

COAL MINES AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill repeals Part I of the Coal Act, 1948, which vested in the Crown the ownership of all unworked coal in New Zealand. The Bill revests the coal in the private owners and as far as possible restores them to the position they were in on 1st April, 1949. *Part II* of the Bill makes various amendments to the Coal Mines Act, 1925.

PART I—REVESTING OF COAL IN PRIVATE OWNERS

Clause 2 provides that all coal, servitudes, and rights that were vested in the Crown by Part I of the Coal Act, 1948, as from 1st April, 1949, shall be deemed to have remained vested in the private owners as from that date, as if Part I of the Coal Act, 1948, had never been passed.

Clause 3 reinstates, as from 1st April, 1949, all royalty mortgages, coal leases, and other contracts that were cancelled by the Coal Act, 1948, subject, however, to any subsequent agreements between the parties.

Clause 4 cancels, as from the time of their creation, all coal mining rights granted by the Crown under section 42 of the Coal Act, 1948, in exchange for coal leases granted by private owners before 1st April, 1949.

Clause 5 provides that every coal mining right granted by the Crown over private land, under section 29 of the Coal Act, 1948, shall continue in force, unless it is altered by agreement. The private owner of the coal in any such case may by notice to the Under-Secretary of Mines require the Crown to retain the ownership of the coal, subject to the coal mining right, and in that case the Crown will retain the royalty or rent. Any such notice is to be given within two months after the passing of the Bill, unless the time is extended by the Minister of Mines. If no such notice is given the coal will be revested in the private owner, subject to the coal mining right.

Clause 6 provides that all royalties and rents in respect of coal shall be deemed to have been payable to the private owners thereof as if Part I of the Coal Act, 1948, had never been passed. All such moneys received by the Crown are to be refunded (less any advances made on account of compensation), and moneys not paid to the Crown may be recovered by the private owners. *Subclause (3)* provides that for income tax purposes all such refunds (as well as the compensation paid in advance on account of royalties and rents) are to be treated as if they had been derived on the dates on which the royalties and rents were originally payable, and brought into the appropriate income year accordingly.

Clause 7 directs the District Land Registrar to make the necessary entries on the Land Transfer Register to give full effect to this Bill.

Clause 8 provides that alienations of land from the Crown are to be subject to the reservation of all coal in the land and to the power to grant coal mining rights over the land.

Clause 9 repeals Part I of the Coal Act, 1948, and certain parts of Part II of that Act that are related to the State ownership of coal, as well as Part I of the Coal Mines Amendment Act, 1949, which amended the Act of 1948. *Subclause (2)* makes various consequential amendments as set out in the Schedule to the Bill.

Clause 10 provides that Part I is to bind the Crown.

PART II—MISCELLANEOUS AMENDMENTS

Clause 11 provides that coal mine owners shall work their mines in the most approved manner, according to plans approved by an Inspector of Coal Mines, and without any unnecessary loss of coal.

Clause 12 provides for the working of coal left as barriers. Inspectors are to endeavour to promote agreements between the respective owners for the working of these barriers. Where the parties cannot agree, the Minister may appoint a committee of representatives of the mine owners and coal owners, with a Warden or Magistrate as Chairman. Any such committee is to have power to give binding directions for the working of the barrier coal.

Clause 13 amends section 162 of the Coal Mines Act, 1925, to make it clear that land may be taken under the Public Works Act, 1928, for the benefit of private owners to enable them to establish new mines. There is already power to take land for the purposes of existing mines.

Clause 14 amends section 170 of the principal Act to make it clear that mines may be taken under the Public Works Act for the purposes of State Coal mines. The section already provides that mines may be purchased or leased for those purposes.

Clause 15 amends section 9 of the Coal Mines Amendment Act, 1949, which required the holders of certificates of competency as mine managers, &c., to have them endorsed periodically to show that the holders had a recent first aid qualification. The clause also provides that an Inspector may exempt from this requirement:—

- (a) Persons who were at least sixty years old on the passing of the 1949 Act (on 30th September, 1949), and whose duties are such that an up to date first aid qualification is not required:
- (b) Persons who have found it impracticable to obtain the necessary first aid training, where the Inspector is satisfied that adequate first aid facilities are available in the locality.

