

207

*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,  
18th October, 1904.*

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

*Hon. Mr. McGowan.*

## MINING ACT AMENDMENT.

### ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Reserves under Mining Act to be of surface only.</p> <p>3. Occupied Crown lands may be reserved with consent of occupier.</p> <p>4. Leases in mining townships.</p> <p>5. Protection of machine-sites, &amp;c.</p> <p>6. Part of mining privilege may be surrendered.</p> <p>7. Taking possession of cultivated land, &amp;c.</p> <p>8. Compensation for damages to occupied land.</p> <p>9. Assessors roll.</p> <p>10. Appellate jurisdiction of District Courts.</p> <p>11. Registration of Proclamation taking land under Public Works Act.</p> <p>12. Mineral prospecting warrant.</p>	<p>13. Duration of warrant.</p> <p>14. Rights of holder.</p> <p>15. Conditions of warrant.</p> <p>16. Right of holder of warrant to select on lease.</p> <p>17. Regulations.</p> <p>18. Provision if land proves auriferous.</p> <p>19. Holder of lease, &amp;c., may apply for mining privilege.</p> <p>20. Certain provisions of principal Act to apply.</p> <p>21. Extension to Native lands.</p> <p>22. Amended definition of "mineral."</p> <p>22A. "Prospecting warrant" and "lease" defined.</p> <p>23. Principal Act amended.</p> <p>24. Action may be removed to the Supreme Court.</p> <p>25. Application to have action removed.</p>
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### A BILL INTITULED

AN ACT to amend "The Mining Act, 1898."

Title.

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, 1904"; and it shall form part of and be read together with "The Mining Act, 1898" (hereinafter referred to as "the principal Act").

Short Title.

2. (1.) Notwithstanding anything in section twenty-four of the principal Act, the Governor may from time to time by notice in the *Gazette* declare that any lands now or hereafter set apart as a public reserve or endowment, or Native reserve, or any specified part thereof, shall be available for mining at a depth below fifty feet from the surface; and thereupon such lands may be dealt with accordingly under the principal Act.

Reserves under Mining Act to be of surface only.

(2.) The provisions of paragraphs two to five of section twenty-five of the principal Act shall, *mutatis mutandis*, extend and apply to all lands specified in such notice.

(3.) The Warden, with the consent of the Minister, may, on application by the holder of any claim, grant the right to use any part of the surface of any such reserve or endowment for the purpose of constructing ventilating-shafts, pumping-shafts, or for other special purposes required for working the claim.

3. (1.) Any Crown lands now or hereafter lawfully held or occupied under the principal Act by any person may, with the consent in writing of such person, be set apart as a reserve for any public use or purpose.

Occupied Crown lands may be reserved with consent of occupier.

(2.) Such reservation may, in accordance with the tenor of the consent, be of the whole of the land, or of the surface, and any specified depth from the surface.

(3.) Every such consent shall be registered in the office of the Warden. 5

Leases in mining townships.

4. (1.) The Warden, under regulations to be made in that behalf and with the consent in writing of the Minister, may from time to time grant to any person a lease of the surface of any section in any township within a mining district for any term not exceeding twenty-one years at such rent and under such restrictions as may be prescribed by such regulations; and with respect to every such lease, whether granted under this Act or in renewal of any lease heretofore granted by the Governor under the principal Act or under the corresponding provisions of any former Mining or Land Act, the following provisions shall apply:— 10

(a.) Such lease shall entitle the lessee to all the rights and privileges enjoyed by holders of business-site licenses under the principal Act. 15

(b.) If at any time during the currency or at the termination of any such lease the land comprised therein is proved to the satisfaction of the Governor to be neither auriferous nor argentiferous, nor to be required for any mining purpose, such land may be sold by public auction, subject to valuation for building and improvements, in the manner and to the extent provided for in section forty of the principal Act. 20 25

(c.) At the end of the lease, unless the land is proved to be auriferous or argentiferous, the lessee shall be entitled to a renewal of the lease for a further period of twenty-one years at such rent and under such terms and restrictions as may be prescribed by regulations to be made in that behalf. 30

(d.) The rents arising from all such leases shall be goldfields revenue, and payable to the Receiver of Gold Revenue of the district in which the land is situated. 35

(2.) This section is in substitution for section forty-three of the principal Act, which section is hereby accordingly repealed.

