

[AS REPORTED FROM THE GOLDFIELDS AND MINES  
COMMITTEE]

House of Representatives, 22nd October, 1948

Hon. Mr. McLagan

**C O A L**

**ANALYSIS**

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### A BILL INTITULED

Title.                    AN ACT to make Provision for the Acquisition by the Crown of the Property in all Unworked Coal and for Matters incidental thereto, and to amend the Coal-mines Act, 1925. 5

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

Short Title and commencement. See Reprint of Statutes, Vol. V, p. 843

1. (1) This Act may be cited as the Coal Act, 1948, and shall be read together with and deemed part of the Coal-mines Act, 1925 (hereinafter referred to as the principal Act). 10

(2) Except as provided in Part III hereof, this Act shall come into force on the *first* day of *April*, nineteen hundred and forty-nine. 15

### PART I

#### VESTING OF COAL IN THE CROWN

Interpretation.        2. In this Part of this Act, unless the context otherwise requires,—

“Annexed to”, in relation to any coal, means appertaining thereto or to any part thereof, or held or enjoyed therewith or with any part thereof: 20

“ Books or documents ” includes accounts, balance-sheets, vouchers, records, contracts, and other instruments:

“ Coal ”—

5           (a) Means anthracite, bituminous coal, brown coal, lignite, and every other mineral used for fuel except petroleum and shale; and

10           (b) In any case where any other mineral (whether shale or not) is being worked or would normally be worked with any coal as defined in paragraph (a) hereof, includes that other mineral; and

15           (c) In every case means coal that is unworked, that is to say, not so severed as to have become a chattel:

“ Commission ” means the Coal Valuation Commission established under this Act:

20           “ Global sum ” means the global sum determined by the Commission under section *fifteen* of this Act:

*New*

25           “ Holding ”, in relation to any claim for compensation, means the coal, servitudes, rights, estates, or interests in respect of which the claim is made:

30           “ Owner ”, in relation to any coal, servitude, or right, includes any person possessed of or entitled to any estate or interest therein, including an estate or interest as mortgagee under a royalty mortgage of the coal, servitude, or right or of any lease affecting the coal, but not including any other estate or interest by way of encumbrance:

35           “ Private owner ” means any owner other than the Crown; and, in relation to any coal or servitude or right vested in the Crown by this Part of this Act, means the owner thereof immediately before the commencement of this Act; and “ privately owned ” has a corresponding meaning:

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*New*

- “ Royalty mortgage ” means a mortgage or other encumbrance securing payment of any royalty:
- “ Royalty or rent ” includes any valuable consideration in money’s worth which in the opinion of the Commission is part of or in substitution for any royalty or rent:
- “ Servitude ” means any liberty, privilege, easement, way-leave, right, or advantage annexed to any coal forming part of any land and adversely affecting any other land or any other part of the same land, *but does not include any right to prospect for coal or any right to win coal.*

Coal declared to be property of the Crown.

3. (1) Notwithstanding anything to the contrary in any Act or in any Crown grant, certificate of title, lease, or other instrument of title, all *privately owned* coal existing on or below the surface of any land within the territorial limits of New Zealand (whether the land has been alienated from the Crown or not) is hereby declared to be the property of the Crown, *and to be freed from all encumbrances, liens, and interests whatsoever.*

(2) All alienations of land from the Crown made after the commencement of this Act, whether by way of sale or lease or otherwise, shall be deemed to be made subject to the reservation of all coal existing on or below the surface of the land, and subject to the provisions of this Act.

Existing servitudes declared to be property of Crown.

4. (1) Where at the commencement of this Act any servitude is annexed to any coal vested in the Crown by this Part of this Act the following provisions shall apply:—

- (a) The benefit of the servitude shall be deemed to be vested in the Crown, *and to be freed from all encumbrances, liens, and interests whatsoever:*
- (b) The right of the owner of the land adversely affected or of any other person to receive any ~~royalty or rent or other moneys~~ *royalty or rent* in respect of the servitude shall be deemed to be vested in the Crown, *and to be freed from all encumbrances, liens, and interests whatsoever.*

(2) The foregoing provisions of this section shall not apply with respect to servitudes created after the first day of August, nineteen hundred and forty-eight, unless the Minister in any case in his discretion otherwise determines.

(3) On proof to his satisfaction that the benefit of any servitude has been vested in the Crown by this Part of this Act, the District Land Registrar shall, without fee, on application in writing by the Minister or by any other person authorized in that behalf by the Minister, register a memorial thereof against the title to the land to which the servitude is annexed and against the title to the land adversely affected thereby.

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*New*

4A. Subject to the provisions of this Part of this Act as to compensation, every royalty mortgage that affects any privately owned coal, servitude, or right vested in the Crown by this Part of this Act, and is subsisting at the date of the commencement of this Act, and all covenants expressed or implied therein, shall be deemed to be cancelled on that date.

Royalty mortgages cancelled.

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5. Compensation for all privately owned coal, servitudes, and rights vested in the Crown by the foregoing provisions of this Part of this Act shall be assessed and paid to the respective private owners thereof in accordance with the following provisions of this Part of this Act.

Compensation to be paid to owners.

*Coal Valuation Commission*

6. (1) For the purposes of this Part of this Act there shall be a Commission, to be called the Coal Valuation Commission.

Constitution of Coal Valuation Commission.

(2) The Commission shall consist of five members to be appointed by the Governor-General in Council, on the recommendation of the Minister, of whom one shall be appointed as the Chairman of the Commission and at least two shall be persons who have had administrative or other practical experience in the coal-mining industry.

