may be registered accordingly.
- (5.) If the surrender is as to part of the land, the lease or license shall thereafter be read and construed subject to the terms and conditions contained in the memorandum of surrender, and the District Land Registrar or Registrar of Deeds, as the case may be, shall make all such entries in his register as are necessary in order to record the same.
- (6.) If the land is within a mining district, then upon the completion of the surrender the Governor in Council shall, by a notice published in the *Gazette*, declare that the land therein described has been surrendered to Her Majesty, and will be available for mining purposes on and after a date to be named therein, being not sooner than twenty-eight days after the first publication of such notice, and such land shall be available for mining purposes on and after that date (but not sooner) accordingly, under the provisions of the principal Act, anything in that Act to the contrary notwithstanding.

30. (1.) Any such lease or license may be determined for mining purposes as to either the whole or any part of the land comprised therein.

Determination of lease by resumption of land for mining purposes.

(2.) Such determination shall be effected by resuming the land for mining purposes, and all the provisions of this Act and the principal Act relating to resumption shall, *mutatis mutandis*, apply accordingly.

(3.) In the event of the land comprised in any such lease or license being in whole or in part resumed for mining purposes, the following provisions shall apply:—

- (a.) The provisions of subsection six of the last-preceding section hereof shall, *mutatis mutandis*, apply upon the determination of the lease or license as to the land resumed;
- (b.) If only part is resumed, the occupier may surrender the lease or license as to the residue, under the provisions for surrender hereinbefore contained; and also
- (c.) With respect to such part as is resumed, and at the time of resumption is not within a mining district, the above-mentioned *Gazette* notice shall be published simultaneously with the Proclamation constituting the district:

Provided that in every case where any person possesses timber rights in respect to kauri timber growing on land near to or leading into the land proposed to be resumed, resumption shall not take place if the Warden, after inquiry, reports to the Minister that the resumption would prejudicially affect the free exercise of such rights; and for the purpose of such inquiry and report the Warden, if requested so to do, shall appoint some skilled person to inspect both the land proposed to be resumed and the land in respect of which such rights exist.

Extension of provisions to Tairua land.

31. The provisions of the two last-preceding sections hereof shall apply to any extension of lease or new lease granted under "The Tairua Land Act, 1893": Provided that nothing in this Act contained shall in any way affect the operation of subsections three and four of section three of that Act.

MINE-MANAGERS.

Appointment of provisional mine-managers.

32. Whereas great difficulty is experienced in procuring duly-certificated mine-managers, and it is therefore expedient to make temporary provision in that behalf: Be it therefore enacted as follows:—

- (1.) On the report and recommendation of the Inspector, the Minister may, in his discretion, grant to any person whom any mine-owner desires to appoint to manage such mine a warrant to act as provisional mine-manager notwithstanding that such person may not be the holder of a certificate of competency or service as mine-manager.
- (2.) Such warrant, unless sooner cancelled, shall continue in force as long as the holder thereof is manager of the mine named therein, being in no case longer than the first day of January, one thousand eight hundred and ninety-nine, but no longer, and whilst in force shall for all the purposes of the principal Act be deemed to be a mine-manager's first-class certificate of competency, nevertheless in respect only of the mine named therein.
- (3.) It shall be the duty of the Inspector to make a half-yearly inspection of every mine that is managed by a provisional mine-manager, and to report to the Minister the result of such inspection, with special reference to the nature of the management and the capacity of the provisional manager.
- (4.) In any case where such report is unfavourable to the provisional manager, the Minister may, in his discretion, cancel such manager's warrant by notice to the holder and mine-owner, and thereupon all the holder's rights and privileges under such warrant shall absolutely cease.
- (5.) On or before the fifteenth day of November, one thousand eight hundred and ninety-eight, the Inspector shall make to the Board of Examiners a special report as to the capacity and fitness as a mine-manager of every person who has previously acted as the manager of a mine under a warrant as aforesaid.
- (6.) Such special report shall be accompanied by a copy of every half-yearly report relating to such person theretofore furnished to the Minister as hereinbefore prescribed.
- (7.) On consideration of all such reports, the Board, if satisfied of the capacity and fitness of such person, may in its discretion, and on payment of the fee of one pound, grant to him without examination either a first- or a second-class certificate of competency as a mine-manager as it thinks fit.
- (8.) The principal Act, and all amendments thereof, are hereby modified in so far as they are in conflict with this section.