Subclause (5) provides that where a mine manager or other holder of a certificate of competency retires, his certificate shall not be suspended at the end of five years from the last first aid endorsement, unless he resumes active work.

Clause 16 establishes a Coal Mining Districts Amenities Fund, to be financed by a levy of 3d. a ton on all coal raised in any mine, including State mines. The levy is to be paid quarterly to the Public Trustee, who will manage the fund, and disburse it from time to time for the provision of amenities in coal mining districts. A Coal Mining Districts Amenities Council is established by *subclause (5)*, and it will give directions to the Public Trustee as to the expenditure of the fund. The first instalment of the levy will be payable in January, 1951.

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
11th October, 1950.*

Hon. Mr. Sullivan

COAL MINES AMENDMENT

ANALYSIS

<p>Title.</p> <p>1. Short Title.</p>	<p>8. Reservation of coal on alienations of land from Crown.</p> <p>9. Repeals and consequential amendments.</p> <p>10. This Part to bind the Crown.</p>
<p>PART I</p> <p>REVESTING OF COAL IN PRIVATE OWNERS</p>	<p>PART II</p> <p>MISCELLANEOUS AMENDMENTS</p>
<p>2. Revesting of unworked coal in private owners.</p> <p>3. Reinstatement of royalty mortgages, coal leases, and other contracts.</p> <p>4. Cancellation of coal mining rights under section 42 of the Coal Act, 1948.</p> <p>5. Coal mining rights granted by Crown to continue in force, but private owner may require coal to remain vested in Crown.</p> <p>6. Royalty and rent received by the Crown to be refunded.</p> <p>7. District Land Registrar to register necessary memorials.</p>	<p>11. Mines to be worked in most approved manner.</p> <p>12. Working of coal left for barriers.</p> <p>13. Land required for mine or to establish new mine may be taken under Public Works Act.</p> <p>14. Power to take mine for State coal mine.</p> <p>15. Amendment of provisions as to first aid endorsements on certificates of competency.</p> <p>16. Coal Mining Districts Amenities Fund. Schedule.</p>

A BILL INTITULED

AN ACT to Make Provision for the Restoration to the Private Owners of the Property in the Unworked Coal Vested in the Crown by Part I of the Coal Act, 1948, and for Matters Incidental Thereto, and to Amend the Coal Mines Act, 1925.

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

Short Title.

1. This Act may be cited as the Coal Mines Amendment Act, 1950, and shall be read together with and deemed part of the Coal Mines Act, 1925 (hereinafter referred to as the principal Act). 5

See Reprint of Statutes, Vol. V, p. 843

PART I

REVESTING OF COAL IN PRIVATE OWNERS

Revesting of unworked coal in private owners.
1948, No. 37

2. All coal, servitudes, and rights that were declared 10 by Part I of the Coal Act, 1948, to be vested in the Crown shall be deemed not to have been so vested in the Crown, but to have remained vested, as from the commencement of that Act, in the same persons, in the same manner, and subject to the same encumbrances, liens, and 15 interests, as if Part I of the Coal Act, 1948, had never been passed.

Reinstatement of royalty mortgages, coal leases, and other contracts.
1948, No. 37

3. Every royalty mortgage that was cancelled by section five of the Coal Act, 1948, and every coal lease or other contract that was determined by section forty-two of that Act shall be deemed to have been reinstated 20 as from the commencement of that Act, subject to any subsequent agreement between the parties.

Cancellation of coal mining rights under section 42 of the Coal Act, 1948.
1948, No. 37

4. Every coal mining right granted under section 40 forty-two of the Coal Act, 1948; and every authority 25 granted under subsection twelve of the said section forty-two shall be deemed to have been cancelled as from the time when it was granted or took effect, whichever was the earlier.