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See Reprint  
Vol. VII, p. 522  
1947, No. 57

(3) No person shall be deemed to be employed in the service of His Majesty for the purposes of the Public Service Act, 1912, or the Superannuation Act, 1947, by reason of his being a member of the Commission. 5

See Reprint  
of Statutes,  
Vol. I, p. 1036

(4) The Commission shall, within the scope of its jurisdiction, be deemed to be a Commission under the Commissions of Inquiry Act, 1908, and, subject to this Part of this Act and to any regulations made for the purposes thereof, the provisions of that Act shall apply accordingly. 10

Vacancies.

7. (1) Any member of the Commission may at any time be removed from office by the Governor-General in Council for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by written notice given to the Minister. 15

(2) If any member of the Commission dies, or resigns, or is removed from office, the Governor-General in Council may appoint some qualified person to fill the vacancy. Any such appointment shall be made in the same manner as the appointment of the vacating member. 20

(3) The powers of the Commission shall not be affected by any vacancy in the membership thereof. 25

Deputies of  
members.

8. (1) In any case in which the Minister is satisfied that the Chairman or any other member of the Commission is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may appoint a qualified person as deputy to act for the Chairman or for that other member during his incapacity. In the case of the incapacity of the Chairman his deputy may or may not be one of the other members, and if the deputy of the Chairman is one of the other members some other qualified person may be appointed to act as the deputy of that member. 30 35

(2) Any deputy appointed under this section shall, while he acts as such, be deemed to be a member of the Commission, and the deputy of the Chairman shall have all the powers of the Chairman. 40

(3) No appointment of a deputy and no acts done by him as such, and no acts done by the Commission while any deputy is acting as such, shall in any proceedings be questioned on the ground that the  
5 occasion for his appointment had not arisen or had ceased.

**9.** (1) At any meeting of the Commission at which the Chairman is not present and no deputy attends in his place, the Commission shall appoint a Chairman  
10 from the members present.

Procedure of  
Commission.

(2) At all meetings of the Commission three members shall form a quorum.

(3) At any meeting of the Commission the Chairman shall have a deliberative vote, and in the case of  
15 an equality of votes shall also have a casting vote.

(4) Subject to the provisions of this Part of this Act and of any regulations made for the purposes thereof, the Commission may regulate its procedure in such manner as it thinks fit.

**10.** (1) There shall be paid to the Chairman and to the other members of the Commission such remuneration by way of salary, fees, or allowances as the Governor-General in Council from time to time approves.  
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Remuneration  
and  
travelling-  
expenses.

(2) The members of the Commission shall be paid such travelling expenses and allowances as may from time to time be prescribed by regulations made for the purposes of this Part of this Act.  
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(3) All payments under this section shall be made  
30 out of moneys to be appropriated by Parliament for the purpose.

**11.** The principal function of the Commission shall be to assess compensation in accordance with the provisions of this Part of this Act, and the Commission  
35 shall have such other functions as may be conferred upon it by this Part of this Act or by regulations made for the purposes thereof, and shall have all such powers, not inconsistent with this Part of this Act, as are reasonably necessary for the effective  
40 performance of its functions and duties.

Functions of  
Commission.

**12.** Such persons may be appointed as officers of the Public Service in accordance with the Public Service Act, 1912, and (*in cases to which that Act does not apply*)

Officers and  
professional  
assistance.

such professional and technical and other assistance may be engaged by the Minister or by any person acting with his authority, as may be considered necessary to enable the Commission to perform its functions and duties.

*New*

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Right of persons interested to be heard.

**12A.** (1) Before the Commission—

- (a) Determines the global sum:
- (b) Determines whether it will receive or verify any claim for compensation:
- (c) Assesses the compensation payable on any verified claim: 10
- (d) Determines any objection to a provisional assessment,—

it shall hold a meeting of which notice shall be given to such persons and in such manner as may be determined by the Commission or prescribed by regulations made for the purposes of this Part of this Act. 15

(2) At every such meeting every private owner of any coal, servitude, or right vested in the Crown by this Part of this Act, and every claimant for compensation under this Part of this Act, and a representative of the Crown appointed by the Minister, and every other person who satisfies the Commission that he is interested, shall have a right to be heard and to produce evidence and to cross-examine witnesses either personally or by solicitor, counsel, or agent. 20 25

(3) Every such meeting shall be held in public, unless the Commission in any particular case, due regard being had to the interests of the parties and of all other persons concerned, considers that the meeting or any part thereof should take place in private: 30

Provided that the Commission may deliberate in private as to its decision on any matter or as to any question arising in the course of the proceedings.

(4) The Commission may make an order prohibiting the publication of any report or description of any part of the proceedings in any matter before the Commission. 35

Proceedings before Commission not to be questioned for want of form or appealed against.

**13.** Proceedings before the Commission shall not be held bad for want of form. Subject to the right of objection hereinafter conferred, no appeal shall lie from any decision of the Commission, and no proceeding or decision as aforesaid shall be liable to be challenged, reviewed, quashed, or called in question in any Court. 40



14. When the Governor-General is satisfied that the functions of the Commission have been completed he may, by Order in Council, abolish the Commission from a date to be specified in that behalf in the Order.

Provision for abolition of Commission.

*Compensation*

5 15. (1) The total amount of compensation to be paid under this Part of this Act (hereinafter referred to as the global sum) shall be determined by the Commission as follows:—

Global sum to be determined by Commission.

10 (a) The Commission shall, in respect of each of the seven years nineteen hundred and forty-one to nineteen hundred and forty-seven, determine as nearly as may be the total amount ~~received~~ *receivable* in each year by the respective owners by way of ~~royalties—~~ and

15 *royalty or* rent in respect of the privately owned coal and servitudes and rights vested in the Crown by this Part of this Act:

20 (b) The Commission shall determine the average of the seven annual amounts determined as aforesaid, and shall multiply that average by fifteen and declare the product to be the global sum for the purposes of this Part of this Act.