Protection of machine-sites, &c.

5. Notwithstanding anything in the principal Act, or in "The Mining Act Amendment Act, 1899," the Warden, in the case of a machine-site or other mining privilege to be used in working a claim, may from time to time, on application in that behalf, extend the date of the commencement of works on such mining privilege for such period as he thinks fit, having regard to the nature and extent of the operations on the claim. 40

Part of mining privilege may be surrendered.

6. (1.) The right of surrender of a mining privilege conferred by section one hundred and twenty-seven of the principal Act may be exercised as to part only of the mining privilege, and that section is hereby modified accordingly. 45

(2.) The surrender of part only of a mining privilege shall be indorsed by the Warden on the license, and thereafter the rental payable in respect of the mining privilege shall be proportionately reduced. 50

7. No order made by the Warden under section one hundred and sixty-six of the principal Act shall have effect for a longer period than three months after its date, unless in the meantime the holder of the mining privilege on whose application the order was made proceeds to exercise the rights in respect of which the claim for compensation arose.

Taking possession of cultivated land, &c.

8. The compensation payable under section one hundred and sixty-seven of the principal Act by any person to the owner and occupier of land in respect of damage caused to such land by mining operations shall be assessed in the manner prescribed by the principal Act, and the amount thereof when so assessed shall be recoverable as a debt.

Compensation for damages to occupied land.

9. Section two hundred and fifty-six of the principal Act (relating to the compilation of Assessors rolls) is hereby amended by repealing the words "the Clerk of each Warden's Court in each district shall for each place where such Court is usually held," and substituting in lieu thereof the words "the Clerk of the Warden's Court at each place where such Court is usually held, whether within or beyond the mining district, shall."

Assessors roll.

10. Section two hundred and eighty-one of the principal Act (relating to the appellate jurisdiction of District Courts) is hereby amended by repealing the words "being the District Court sitting in the district wherein such decision was given," and substituting in lieu thereof the words "being the District Court having jurisdiction within the place where the Warden's final order, judgment, or other decision was given."

Appellate jurisdiction of District Courts.

11. Where land situate in a mining district is taken under "The Public Works Act, 1894," a copy of the Proclamation shall be deposited with the Mining Registrar for registration, and the Registrar shall register the same as on the hour and date of its being so deposited.

Registration of Proclamation taking land under Public Works Act.

12. (1.) *With the consent in writing of the Minister*, the Warden within a mining district, or the Commissioner of Crown Lands ~~with the consent of the Minister~~, outside a mining district, may grant to any person a warrant (hereinafter referred to as "a prospecting warrant") authorising the holder to prospect for any one specified mineral over any Crown lands specified in the warrant, not exceeding an area of ten thousand acres.

Mineral prospecting warrant.

(2.) Every application for a prospecting warrant shall be accompanied by a deposit of *fifty* pounds for the first one thousand acres applied for, with an addition of *twenty-five* pounds for every one thousand acres or part thereof applied for in excess of one thousand acres.

13. A prospecting warrant shall, unless previously cancelled under section *fifteen* hereof, continue in force for a period of five years from the date on which it was granted.

Duration of warrant.

14. The holder of any such warrant shall, while it continues in force, have the exclusive right to prospect for the mineral specified in the warrant on the land to which the warrant refers, and may enter upon such land for that purpose.

Rights of holder.

Conditions  
of warrant.

15. Every prospecting warrant shall be held under such conditions as to employment of labour and development of the mine as may from time to time be prescribed by regulations, and may at any time be cancelled for the non-observance on the part of the holder of any such conditions.

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Right of holder  
of warrant to  
select on lease.

16. (1.) At any time while a prospecting warrant is in force the holder shall, on complying with the provisions of this Act, have the right to a lease of such part of the land to which the warrant relates not exceeding one thousand acres, and in one continuous block, as he may select.

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(2.) Every application for a lease shall be accompanied by a deposit of *one* thousand pounds.

(3.) The lease shall be for a term not exceeding sixty-three years, and shall be subject to the payment of such rent and to the observance of such conditions as may from time to time be prescribed by regulations.

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Regulations.