WATER-RACES BELONGING TO LOCAL AUTHORITIES.

33. Section one hundred and fifteen of the principal Act (relating to water-races and water-rights acquired by the Council of any county or borough) is hereby amended as from the date of the commencement of that Act by substituting the word "or," in lieu of the word "and," next before the words "have by Order in Council been vested."

Section 115 of principal Act amended.

34. Section one hundred and eighteen of the principal Act (relating to assignments, alienations, and transfers of water-races belonging to the Corporation of any county or borough) shall not apply, nor be deemed to have at any time applied, to assignments or transfers by way of mortgage for the purpose of securing the repayment of loans granted under "The Government Loans to Local Bodies Act, 1886."

Section 118 of principal Act limited.

MISCELLANEOUS.

35. The provisions of section forty-nine of the principal Act are hereby extended to apply to drainage areas, special sites, and all other areas which require to be defined by posts or other marks.

Section 49 of principal Act extended.

36. Notwithstanding anything to the contrary contained in section seventy-one of the principal Act, it is hereby declared that the rent payable in respect of the land comprised in any licensed holdings or special claims shall during the first year of the term of the license be at the rate of five shillings per acre, in lieu of ten shillings.

Section 71 of principal Act amended.

37. Subsection three of section eighty-seven of the principal Act, and also sub-paragraph three of paragraph (f) of subsection three of section three of "The Mining Act Amendment Act, 1892" (relating to royalty on minerals), are hereby respectively amended by substituting the word "one-hundredth" in lieu of the word "one-fiftieth."

Section 87 of principal Act and section 3 of "Mining Act Amendment Act, 1892," amended.

38. (1.) With respect to every claim, licensed holding, or special claim, the following provisions shall apply:—

Survey to be completed within three months.

(a.) The survey thereof shall be completed, and the plans relating to such survey lodged in the Warden's office, within the period of three months after the date of the application therefor, or within such extended period (not exceeding three months) as the Warden in his discretion thinks fit to grant on application made in that behalf before the expiration of the first-mentioned period: Provided that as regards the goldfields situated west of the River Waiau, in the Mining District of Otago, the period allowed for survey and deposit of plans shall be six months, the Warden to have power to grant a further extension of three months.

(b.) If such survey and plans are not duly completed and lodged as aforesaid within such period or extended period as aforesaid, such application shall be deemed to be intentionally abandoned, and the ground to which such application relates may be marked out and taken possession of as abandoned ground.

(2.) Section one hundred and twenty-five of the principal Act is hereby repealed.

Repeal.

Section 129 of principal Act amended.

39. Section one hundred and twenty-nine of the principal Act is hereby amended by repealing the words "in the case of a water-race," and by inserting next after the word "license" the words "as the case may be."

Section 149 of principal Act amended.

40. Section one hundred and forty-nine of the principal Act is hereby amended by repealing the words "business license" wherever they occur in that section, and substituting in lieu thereof, where they first occur, the words "any form of license or certificate," and, where they secondly occur, the words "license or certificate."

Delegation of powers of Inspector of Mines to police.

41. The powers by subsection twelve of section three hundred and eight of the principal Act conferred upon the Inspector of Mines (save the power to inspect the therein-mentioned machine) may be exercised by any member of the police whom the Inspector of Mines authorises in that behalf, and the provisions of that subsection shall be construed accordingly.

Section 313 of principal Act amended.

42. Section three hundred and thirteen of the principal Act (relating to the constitution of the Board of Examiners) is hereby amended by substituting the words "and four" in lieu of the words "an Inspector of Machinery and three."

Section 314 of principal Act amended.

43. Section three hundred and fourteen of the principal Act is hereby amended by substituting the words "four years" in lieu of the words "three years."

Accumulation of dust to be prevented.

44. Subsection one of section three hundred and twenty-three of the principal Act is hereby amended by the addition of the following words: "and in particular, in every case where quartz is crushed in a dry state, there shall at all times be employed in and about the battery where such crushing takes place such appliances as, in the opinion of the Inspector of Mines, will effectually prevent the accumulation of dust and keep the air pure."