*Struck out*

25 (2) Where in any of the years specified in paragraph (a) of subsection *one* of this section any coal to which that paragraph applies was worked without any royalty or rent being paid in respect thereof or was for any special reason (whether a lump sum

30 payment or otherwise) worked for a reduced rent or royalty, the Commission shall count for the purposes of that paragraph the royalty and rent that would in the opinion of the Commission have been received in respect of that coal if it had been worked for a

35 rent or royalty and if no such special reason had existed.

*New*

(2A) Where in any of the years specified in paragraph (a) of subsection *one* of this section any privately owned coal vested in the Crown by this Part of this Act was worked without any royalty or rent being payable in respect thereof or was for any special reason worked for a royalty or rent lower than it would otherwise have been, the Commission shall count for the purposes of that paragraph the royalty or rent that would in the opinion of the Commission have been receivable in respect of that coal if it had been worked for a royalty or rent or, as the case may be, if no such special reason had existed.

(3) Where in any of the years specified in paragraph (a) of subsection *one* of this section the benefit of any privately owned servitude vested in the Crown by this Part of this Act was exercised without any royalty or rent being payable in respect thereof or was for any special reason exercised for a royalty or rent lower than it would otherwise have been, the Commission shall count for the purposes of that paragraph the royalty or rent that would in the opinion of the Commission have been receivable in respect of that servitude if it had been exercised for a royalty or rent or, as the case may be, if no such special reason had existed.

*Struck out*

Claims for  
compensation.

**16.** (1) A claim for compensation may be made in respect of any of the following holdings vested in the Crown by this Part of this Act, namely:—

- (a) Any parcel of coal with the benefit of the servitudes (if any) annexed thereto:
- (b) The benefit of any servitude annexed to any coal but owned by a person other than the owner of the coal:
- (c) Any right to royalties or rent or other moneys in respect of any servitude:

Provided that no claim for compensation shall be made in respect of the benefit of any servitude if the private owner thereof is granted a coal-mining right under section *forty* of this Act in respect of that servitude.

*New*

5 (1A) A claim for compensation may be made in respect of any coal, servitude, or right vested in the Crown by this Part of this Act or in respect of the estate or interest of any of the private owners of any such coal, servitude, or right:

Provided that no claim may be made in respect of any right to prospect for coal or of any right to win coal:

10 Provided also that no claim may be made in respect of any servitude if the private owner thereof is granted a coal-mining right under section *forty* of this Act in respect of that servitude.

15 (2) A claim for compensation in respect of any holding shall be made by or on behalf of the private owners thereof, in such form as may be prescribed by regulations made for the purposes of this Part of this Act or accepted by the Commission, by delivering the claim at the office of the Under-Secretary of Mines not later than six months after the commencement of this Act.

25 (3) No claim for compensation delivered after the time specified in subsection *two* of this section shall be received by the Commission unless the Commission is satisfied that there was a good and valid reason for the delay.

(4) Every claim received by the Commission shall be investigated, and, if verified by the Commission as a valid claim, shall be embodied in a register.

30 **17.** (1) The Commission shall assess the compensation payable on each verified claim by apportioning the global sum among the claimants in proportion to the values of their respective holdings.

Assessment of compensation.

35 (2) The value of any holding for the purposes of this section shall be determined by the Commission in such manner as it thinks fit, having regard to the *quantity*, quality, and utility of the coal in each part of New Zealand, and to its accessibility and ease of working, and to all other relevant considerations.

40 *Struck out* and, in particular, in determining the value of the benefit of any servitude, having regard to the amount of the royalties or rent or other moneys payable in respect of the servitude.

Provisional  
assessment to  
be publicly  
notified.

18. After completing the assessment of the compensation payable on all verified claims the Commission shall prepare a provisional list of the assessments, and shall give public notice in the *Gazette* of the preparation of the list and of the place or places where it may be inspected and of the right of objection hereinafter provided for, and shall also give notice thereof to the claimant under each verified claim, together with notice of the amount of the provisional assessment on his claim. 5 10

Objections to  
provisional  
assessment.

19. (1) Any claimant under a verified claim shall have a right of objection to the provisional assessment on his claim or on any other verified claim, and may give notice in writing to the Commission of the objection and of the grounds thereof at any time not later than one month after the first public notification of the provisional assessment, or within such further time as may in any case be allowed by the Commission. 15

(2) The Commission shall as soon as practicable consider all such objections, and on the determination of any such objection the Commission, subject to the provisions of this Part of this Act, and, in particular, so that the total amount of compensation is equal to the global sum, may uphold the objection wholly or partly and amend any assessment accordingly, or may dismiss the objection. 20 25

Final  
assessment.

20. (1) After all such objections have been disposed of the Commission shall give notice to the claimant under each verified claim of the final assessment of the compensation payable on his claim. 30

*Struck out*

(2) Subject to the provisions of this Part of this Act, the provisions of the Public Works Act, 1928, shall, so far as they are applicable and with the necessary modifications, apply with respect to the compensation awarded by any such final assessment as if it were compensation awarded under that Act. 35

*New*

(2A) Subject to the provisions of this Part of this Act and of any regulations made for the purposes thereof, the provisions of the Public Works Act, 1928, shall, so far as they are applicable and with the necessary modifications, apply with respect to the title to and application of the compensation awarded by any such final assessment, and with respect to the title to and application of any amount paid or proposed to be paid under subsection *six* of the *next succeeding* section, as if that compensation or amount were compensation awarded under that Act and as if all powers conferred by those provisions on any Court were conferred on the Supreme Court.