Coal mining rights granted by Crown to continue in force, but private owner may require coal to remain vested in Crown.
1948, No. 37

5. (1) Every coal mining right granted under 30 section twenty-nine of the Coal Act, 1948, and subsisting at the commencement of this Act, shall continue in force according to its tenor, notwithstanding any of the provisions of this Part of this Act, but subject to any agreement between the parties. 35

(2) Where the private owner of the unworked coal in respect of which any such coal mining right was granted gives notice in writing to the Under-Secretary of Mines, within two months after the commencement of this Act or such further time as the Minister in any 40 case allows, that he requires the coal to remain vested in the Crown, the coal shall be deemed to have been

taken by the Governor-General under section one hundred and seventy of the principal Act, on the date on which the coal mining right was granted or took effect (whichever was the earlier), as for a public work
 5 under the Public Works Act, 1928, subject to the coal mining right, and all moneys payable by way of royalty or rent under the coal mining right shall be payable to the Crown accordingly.

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

6. (1) Where the Crown has received any moneys by way of royalty or rent, and those moneys would have been receivable by any other persons if Part I of the Coal Act, 1948, had not been passed, those moneys shall be paid by the Minister to those persons or their successors in title respectively, less any amounts received
 10 by them on account of compensation under Part I of that Act.

Royalty and rent received by the Crown to be refunded, 1948, No. 37

(2) All moneys payable at any time by way of royalty or rent and not received by the Crown shall be payable to and recoverable by the same persons as if
 20 Part I of the Coal Act, 1948, had not been passed.

(3) For the purposes of the Land and Income Tax Act, 1923, all moneys payable to any person by virtue of this section and all amounts received by any person on account of compensation under Part I of the Coal Act,
 25 1948, shall be deemed to be income derived by that person, and shall be apportioned between the appropriate income years according to the respective dates on which the royalty or rent which in the opinion of the Commissioner of Taxes is represented by those moneys and
 30 amounts would have been payable if Part I of the Coal Act, 1948, had not been passed.

See Reprint of Statutes, Vol. VII, p. 271
 1948, No. 37

7. On being satisfied (whether by a certificate signed by the Minister or by any other person authorized by the Minister in that behalf, or otherwise) that the title to any
 35 estate or interest in land is affected by any of the provisions of this Part of this Act, the District Land Registrar shall, without fee, register against the title to the land such memorial or memorials as he considers necessary to give full effect to this Part of this Act.

District Land Registrar to register necessary memorials.

8. All alienations of land from the Crown, whether by way of sale or lease or otherwise, made on or after the first day of April, nineteen hundred and forty-nine (whether before or after the passing of this Act), shall be deemed to be made subject to the reservation of all
 40 coal existing on or under the surface of the land, and subject to the reservation of the power to grant coal mining rights over the land under Part I of the principal Act.

Reservation of coal on alienations of land by Crown.

Repeals and consequential amendments. 1948, No. 37

9. (1) The following enactments are hereby repealed, namely:—

(a) Part I of the Coal Act, 1948:

(b) Subsection one of section twenty-seven, sections twenty-eight to thirty, subsections four and five of section thirty-two, section thirty-three, subsection five of section thirty-six, and sections thirty-eight to forty-two of the Coal Act, 1948: 5

1949, No. 10

(c) Part I of the Coal Mines Amendment Act, 1949. 10

(2) The enactments mentioned in the Schedule to this Act are hereby amended as indicated in that Schedule.

This Part to bind the Crown.

10. This Part of this Act shall bind the Crown.

PART II

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MISCELLANEOUS AMENDMENTS

Mines to be worked in most approved manner.

11. The owner of every coal mine or his agent shall open up, work, and manage the mine in the most approved manner, and to the satisfaction of an Inspector of Coal Mines, and according to plans submitted to the Inspector from time to time when required and approved by him, and without causing any unnecessary loss of coal. 20

Working of coal left for barriers.