Subsection (16) of section 323 of principal Act amended.

45. Subsection sixteen of section three hundred and twenty-three of the principal Act is hereby amended by repealing the words "Not more than four persons shall be lowered or raised in one cage in any mine," and by inserting in lieu thereof the words "The maximum number of persons that may lawfully be lowered or raised in one cage in any mine shall not exceed four, or such greater number as the Inspector, having regard to the size and strength of the cage gear and machinery, by writing under his hand, shall so specially authorise."

Assistance towards constructing water-races in Otago District.

46. In lieu of assisting the prospecting of deep levels in any mining district in Otago, as provided by section two of "The Mining Act 1891 Amendment Act, 1894," the Minister may apportion and apply so much of the sums in that section referred to as he deems equitable in giving special assistance towards the construction of water-races and water-storage reservoirs in any of the mining districts of Otago.

Construction of section 16 of Act of 1895.

47. Section sixteen of "The Mining Act Amendment Act, 1895," shall not be deemed to have repealed section sixty of the principal Act.

Section 31 of "The Mining Act Amendment Act, 1895," amended.

48. Section thirty-one of "The Mining Act Amendment Act, 1895," is hereby amended by inserting the words "or licensed holdings" after the word "claims" wherever that word occurs in the section,

49. Whereas there is danger of serious damage being done to the mining industry on the Thames Goldfield by the flooding of claims with water consequent on the reckless prosecution of mining operations seawards: Be it therefore enacted as follows:—

Provision for protection of mines at Thames from flooding.

(1.) It shall not be lawful for any person to in any way carry on mining operations under the sea on the Thames Goldfield, or, in carrying on mining operations, to in any way cut into what is known as "the seaward slide," between Shellback Creek and the Kauaeranga River, on the Thames Goldfield, unless in each instance, before beginning such operations he submits to the Inspector of Mines a plan thereof, and obtains his consent thereto in writing.

(2.) Such consent may be given on such terms and conditions as the Inspector of Mines thinks fit to impose, and shall be deemed to be subject to the special condition that he may withdraw such consent at any stage of such operations.

(3.) It shall be the duty of the Inspector of Mines to withdraw such consent whenever, in his opinion, the further prosecution of any such operations may lead to an influx of water, whether from the sea or otherwise.

(4.) If the Inspector of Mines is at any time of opinion that any person's mining operations are being prosecuted so near to the said slide as to be likely to lead to an influx of water, whether from the sea or otherwise, he may, by notice in writing, require such person to stop such operations, and it shall be the duty of such person to forthwith stop the same accordingly.

(5.) If any person

Carries on any such operations without such consent, or in breach of any of the terms or conditions subject to which such consent was given, or continues to prosecute any such operations after the withdrawal of such consent, or after receiving notice from the Inspector to stop the same, he commits an offence, and is liable to a penalty not exceeding five hundred pounds, and is also civilly liable for all damage done to any person's claim by the influx of water consequent on the committal of such offence.

50. All licensed holdings and special claims situate wholly or partly in the block known as Pakirarahi No. 2 which have been granted by the Warden or approved or signed by the Minister on or before the thirtieth day of June, one thousand eight hundred and ninety-six, are hereby declared to have been validly granted, approved, or signed as aforesaid, so far as they are situate in that block.

Validation.

51. Nothing in this Act contained shall be construed to prejudicially affect either the power of the Governor to grant extended prospecting licenses and tunnel prospecting licenses under "The Mining Act Amendment Act, 1895," or the rights by that Act conferred on the holder of any such license.

Extended prospecting and tunnel prospecting licenses not prejudicially affected.

52. Notwithstanding anything to the contrary contained in subsection two of section three of "The Mining Act Amendment Act, 1892," the following provisions shall apply in the case of licensed holdings or special claims on Native land:—

Subsection (2) of section 3 of "The Mining Act Amendment Act, 1892," amended.

(1.) The owners of such Native land, or a majority of them, may, by memorandum in writing lodged in the Warden's

Court, certify their consent that, for the purpose of determining the amount to be paid by the licensee of a licensed holding or special claim on such Native land, such land shall be deemed to be other than Native land.