See Reprint  
of Statutes,  
Vol. VII, p. 660

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*Struck out*

**21.** (1) The claimant under any verified claim shall be entitled to receive the amount of compensation finally assessed on the claim in cash or, if he so elects, in New Zealand Government stock:

Payment of  
compensation.

20 Provided that no such stock shall be issued to any person except for a multiple of five pounds, and any amount to which any person may be entitled in excess of the amount of stock that may be issued to him as aforesaid shall be paid in cash.

25 (2) Where any amount is paid in cash under this section, interest shall be payable thereon at the rate of three per centum per annum for the period commencing at the commencement of this Act and ending on the date of payment.

30 (3) All amounts payable in cash under this section shall be paid out of moneys to be appropriated by Parliament for the purpose.

(4) All stock issued under this section shall be created and issued subject to the following conditions:—

35 (a) It shall be redeemable at par on the *fifteenth* day of *November*, nineteen hundred and *sixty-four*, or, at the option of the Minister of Finance, on any earlier date, not earlier than the *fifteenth* day of *November*, nineteen hundred and *sixty-one*, that may be fixed by the Minister of Finance on giving not less than three months' notice in the *Gazette* of his intention to redeem the stock on the date  
45 so fixed:

(b) During the currency of the stock it shall bear interest at the rate of three per centum per annum, payable on the *fifteenth* day of *May*, and the *fifteenth* day of *November*, in each year, the first payment of interest (for the period commencing at the commencement of this Act) being due and payable on the *fifteenth* day of *November*, nineteen hundred and *forty-nine*. 5

(5) This section shall be deemed to be an authorizing Act within the meaning of the New Zealand Loans Act, 1932, and the principal moneys payable under the stock issued under this section shall be deemed to be borrowed under and subject to the provisions of that Act accordingly. 10 15

*New*

(5A) The claimant under any verified claim shall be entitled to receive the amount of compensation finally assessed on the claim in cash or in New Zealand Government stock on such terms as may be agreed upon between the Minister of Finance and the claimant, or partly in stock and partly in cash. 20

(5B) The amount of compensation payable to any claimant under this section shall bear interest at the rate of three per centum per annum for the period commencing at the commencement of this Act and ending on the date of settlement. 25

(6) At any time after any claim has been verified, the claimant shall be entitled to receive such amounts as the Commission from time to time determines on account of the compensation payable or to become payable to him in cash or on account of the interest payable to him on any such amount or on any stock to be issued to him under this section. 30

*Miscellaneous*

**22.** (1) For the purposes of obtaining any information required by it under this Part of this Act the Commission or any person authorized in that behalf by writing under the hand of the Chairman of the Commission may— 35 40

(a) Inspect, examine, and audit any books or documents:

Commission may inspect books and require information.

(b) Require any person to produce any books or documents in his possession or under his control, and to allow copies of or extracts from any such books or documents to be made:

5 (c) Require any person to furnish, in a form to be approved by or acceptable to the Commission, any information or particulars that may be required by the Commission, and any copies of or extracts from any such books or documents as aforesaid:

(d) Inspect and measure any land or coal.

(2) The Commission may, if it thinks fit, require that any written information or particulars or any 15 copies or extracts furnished under this section shall be verified by statutory declaration or otherwise as the Commission may require.

**23.** (1) Every person commits an offence against this Part of this Act who— Offences.

20 (a) Resists, obstructs, deceives, or attempts to deceive any person who is exercising or attempting to exercise any power or function under this Part of this Act:

25 (b) *Knowingly* makes any false or misleading statement or any material omission in any information, particulars, copy, extract, claim, or communication (written or oral) made under or for the purposes of this Part of this Act:

30 (c) Fails to comply in any respect with any provision of this Part of this Act or with any *order or* requirement thereunder.

(2) Every person who aids, abets, counsels, or procures or is in any way knowingly concerned with the commission of an offence against this Part of this Act 35 shall be deemed to have committed an offence against this Part of this Act.

(3) Any offence against this Part of this Act committed by a servant or agent in the course of his employment shall be deemed to have been also 40 committed by his employer or principal

*New*

unless the employer or principal proves that the offence was committed without his knowledge and that he exercised all 45 reasonable diligence to prevent the commission of any such offence.

(4) Every person who commits or attempts to commit an offence against this Part of this Act shall be liable on summary conviction,—

(a) In the case of an individual, to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds (and if the offence is a continuing one) to a further fine not exceeding five pounds for every day during which the offence continues, or to both such imprisonment and such fines: 5 10

(b) In the case of a company or other corporation, to a fine not exceeding five hundred pounds (and if the offence is a continuing one) to a further fine not exceeding fifty pounds for every day during which the offence continues. 15

Regulations.

**24.** The power to make general regulations conferred on the Governor-General by section one hundred and ninety-two of the principal Act shall be deemed to include power to make regulations for the purpose of giving full effect to the provisions of this Part of this Act. 20

## PART II

### COAL-MINING RIGHTS

Interpretation.