12. (1) Where any Inspector is of opinion that any coal left unworked as or for the purposes of a barrier or for any other reason could be wholly or partly worked without damage to any mine, it shall be the duty of the Inspector to report the matter to the Minister unless the owners of the mines or lands concerned enter into an agreement which is approved by the Inspector for the working of the coal. 30

(2) Where it appears to the Minister to be desirable in order to avoid unnecessary loss of coal, whether or not he has received a report from an Inspector under this section, the Minister may, by notice in the *Gazette*, appoint a special committee to determine whether any coal left unworked as aforesaid should be worked and, if so, the persons by whom and the terms and conditions on which it should be worked. 35

(3) Every such committee shall consist of— 40

(a) The Warden or a Magistrate, who shall be the Chairman of the Committee:

(b) Two or more persons, being first class mine managers, to be appointed to represent the respective owners of the mines concerned: 45

(c) Two or more persons, having a knowledge of the coal mining industry, to be appointed to represent the respective owners of the coal concerned.

5 (4) Every such committee may regulate its procedure as it thinks fit.

(5) The decision of any such committee on the matters referred to it by the Minister shall be published in the *Gazette*, and shall be binding on all persons
10 affected thereby.

(6) The owner of every coal mine or his agent shall comply with every requirement made by an Inspector for the purpose of ensuring compliance with any decision of a committee under this section.

15 **13.** Section one hundred and sixty-two of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection:—

“(1) Where for the purpose of working any mine, or establishing a new mine, it is required to carry on any
20 coal mining operations on, or over, or under any private land, or to take any private land or any part thereof or any unworked coal therein for coal mining purposes, the Governor-General, on the application and at the proper cost and charges of the owner of the mine or of the person proposing to establish the new mine, may take the
25 land or any part thereof or any unworked coal therein under the Public Works Act, 1928, as for a public work within the meaning of that Act.”

Land required for mine or to establish new mine may be taken under Public Works Act.

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

30 **14.** Section one hundred and seventy of the principal Act is hereby amended by inserting in subsection one, after the words “take such lands”, the words “or coal mine”.

Power to take mine for State coal mine.

35 **15.** (1) Section nine of the Coal Mines Amendment Act, 1949, shall not apply to any certificate of competency as long as the holder of the certificate is exempted from that section by an Inspector.

Amendment of provisions as to first aid endorsements on certificates of competency. 1949, No. 10

(2) An Inspector may exempt the holder of any certificate of competency from the said section nine if the Inspector is satisfied—

40 (a) That the holder had attained the age of sixty years before the thirtieth day of September, nineteen hundred and forty-nine (being the

1949, No. 10

date of the passing of the Coal Mines Amendment Act, 1949), and that the possession of an up to date first aid qualification is not necessary for the proper performance of his official duties; or

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(b) That it has been impracticable for the holder to obtain the necessary training for a first aid certificate entitling him to an endorsement under the said section nine, and that adequate first aid facilities are available in the locality.

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(3) Any exemption granted under this section may be revoked by an Inspector at any time if he considers it proper to do so.

(4) A record of every exemption granted under this section and of every revocation of any such exemption shall be made in the register of certificates of competency kept in accordance with section fifty-four of the principal Act.

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(5) Where the holder of a certificate of competency has, at the time for the taking effect of any suspension of the certificate in accordance with the said section nine, retired from all work for which the certificate is a qualification, the suspension of the certificate shall not take effect unless the holder again becomes employed or engaged in any such work.

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Coal Mining
Districts
Amenities
Fund.

16. (1) Notwithstanding anything to the contrary in any coal mining lease or in any agreement or elsewhere, the owner of every coal mine, whether situated on private land or on Crown lands, including every State coal mine worked under Part III of the principal Act, shall pay in manner hereinafter set out a sum equivalent to threepence a ton on all marketable coal raised from the mine, to be applied in providing or assisting to provide amenities in coal mining districts.

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(2) In the months of January, April, July, and October of each year, commencing with the month of January, nineteen hundred and fifty-one, every owner of a mine shall pay the sum due under the last preceding subsection on all marketable coal raised from the mine during the preceding three months respectively ending on the last day of the previous months of December, March, June, and September to the officer in charge of the nearest branch office of the Public Trust Office, or, if that is not convenient, into the post office money order

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office which is nearest to the mine, for transmission to the Public Trustee, who shall credit the amount to an account called the Coal Mining Districts Amenities Fund (in this section referred to as the fund).