- (2.) From and after the lodging of such memorandum, the aforesaid subsection two shall cease to apply to such Native land, and there shall be payable to the Native owners thereof, by the licensee of a licensed holding or special claim on such land, the same rent as is prescribed by subsection one of section seventy of the principal Act in the case of other than Native land.

Special provisions affecting mining on timber lands.

53. In every case where a license for a mining claim of any description is granted by the Warden in respect of land over which any person possesses any validly created right to cut, remove, or float timber, the following special provisions shall apply:—

- (1.) Such license shall be deemed to be granted subject to the condition that the licensee will so carry on his mining operations as not to prevent the reasonable exercise of any of the aforesaid rights.
- (2.) If any question or dispute arises under the last-preceding subsection hereof as to what is the reasonable exercise of the aforesaid rights, the Warden shall decide.
- (3.) In deciding such question or dispute the Warden, if he deems it equitable so to do, may authorise the mining operations to be carried on in such manner and subject to such conditions as he prescribes, having regard to the special circumstances of the case and the nature of the aforesaid rights.
- (4.) The Governor may from time to time make such regulations as he deems necessary for the purpose of giving effect to this section, and of enabling the mining and timber industries to co-exist on the same land, and by such regulations he may impose for any breach thereof such penalties as he thinks fit, being either the forfeiture of the license, or a fine not exceeding five pounds.

Prevention of injury to surface of land where mining license granted.

54. (1.) When granting a license for a claim of any description, or at any time thereafter during the currency of the license, the Warden may impose on the licensee such conditions as he thinks fit in order to prevent injury to the surface of the land, or to anything thereon, in any of the following cases, that is to say,—

- (a.) If the land is in a borough; or
- (b.) If buildings are erected or likely to be erected on the land; or
- (c.) If the land is *bonâ fide* used, or is likely to be so used, for a yard, garden, orchard, cultivated field, water-race, dam, reservoir, burial-ground, or reserve.

(2.) Such conditions may include the condition that the licensee will not, without the previous approval in writing of the Warden and consent in writing of the person in lawful occupation of the surface, carry on mining operations within such distance of the surface as the Warden thinks fit to prescribe, such distance being not less than fifty

feet in the case of buildings, races, dams, and reservoirs, and not less than thirty feet in any other case.

(3.) All such conditions heretofore imposed by a Warden are hereby declared to have been validly imposed.

(4.) If the licensee commits any breach of any such condition, then, irrespective of his liability for damage done, the license shall be liable to forfeiture.

(5.) The Governor may from time to time make such regulations as he deems necessary for the purpose of giving effect to this section, and by such regulations he may impose for any breach thereof such penalties as he thinks fit, being either the forfeiture of the license or a fine not exceeding ten pounds.

55. (1.) In lieu of resuming land for mining purposes, whether under this Act or the principal Act, the Minister may agree in writing with the owner thereof that such land shall be available for mining purposes in like manner as if it were Crown land, and in every such case the provisions of paragraphs (a), (b), and (c) of section twenty-five hereof, and also of the First Schedule hereto, shall, *mutatis mutandis*, apply.

Agreement with owner for mining purposes in lieu of resumption.

(2.) In every case where land is made available for mining purposes under the provisions of the last-preceding subsection hereof the owner of the land shall, whilst the same is so available, be entitled to the goldfields revenue and other revenues (other than gold duty) derived from mining in respect of such land, and the same shall be paid to him accordingly as and when received by the Receiver of Revenue.

Owner entitled to certain revenue.

56. Whereas in many cases aboriginal Natives, when ceding blocks of land to the Crown for mining purposes, have reserved certain areas used or intended to be used by them as residences, cultivations, burial-grounds, or otherwise, and it is expedient that such areas should be available for mining purposes, provided the use for which they were so reserved is not thereby prejudicially affected: Be it therefore enacted that such areas shall, on and after the first day of February, one thousand eight hundred and ninety-seven, be available for mining purposes in like manner in all respects as if they had been ceded as aforesaid for those purposes, and in every such case the provisions of section fifty-four hereof shall apply.

Native reserves available for mining purposes in certain cases.

57. For the purposes of the appeal provided for by section two hundred and eighty-six of the principal Act the provisions of this Act (excepting those of sections fourteen and thirty hereof) shall be deemed to be comprised in Part I. of the principal Act.

Appeal.