**25.** (1) For the purposes of the principal Act (including this Act), unless the context otherwise requires,— 25

“ Coal-mining operations ” and “ coal-mining purposes ” mean mining for coal, and include—

(a) The erection, maintenance, and use of machinery, and the construction or use of roads, railways, tramways, dams, races, channels, buildings, dwellings, and other works connected with any such operations or purposes: 30 35

(b) The deposit or discharge of debris, refuse, and waste water produced from or consequent on any such operations or purposes:

(c) The lawful use of land, watercourses, and water and the doing of all lawful acts incidental or conducive to any such operations or purposes: 40



- “ Land ” includes Maori land; and also includes land below the sea or below any other water:
- “ Lessee or licensee ” means the lessee or licensee under a coal-mining right:
- 5 “ Maori ” and “ Maori land ” have the same meanings respectively as in the Maori Land Act, 1931: See Reprint of Statutes, Vol. VI, p. 103
- “ Occupier ”, in relation to any land, means the person in actual occupation of the land or of any part thereof either as the owner of the fee-simple thereof or under any lawful title granted by or derived from the owner:
- 10 “ Private land ” means land that is held in fee-simple by any person other than His Majesty the King or is held under lease or licence from His Majesty.
- (2) Section two of the principal Act is hereby amended by inserting in the definition of the term “ coal-mining right ”, after the words “ tramway licence ”, the words “ or a way-leave or other easement ”.
- (3) Section three of the principal Act is hereby amended by adding the following paragraph:—
- “ (d) Way-leaves and other easements.”
- 25 (4) Section thirty of the principal Act is hereby amended by repealing subsection two. Repeal.
- 26.** (1) Subject to the provisions of Part III of the principal Act, no person shall after the commencement of this Act prospect or mine for coal on any land in Prohibiting prospecting or mining for coal except pursuant to a lease or licence under principal Act.
- 30 New Zealand except in pursuance of a prospecting licence or coal-mining lease granted under the principal Act.
- (2) This section shall bind the Crown.
- (3) Every person who without lawful authority Repeals.
- 35 takes any coal from any land shall, in addition to any liability for conversion, be liable to the same penalty as for unlawful trespass on Crown lands.
- (4) Section thirty-two of the principal Act is hereby repealed.
- 40 (5) Section forty of the Public Works Act, 1928, is hereby amended as follows:— See Reprint of Statutes, Vol. VII, p. 622
- (a) By inserting in subsection one, after the word “ substance ” where it first occurs, the words “ not including coal ”:
- 45 (b) By repealing subsection two.

(6) Section one hundred and forty of the Public Works Act, 1928, is hereby amended as follows:—

- (a) By inserting in subsection one, after the word “substance” where it first occurs, the words “not including coal”:  
5
- (b) By repealing subsection two.

*Grant of Coal-mining Rights*

Rights may be granted over any land in New Zealand, except land held for State coal-mines.

**27.** (1) Subject to the provisions of this Act, coal-mining rights may be granted under Part I of the principal Act over any land in New Zealand that 10 is not for the time being subject to Part III of the principal Act.

(2) Without limiting the provisions of subsection two of section *thirty-two* of this Act, it is hereby declared that any coal-mining lease granted in respect 15 of any coal may include the benefit of any servitude annexed to that coal and vested in His Majesty by Part I of this Act.

(3) Section four of the principal Act is hereby amended by omitting from subsection one the words 20 “and if no other rights inconsistent therewith are in existence in respect of such lands”.

Repeals.

(4) Sections five, one hundred and sixty-eight, one hundred and sixty-nine, and one hundred and ninety 25 of the principal Act are hereby repealed.

Consent of appropriate Minister required for grant of mining rights over public reserves, &c.

**28.** (1) Subject to the *next succeeding* subsection, this section applies to all land (not being land of any of the classes referred to in paragraphs (c), (d), (e), (f), and (g) of subsection one of section four of the principal Act) that is for the time being comprised in 30 any one or more of the following classes, namely:—

(a) Land held by or on behalf of His Majesty or any local authority, public body, or trustees for the use, benefit, or enjoyment, or for the safety or defence of the people of New 35 Zealand or of the inhabitants of any district or locality in New Zealand (not being land held exclusively as an endowment):

(b) Land that is part of a road or street:

(c) Land held, taken, purchased, or acquired by 40 or on behalf His Majesty or any local authority or public body for any public work within the meaning of the Public Works Act, 1928:

See Reprint of Statutes, Vol. VII, p. 622

- (d) Land that is part of the bed or shore of the sea, or part of the bed or banks of a river, and is below high-water mark at ordinary spring tides:
- 5 (e) Land that is part of the bed of a navigable river within the meaning of section two hundred and six of the principal Act, whether vested in the Crown or not:
- 10 (f) Land that is part of the bed of a river (not being a navigable river), or part of the bed of a lake, if it is held by or on behalf of His Majesty, or if, in the opinion of the Minister, it is not clearly established who is the owner thereof:
- 15 (g) Land to which the provisions of this section are applied by the Governor-General by Order in Council under the *next succeeding* subsection.

(2) The Governor-General may from time to time, 20 by Order in Council, apply the provisions of this section to any specified land or to any specified class of land, and may in like manner exempt from the operation of this section any land or class of land to which this section applies, whether by reason of an 25 Order in Council under this subsection or otherwise. Any Order in Council issued under this subsection may be at any time in like manner varied or revoked.

(3) No coal-mining right shall be granted over any 30 land to which this section applies, except with the precedent consent in writing of the Minister for the time being charged with the administration of the land or with the administration of the enactment (if any) to which the land is subject.

(4) Where any land to which this section applies 35 is held by or on behalf of or is controlled in whole or in part by any local authority, public body, or trustees, the appropriate Minister shall not make any decision in respect of any application for his consent under this section without first consulting the local authority, 40 public body, or trustees.

**29.** (1) A coal-mining right shall be granted over such area and for such term as may, with the approval of the Minister, be fixed by the Warden or Commissioner.

Area and term  
for grant of  
coal-mining  
rights.

Repeals.

(2) Subsections two, three, and four of section fourteen, section fifteen, and subsection one of section twenty of the principal Act are hereby repealed.

Marking out mining rights.