5 (3) The fund shall be managed and administered by the Public Trustee in such manner and for such remuneration as may from time to time be prescribed by regulations or, in default of any such regulations or in so far as they do not extend, as may from time to time
10 be approved by the Minister:

(4) The moneys standing to the credit of the fund shall from time to time be applied by the Public Trustee in accordance with directions given to him by the Coal Mining Districts Amenities Council.

15 (5) There is hereby established a Council, to be called the Coal Mining Districts Amenities Council (in this section referred to as the Council), which shall consist of—

20 (a) The Minister, who shall be the Chairman of the Council:

(b) The Under-Secretary of Mines, who shall be the Deputy Chairman of the Council:

(c) The Secretary to the Treasury, or any person appointed by him to represent him:

25 (d) The Public Trustee, or any person appointed by him to represent him:

(e) A person appointed by the Minister as being conversant with matters affecting private owners of coal mines:

30 (f) A person appointed by the Minister as being conversant with matters affecting workers in coal mines.

(6) All appointed members of the Council or representatives on the Council shall hold office during
35 the pleasure of the persons appointing them.

(7) The Council may regulate its procedure in such manner as it thinks fit.

40 (8) The Council may from time to time give directions for such payments from the fund as in the opinion of the Council will provide or assist in providing amenities in coal mining districts in such cases as the Council thinks fit after considering any applications made in that behalf and any reports thereon made by the Under-Secretary or any other person,

Schedule.

SCHEDULE

Section 2 (2). AMENDMENTS CONSEQUENTIAL ON REPEAL OF PART I
OF COAL ACT, 1948

Title of Enactment.	Number of Section Affected.	Nature of Amendment.
1925, No. 39— The Coal Mines Act, 1925 (Reprint of Statutes, Vol. V, p. 845)	Section 4 (1)	By reinserting, after the words "this Act", the words "and if no other rights inconsistent therewith are in existence in respect of such lands".
(Ibid., p. 847) ..	Section 5 ..	By reviving this section.
(Ibid., p. 848) ..	Section 10 ..	By reviving this section.
(Ibid., pp. 851-4) ..	Section 18 ..	By reviving this section, and amending it as follows :— (a) By adding to paragraph (a) of subsection (1) the words "or in winning coal by the opencast method": (b) By omitting from paragraph (i) of subsection (1) all words after the words "In the event of forfeiture and entry as aforesaid", and substituting the words "the provisions of section thirty-six of the Coal Act, 1948, shall apply".
(Ibid., p. 855) ..	Section 20 (3)	By reviving this subsection.
(Ibid., p. 862) ..	Section 30 (4)	By reviving this subsection.
(Ibid., p. 863) ..	Section 32 ..	By reviving this section.
(Ibid., p. 923) ..	Section 168 ..	By reviving this section.
(Ibid., pp. 923-4) ..	Section 169 ..	By reviving this section.
(Ibid., pp. 930-1) ..	Section 190 ..	By reviving this section.
1928, No. 21— The Public Works Act, 1928 (Reprint of Statutes, Vol. VII, p. 644)	Section 40 (1)	By omitting the words "not including coal".
(Ibid., p. 645) ..	Section 40 (2)	By reviving this subsection.
(Ibid., p. 693) ..	Section 140 (1)	By omitting the words "not including coal".
	Section 140 (2)	By reviving this subsection.
1948, No. 37— The Coal Act, 1948 ..	Section 37 ..	By inserting, after subsection (3), the following subsections :— " (3A) All coal mining rights acquired on behalf of His Majesty shall be deemed to be subject to Part III of the principal Act, and shall be held and dealt with thereunder and not otherwise. " (3B) The Minister or any other person authorized in that behalf by the Minister may, with the consent of the owners or occupiers of any private land, and subject to such terms and conditions as may be agreed on, engage in prospecting operations for coal on that land."
1948, No. 64— The Land Act, 1948 ..	Section 2 ..	By omitting from the definition of the term "minerals" the words "Coal Act, 1948", and substituting the words "Coal Mines Act, 1925".