58. For convenience of reference the chief enactments repealed or amended by this Act are collected in the Second Schedule hereto.

Acts repealed or amended.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

CLAIMS THAT MAY BE MARKED OUT AND TAKEN UP.

If the area of the land resumed, ceded, or brought within a mining district does not exceed 5 acres	}	An ordinary claim or a double claim.
If such area exceeds 5 acres but does not exceed 20 acres	}	An extended claim or any lesser claim.
If such area exceeds 20 acres, but does not exceed 50 acres	}	A licensed holding or any lesser claim.
If such area exceeds 50 acres	}	A special claim or any lesser claim.

PERSONS UPON WHOM THE RIGHT TO MARK OUT AND TAKE UP CLAIMS IS CONFERRED; THEIR ORDER OF PRIORITY; AND THE PROVISIONS SUBJECT TO WHICH SUCH RIGHT MAY BE EXERCISED.

1. The persons, or groups of persons, upon whom the right to mark out and take up claims is conferred are,—

- (1.) The person (hereinafter called "the discoverer") who, being the holder of a prospecting license in respect of the land, *bonâ fide* discovers gold or silver thereon, and notifies the Minister in writing of the fact, date, and locality of the discovery, if the land is resumed, ceded, or brought within a mining district in consequence of such discovery and notification:
- (2.) The person who is the owner or occupier (hereinafter called "the proprietor") of the land:
- (3.) The person (hereinafter, with all persons in the same group, called "the applicant") pursuant to whose application and deposit the land is resumed:

Provided that, except in the case of separate proprietors as hereinafter mentioned, no such person or group of persons shall be entitled to mark out and take up more than one claim.

2. The rights of the discoverer, the proprietor, and the applicant to mark out and take up claims shall, as against all other persons, have priority during the whole of the period referred to in subsection (c) of section 25 of this Act, but shall, as between themselves, be regulated as follows:—

- (1.) During the first half of the said period each separate proprietor shall (subject to the proviso hereinafter contained) have the exclusive right to mark out and take up a claim as aforesaid on such portion (if any) of his land as comprises the site of mining operations which he was *bonâ fide* carrying on at the time when, as the case may be, the discoverer notified the Minister, or the applicant made his application and deposit, or (in the absence of such notification or application) the land was ceded or resumed or brought within a mining district:
- (2.) Subject to the aforesaid exclusive right of the proprietor, the discoverer shall during the first half of the said period have the exclusive right to mark out and take up a claim as aforesaid on any portion of the land to which his discovery and notification relate:
- (3.) Subject to the aforesaid exclusive rights of the proprietor and the discoverer, the applicant shall, during the first half of the said period, have the exclusive right to mark out and take up a claim as aforesaid on any portion of the land to which his application for resumption relates:
- (4.) During the second half of the said period the rights of the discoverer, the proprietor, and the applicant (if or in so far as such rights have not already been exercised) shall be regulated by the date on which the claims are marked out and taken up:

Provided that the aforesaid exclusive right of the discoverer shall have priority over that of the proprietor in any case where the land was alienated from the Crown on or subsequent to the 29th day of September, 1873, or (if Native land) was alienated from the Native owners thereof to any person other than Her Majesty on or subsequent to the 30th August, 1888.

3. The claims shall be marked out and taken up under the provisions of the principal Act in like manner as if the land were available for mining purposes.

4. The Warden shall have jurisdiction to determine all questions and disputes that arise in relation to the exercise of the aforesaid rights.

SECOND SCHEDULE.

ENACTMENTS REPEALED OR AMENDED.

- 1891, No. 33.—The Mining Act, 1891. In part, namely—
Sections 49 and 286, extended.
Sections 96 and 125, repealed.
Sections 87, 115, 118, 129, 149, 313, 314, and subsections (1) and (16) of section 323, amended.
Sections 71, 94, 100, 101, and 212 to 219, modified.
- 1892, No. 47.—The Mining Act Amendment Act, 1892. In part, namely—
Subsections (2), (3), and (5) of section 3, modified.
Section 10, repealed.
- 1894, No. 52.—The Mining Act 1891 Amendment Act, 1894. In part, namely—
Section 2, modified.
- 1895, No. 60.—The Mining Act Amendment Act, 1895. In part, namely—
Section 16, explained.
Section 31, amended.