**30.** (1) Every applicant for a coal-mining right over any land shall mark out the land before filing the application. 5

(2) For the purpose of marking out the land, surveying it, and posting notices thereon in connection with the application he may, subject to the provisions of this section, by himself or his agents or workmen, 10 enter on the land and there do whatever is reasonably necessary for that purpose.

(3) The applicant shall do no damage that can possibly be avoided, and shall be liable for compensation for all damage actually done. 15

(4) In the case of private land, the applicant shall not enter without the previous consent of the Warden or Commissioner (who, before giving his consent, shall be satisfied that the owner or occupier has received at least twenty-four hours' previous notice in writing of the intention to apply therefor), nor (having obtained that consent) shall he enter unless he gives to the owner or occupier at least forty-eight hours' previous notice in writing of intention so to do, and enters within seven days after giving that notice. 25

(5) In any case where the Warden or Commissioner is satisfied that after the service of the notice referred to in the *last preceding* subsection, and before the applicant could with reasonable diligence have marked out the land and filed his application, some other person has anticipated him by filing an application in respect of the same subject-matter, the Warden or Commissioner, if he thinks it equitable so to do, may, for the purpose of determining the respective priorities of the applications (but for no other purpose), treat the first-mentioned application as if it had been duly filed at the time of the service of the aforesaid notice, and pursuant to a previous marking out. 30 35

#### *Conditions of Coal-mining Rights*

Conditions of coal-mining rights.

**31.** (1) Every coal-mining right shall be granted upon or subject to such exceptions, reservations, and conditions as may be specified in the instrument of title to the right or prescribed by the principal Act 40

or by regulations made thereunder, and such further conditions as the Warden or Commissioner granting it thinks fit or the Minister imposes under section twenty-four of the principal Act.

5 (2) This section is in substitution for sections ten and eighteen, subsection three of section twenty, and subsection four of section thirty of the principal Act, and those enactments are hereby accordingly repealed. Repeals.

10 **32.** (1) Subject to the provisions of the principal Act, a coal-mining lease shall, with respect to the land over which it is granted, be a demise of— Coal-mining leases.

(a) All the coal therein; or

(b) The soil and seams of coal within a specified depth from the surface; or

15 (c) Any specified seam or seams of coal; or

(d) Any specified coal-bearing horizon or horizons.

(2) In addition to the right to raise and dispose of the coal demised thereby, a coal-mining lease shall, with respect to the land over which it is granted, confer such rights and way-leaves and other easements in respect of the use and occupation of any defined portion or portions of the surface, and any defined portion or portions of the land between the surface and any specified depth, seam, or horizon, as are specified in the lease.

25 (3) This section is in substitution for subsection one of section fourteen of the principal Act, section seventeen of the Statutes Amendment Act, 1946, and subsection four of section two of the Coal-mines Amendment Act, 1947, and those enactments are hereby accordingly repealed. Repeals. 1946, No. 40 1947, No. 42

30 (4) All coal-mining rights granted under Part I of the principal Act and subsisting at the commencement of this Act shall continue to be subject to the same provisions, exceptions, reservations, and conditions as if this section had not been passed.

35 **33.** It shall be a condition of every coal-mining lease granted after the commencement of this Act that the lessee shall not remove or permit the removal of any pillar or part of a pillar from any mine without first obtaining the consent in writing of the Minister or of a person appointed by the Minister in that behalf. Removal of pillars in coal-mines.

40

Removal of  
buildings and  
chattels by  
licensees.

34. (1) Nothing in the principal Act or in any coal-mining right shall be construed to entitle any lessee or licensee to any compensation for any improvements that he may effect to any land.

(2) Where any buildings, machinery, works, or other improvements are erected or made on any land by any lessee or licensee in the exercise of any powers conferred upon him by his lease or licence or by the principal Act or by any regulations made thereunder and are so attached to the land as to form part thereof, the lessee or licensee may at any time during the prescribed period remove or otherwise dispose of the buildings, machinery, works, or other improvements, or any of them, as if they had continued to belong to him.

(3) Where any chattel, machinery, or other property is placed on any land by any lessee or licensee in the exercise of any powers conferred upon him by his lease or licence or by the principal Act or by any regulations made thereunder, and is not so attached to the land as to form part thereof, it shall be the duty of the lessee or licensee to remove the property from the land during the prescribed period, and if he fails so to do he commits an offence against the principal Act. Any property that is not removed from any land as required by this subsection may be seized on behalf of His Majesty by any Inspector, and it shall thereupon become the property of His Majesty free and discharged from all right, title, or interest possessed in respect thereof by any other person.

(4) For the purposes of this section the prescribed period in respect of any lease or licence shall be the period during which the lease or licence is in force and six months thereafter, or such longer period as the Minister on application in that behalf directs.

(5) The provisions of this section shall be deemed to be subject to the provisions of any valid agreement made by a lessee or licensee with any owner or occupier of any land.

*Rights of the Crown*

35. (1) The Minister or any other person authorized in that behalf by the Minister may, on behalf of His Majesty, apply for, lease, purchase, or otherwise  
 5 acquire and hold, or sell, lease, or otherwise dispose of, any coal-mining right under the principal Act in respect of any land not for the time being subject to Part III of the principal Act in the same manner in all respects as if he were a private person.
- 10 (2) Subject to the provisions of this section, any coal-mining right acquired on behalf of His Majesty shall confer on His Majesty the same rights, benefits, and privileges as would be conferred upon a private person holding the lease or licence. No transfer or  
 15 mortgage to His Majesty of any coal-mining right shall operate as a merger of the interest created by the lease or licence.
- (3) A coal-mining right held on behalf of His Majesty shall not be determinable by effluxion of time,  
 20 but shall continue in force notwithstanding the expiry of the term for which it was granted, until surrendered by a notice published by the Minister in the *Gazette*.
- (4) Section thirteen of the principal Act is hereby repealed. Repeal.