17. The Governor may from time to time, by Order in Council gazetted, make regulations—

(a.) Prescribing the rent and royalty payable and the labour and other conditions under which any prospecting warrant or lease shall be granted;

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(b.) Providing for the refund from time to time of sums (not exceeding in the whole the amount deposited, whether on application for the warrant or the lease) in proportion to the amount spent in complying with any such labour or other conditions; and

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(c.) Prescribing the terms and conditions on which licenses or warrants may be issued under section *eighteen* hereof, and the amount that shall be expended each year in prospecting under any such license or warrant.

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Provision if land  
proves auriferous.

18. (1.) Subsection nine of section ninety of the principal Act shall not apply to a lease granted under this Act in so far as that, in the event of the land in respect of which such lease is granted, or any part thereof, being proved to be auriferous or to contain any mineral other than that specified in the lease, the lease shall not on that account be cancelled.

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(2.) The Warden may from time to time, if it appears to him that the working of the land comprised in such lease for the purpose specified in the lease is not thereby prejudiced, grant licenses or warrants for prospecting for gold or other metal or mineral or any other mining privilege over any part of the land comprised in such lease:

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Provided that, if at any time it appears to the Warden that the exercise of any such mining privilege is prejudicial to the working of the land by the lessee, the Warden may forthwith cancel such mining privilege, and the holder thereof shall have no right to compensation in respect of such cancellation either against the Crown or the lessee:

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Provided further that the Warden may, if he thinks fit, grant to the holder of such mining privilege a fresh mining privilege over such part of the land comprised in the lease as will not be prejudicial to the working of the land by the lessee.

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(3.) Nothing in this section shall authorise the inclusion in any such lease of any area in respect of which any mining privilege has been heretofore granted and is now in force.

19. Nothing in the principal Act or in this Act shall prevent the holder of a prospecting warrant or of a lease from applying for and obtaining any mining privilege for gold or any other metal or mineral over any part of the land specified in the warrant or lease, and such application shall have priority *as if in the opinion of the Warden*, such holder were the discoverer within the meaning of the Second Schedule to the principal Act.

Holder of lease, &c., may apply for mining privilege.

20. Subject to the provisions of this Act, the provisions of the principal Act relating to prospecting warrants or licenses and to mineral licenses shall so far as applicable apply to prospecting warrants and to leases under this Act.

Certain provisions of principal Act to apply.

21. The powers conferred under sections *twelve* to ~~nineteen~~ *twenty* hereof on a Warden or Commissioner of Crown Lands may be exercised by the Governor in respect of Native lands.

Extension to Native lands.

22. Section five of the principal Act is hereby amended by repealing the definition of "mineral," and substituting in lieu thereof the following: "'Mineral' means any metal or mineral other than precious metals, precious stones, and coal, and includes petroleum and other mineral oils."

Amended definition of "mineral."

*New clause.*

22A. For the purposes of sections *twelve* to *twenty-one* hereof a "prospecting warrant" and a "lease" mean a prospecting warrant or a lease granted under section *twelve* or section *eighteen* hereof as the case may be.

"Prospecting warrant" and "lease" defined.

23. Section one hundred and nine of the principal Act is hereby amended by adding thereto the following subclause:—

Principal Act amended.

"(3.) Where a claim for compensation is made under this section, no claim for compensation shall be made under section two hundred and thirty-two hereof."

24. Notwithstanding anything in the principal Act, any action, *whether now pending or commenced after the passing of this Act*, where the amount claimed or the value of the property in dispute exceeds five thousand pounds commenced in a Warden's Court, or in a District Court exercising an original jurisdiction concurrently with the Warden's Court, under section two hundred and ninety-one of the principal Act, may be removed from any such Court into the Supreme Court upon the consent of both parties to the action, if the Supreme Court or a Judge thereof deems it desirable and orders that the action shall be tried in such last-mentioned Court.

Action may be removed to the Supreme Court.

25. The application to have any such action removed shall be made in accordance with the rules of the Supreme Court for the time being, and any order for removal shall be made upon such terms as to security and otherwise as the Supreme Court or a Judge thereof thinks fit to impose, and after the making of such order the action shall proceed as if the same had been commenced in the Supreme Court originally, and the rules of such Court as to amendment and otherwise shall apply thereto.

Application to have action removed.