Coal-mining rights may be acquired by Minister.

25 *Compensation*

36. (1) Every person having any right, title, estate, or interest in any land injuriously affected by the exercise of any powers conferred by any coal-mining right, or suffering any damage from the exercise of  
 30 any powers conferred by any coal-mining right, shall be entitled to full compensation from the lessee or licensee for all loss, injury, or damage suffered by him from the exercise of those powers.
- (2) Compensation shall not be payable under this  
 35 section in respect of any coal within the meaning of Part I of this Act, or in respect of anything done pursuant to a servitude annexed to any such coal, or pursuant to any other right reserved to or vested in His Majesty.

Persons injuriously affected by mining operations entitled to compensation.

(3) Subject to the provisions of this Act as to coal-prospecting licences and to any agreement between the parties, compensation under this section shall be assessed as follows:—

(a) Where the amount claimed exceeds one thousand pounds, or where the land affected is Maori land, in accordance with Part III or Part IV of the Public Works Act, 1928, as the case may require, the amount assessed being deemed to be compensation awarded under that Act: 5 10

(b) In cases to which paragraph (a) hereof does not apply, and in any case where the parties so agree, by the Warden of the mining district or the nearest mining district, as the case may be, the amount assessed being deemed to be a debt recoverable in the Warden's Court. 15

(4) This section shall bind the Crown, and shall apply with respect to claims on behalf of the Crown, as well as to claims by or on behalf of other persons. 20

**37.** (1) No coal-prospecting licence shall be granted until the applicant has, in respect of every person who in the opinion of the Warden may become entitled to compensation under the *last preceding* section in respect of the exercise of the powers to be conferred by the licence, paid or tendered to him the amount of the compensation, or entered into an agreement in writing with him as to the compensation and as to the payment thereof, or given security to the satisfaction of the Warden for payment of the compensation. 25 30

(2) All compensation payable in respect of the exercise of any powers conferred or to be conferred by a prospecting licence shall be assessed, and all jurisdiction in relation thereto shall be exercised, by the Warden of the mining district or the nearest mining district, as the case may be. 35

**38.** (1) The lessee or licensee under a coal-mining right other than a coal-prospecting licence shall not proceed to act in any way pursuant to the authority conferred upon him by the right until he has, in respect of every person who in the opinion of the Warden may become entitled to compensation under section *thirty-six* of this Act in respect thereof, paid or 40

See Reprint  
of Statutes,  
Vol. VII, p. 622

Coal-  
prospecting  
licences.

Other coal-  
mining rights.



tendered to him the amount of the compensation, or entered into an agreement in writing with him as to the compensation and as to the payment thereof, or given security to the satisfaction of the Warden for  
5 payment of the compensation.

(2) For the purposes of this section the term "Warden" means the Warden of the mining district or the nearest mining district, as the case may be.

#### Miscellaneous

10 **39.** (1) Where the Maori Land Board of the district in which any Maori land is situated is requested by any of the owners or occupiers of the land (being Maoris) to represent them for the purposes of this Act, or where the Board is requested by any lessee or  
15 licensee or other person exercising or desiring to exercise any powers conferred by the principal Act or by any coal-mining right in relation to the land to represent the owners and occupiers of the land (being Maoris) for the purposes of this Act, the Board shall  
20 represent them accordingly; and for that purpose the provisions of this Act shall apply as if references to the said Maori owners and occupiers were references to the Maori Land Board.

Maori Land Board to represent Maori owners and occupiers of Maori land if requested.

(2) Where in accordance with this section a Maori  
25 Land Board represents the Maori owners or occupiers of any land it may grant consents, enter into agreements, execute documents, receive money and give discharges therefor, and do any other things for the purposes of this Act as fully and effectually as if the  
30 estates and interests of the Maori owners and occupiers in the land were vested in the Board.

(3) For the purposes of this section every owner of an undivided interest in any Maori land shall be deemed to be a Maori.

35 **40.** (1) Subject to the provisions of this section and of section four and of subsection two of section twenty-seven of this Act, every coal lease or other contract (not being a coal-mining right under the principal Act or a lease or other contract under Part III of that Act) that  
40 authorizes any person to prospect or mine for coal or to carry on coal-mining operations on any land, and is subsisting at the date of the commencement of this Act, shall be deemed to be determined on that date.

Persons claiming existing coal leases or prospecting or mining rights entitled to lease or licence under principal Act.

(2) Every person who on the passing of this Act was entitled to prospect or mine for coal or to carry on coal-mining operations on any land by virtue of any coal lease or other contract (not being a coal-mining right under the principal Act or a lease or other contract under Part III of that Act) entered into with the owner of the land or with any other competent person may give notice in writing to the Under-Secretary of the existence and nature of the right and particulars of the land affected thereby, accompanied by certified copies of all documents by virtue of which the right is claimed. 5 10

(3) Every person who on the passing of this Act was actually carrying on any coal-mining operations on any private land owned by him may give notice in writing to the Under-Secretary of the nature of the mining operations and particulars of the land affected thereby. 15

(4) The Under-Secretary shall cause to be kept a register of all notices received under this section. 20

(5) Every person who, being in the opinion of the Minister entitled to do so, has given notice under this section in respect of any land shall, on application duly made in that behalf before the commencement of this Act, be entitled to the grant of a coal-mining right under Part I of the principal Act in respect of the same land, or (in the case of a notice under subsection *three* of this section) in respect of so much of his land as the Warden or Commissioner with the approval of the Minister considers reasonable having regard to the scope of his operations; 25 30

Provided that this subsection shall not apply with respect to contracts entered into after the *first* day of *August*, nineteen hundred and forty-eight, or to mining operations commenced after that date, unless the Minister in any case in his discretion otherwise determines. 35

*Struck out*

(6) In fixing the terms and conditions of any coal-mining right granted in the case of a notice under subsection *two* of this section, regard shall be had to the terms and conditions of the coal lease or other contract to which the notice relates. 40

*New*

5 (6A) Notwithstanding anything to the contrary in Part I of the principal Act, the terms and conditions of any coal-mining right granted in the case of a notice  
10 under subsection *two* of this section shall be so fixed as to be in the opinion of the Warden or Commissioner as approved by the Minister not more onerous or less advantageous to the lessee or licensee than the terms and conditions of the coal lease or other contract to which the notice relates.

*Struck out*

15 (7) The rent or royalty payable under any coal-mining right granted under this section shall be at the same rate as that paid by the applicant at the commencement of this Act or (where he was not paying any rent or royalty) shall be fixed by reference to the rates ruling in the particular district.

*New*

20 (7A) The royalty or rent payable under any coal-mining right granted in the case of any notice under this section shall be fixed by reference to the royalty or rent (including any royalty payable under a royalty mortgage) taken into account, in respect of the coal lease or other contract or the coal to which the notice relates,  
25 for the purpose of determining the global sum under section *fifteen* of this Act.

30 (7B) Where any person entitled to give a notice under subsection *two* or subsection *three* of this section in respect of any coal lease or other contract or in respect of any land does not do so, the owner of any mortgage or encumbrance affecting that person's estate or interest under the coal lease or other contract or in the land may give a notice under subsection *two* or subsection *three* of this section, and, if any such notice is  
35 given not later than *one* month after the commencement of this Act, the person giving the notice or the lessee or licensee or owner, as the Warden or Commissioner with the approval of the Minister determines, shall, subject to the provisions of this section, be entitled to  
40 the grant of a coal-mining right under this section.

(7C) This section shall bind the Crown, and shall apply to coal leases or other contracts held by or on behalf of His Majesty.

(8) Every coal-mining right granted under this section to a person who was carrying on any coal-mining operations by virtue of any contract shall be subject to all encumbrances (*other than royalty mortgages*), liens, and interests (if any) to which that contract was subject on the date of the granting of the coal-mining right. For the purposes of this subsection, all references in any Act or in any agreement, deed, instrument, notice, or other document whatsoever to that contract or to the estate or interest of the lessee or licensee thereunder shall, unless inconsistent with the context or with the provisions of this section, be deemed to be references to the coal-mining right or to the estate or interest of the lessee or licensee thereunder, as the case may be.

See Reprint  
of Statutes,  
Vol. VII, p. 1162

(9) Upon the registration under the Land Transfer Act, 1915, of any coal-mining right granted under this section to a person who was carrying on any coal-mining operations by virtue of any contract registered under that Act, the District Land Registrar shall record on the coal-mining right all encumbrances, liens, and interests registered against the coal-mining right, in the order of their registered priority.

(10) Where an application for a coal-mining right has been duly applied for under this section the Warden or Commissioner may, with the approval of the Minister, authorize the applicant to carry on any mining operations pending the grant of the coal-mining right.

### PART III

#### GENERAL

Commencement  
of this Part.

Certificates of  
title may be  
issued to His  
Majesty.

Ibid.

**41.** This Part of this Act shall come into force on the passing of this Act.

**42.** Notwithstanding anything to the contrary in any Act or rule of law, a certificate of title under the Land Transfer Act, 1915, may, upon application made by or on behalf of the Minister, be issued without fee in the name of His Majesty in respect of any land, or estate in fee-simple, or lease for the time being vested in the Crown for the purposes of any of the provisions of the principal Act, and no transfer or mortgage to His Majesty for the purposes aforesaid of any estate or interest in land comprised in any

certificate of title shall operate as a merger of that estate or interest.

**43.** Section one hundred and seventy-six of the principal Act is hereby amended as follows:—

- 5 (a) By inserting in paragraph (a) of subsection one, after the word “ships”, the words “plant for the generation, distribution, and supply of electrical energy”:
- 10 (b) By inserting in subsection one, after paragraph (b), the following new paragraph:—  
 “(bb) After State requirements have been provided for, sell and supply electrical energy generated by any plant referred to in paragraph (a) of this subsection; and”:
- 15 (c) By inserting, after subsection one, the following new subsection:—  
 “(1A) For the purpose of distributing and supplying electrical energy under the powers conferred by the *last preceding* subsection the Minister shall obtain and hold a licence issued under section three hundred and nineteen of the Public Works Act, 1928.”
- 20

Minister may generate and supply electrical energy.  
 See Reprint of Statutes, Vol. V, p. 926

Ibid., Vol. VII, p. 772

- 44.** (1) This section shall be deemed to be part of Part III of the principal Act.
- 25 (2) The Minister may from time to time, on behalf of His Majesty the King, subscribe for or otherwise acquire shares or stock in the capital of any company registered under the Companies Act, 1933.
- 30 (3) The Minister or any other person authorized in that behalf by the Minister may from time to time exercise on behalf of His Majesty all or any of His Majesty’s rights and powers as the holder of any such shares or stock.
- (4) The Minister may sell or otherwise dispose of  
 35 any such shares or stock in such manner and on such terms as he thinks fit.
- (5) Section nine of the Statutes Amendment Act, 1945, is hereby repealed.
- 40 (6) All shares and stock held by the Minister under the said section nine at the commencement of this Act shall be deemed to be held by him on behalf of His Majesty under this section.

Minister may acquire and dispose of shares or stock in companies.

1933, No. 29

Repeal.  
 1945, No. 40