

[AS REPORTED FROM THE LANDS AND AGRICULTURE
COMMITTEE]

House of Representatives, 23 November 1962

Words struck out by the Lands and Agriculture Committee are shown in italics within bold round brackets, or with black rule at beginning and after last line of struck out matter; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line of new matter.

Hon. Mr Hanan

MINING TENURES REGISTRATION

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A BILL INTITULED

An Act to provide for the registration under the Land Transfer Act 1952 of residence site and business site licences, certain special site licences, and leases of land in mining districts, and for matters incidental thereto 5

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

1. Short Title and commencement—(1) This Act may be cited as the Mining Tenures Registration Act 1962. 10

(2) This Act shall come into force on the first day of April, nineteen hundred and sixty-three.

2. Interpretation and application—(1) In this Act, unless the context otherwise requires,—

“Commissioner of Crown Lands” or “Commissioner” 15
means the Commissioner of Crown Lands for the land district within which any land to be dealt with or affected is situated:

“District Land Registrar” means the District Land Registrar for the land registration district within which any 20
land to be dealt with or affected is situated:

“Land Settlement Board” means the Land Settlement Board constituted under the Land Act 1948:

“Licence” means—

(a) A business site licence or residence site licence 25
in respect of land in a mining district granted under the Mining Act 1926 or any former Mining Act, or under subsection (4) of section 55 of the Land Act 1948 or the corresponding provisions of any former Land Act, and registered in the office of the Mining 30
Registrar:

(b) A lease of land in any township within a mining district or of any suburban section granted under section 45 or section 47 of the Mining Act 1926 or the corresponding provisions of any former Mining 35
Act and registered in the office of the Mining Registrar:

(c) A special site licence in respect of land in a mining district granted under the Mining Act 1926 or any former Mining Act and registered in the office of the Mining Registrar, being land which the Mining Registrar is satisfied is used principally for residential, business, religious, recreational, or other like purposes;—

and “licensee” has a corresponding meaning:

Subject to the provisions of this Act, expressions which are defined in the Mining Act 1926 have the meanings so defined.

(2) Where on the expiration by effluxion of time of any special site licence of land used principally for any residential, business, religious, recreational, or other like purposes, a new special licence is granted in respect of the same land to the former licensee and for the same purposes, the provisions of this Act shall apply with respect to the new licence as if it were registered in the office of the Mining Registrar at the commencement of this Act.

(3) Where before the commencement of this Act any licence has been struck off the register under the provisions of section 188 of the Mining Act 1926, and after the commencement of this Act the licence is restored to the register under the provisions of that section, the provisions of this Act shall apply with respect to the licence as if it had been registered in the office of the Mining Registrar at the commencement of this Act.

(4) The provisions of this Act shall apply with respect to every licence granted after the commencement of this Act pursuant to—

(a) Subsection (1) of section 6 of the Mining Amendment Act 1953; or

(b) Subsection (6) of section 6 of the Mining Amendment Act 1953 or subsection (2) of section 2 of the Mining Amendment Act 1961 in renewal of a licence that has not been brought under the Land Transfer Act 1952 pursuant to this Act,—

as if the licence or renewal licence, as the case may be, had been registered in the office of the Mining Registrar at the commencement of this Act.

(5) The provisions of this Act shall apply with respect to every licence granted before the commencement of this Act and registered in the office of the Mining Registrar after the commencement of this Act as if it had been so registered at the commencement of this Act.

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3. Mining Registrar to investigate title to licences—(1) As soon as conveniently may be after the commencement of this Act, every Mining Registrar shall make such inquiry as shall be necessary for the purpose of ascertaining, with respect to every licence registered at the commencement of this Act in any register kept by him under the Mining Act 1926, whether or not at the time of the inquiry, in his opinion,—

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(a) The licence is current:

(b) The licence is liable to forfeiture under paragraph (e) of section 190 of the Mining Act 1926 or has been abandoned within the meaning of paragraph (e) of section 194 of that Act:

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(c) Any person, other than the registered licensee or a tenant of the registered licensee or a person occupying the same with the consent of the registered licensee, is in occupation of the land comprised in the licence or of any part of that land.

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(2) Where on any such inquiry the Registrar is satisfied with respect to any licence that at the time of the inquiry—

(a) It is current; and

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(b) It is not liable to forfeiture and has not been abandoned as aforesaid; and

(c) No person, other than the registered licensee or a tenant of the registered licensee or a person occupying the same with the consent of the registered licensee, is in occupation of the land comprised in the licence or of any part of that land,—

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then, subject to the provisions of section 5 of this Act, the Registrar shall issue in respect of the licence a certificate in the form in the First Schedule to this Act.

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(3) Where on any such inquiry the Mining Registrar is satisfied that the licence is current at the time of the inquiry but is liable to forfeiture or has been abandoned as aforesaid and that no person, other than the registered licensee or a tenant of the registered licensee or a person occupying the same with the consent of the registered licensee, is in occupation of the land comprised in the licence or of any part of that land, the Registrar shall apply to the Warden under the Mining Act 1926 for a decree of forfeiture or a

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certificate of abandonment, as the case may be, in respect of the licence. Where the Warden refuses to grant such a decree or certificate, then, subject to the provisions of section 5 of this Act, the Mining Registrar shall issue in respect of
5 the licence a certificate in the form in the First Schedule to this Act.

(4) Where under subsection (3) of this section the Warden grants a decree of forfeiture or a certificate of abandonment with respect to any licence, the Mining Registrar shall give
10 notice in writing thereof to the Commissioner of Crown Lands.

4. Land occupied by person other than registered licensee—

(1) Where on any inquiry under section 3 of this Act the Mining Registrar is satisfied with respect to any licence
15 that at the time of the inquiry—

(a) It is current; and

(b) It is not liable to forfeiture under paragraph (e) of section 190 of the Mining Act 1926 and has not
20 been abandoned within the meaning of paragraph (e) of section 194 of that Act; and

(c) Some person, other than the registered licensee or a tenant of the registered licensee or a person occupying the same with the consent of the registered licensee, is in occupation of the land comprised in
25 the licence or of any part of that land,—

he shall forthwith apply to the Warden to make such order with respect to the licence as the Warden thinks necessary in the circumstances of the case, either—

(d) Confirming the title of the registered licensee to the
30 licence; or

(e) Cancelling the licence and granting to the licensee a new licence of the same kind as the existing licence of part of the land comprised in the existing licence;
or

(f) Cancelling the licence and granting to any person occupying the land comprised in the existing licence or any part of that land a new licence of the same kind as the existing licence of the whole or such part as the Warden thinks fit of the land comprised in the existing licence; or
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(g) Cancelling the licence.
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(2) On any application under subsection (1) of this section, the Warden may make any order specified in paragraphs (d) to (g) of that subsection or such other order as he considers just and equitable in the circumstances of the case.

(3) Any new licence granted under the provisions of subsection (2) of this section shall be for the unexpired term of the cancelled licence, at the rent payable under the cancelled licence at the date of the cancellation, and otherwise upon the conditions of the cancelled licence:

Provided that the term of every renewal to which the licensee is entitled under the new licence shall be the same as the term of every renewal to which the licensee under the cancelled licence was entitled.

(4) A new licence may be granted under the provisions of subsection (2) of this section, notwithstanding anything in section 6 of the Mining Amendment Act 1953 or in section 2 of the Mining Amendment Act 1961.

(5) Notice of an application to the Warden under this section shall—

(a) In the case of a licence of unalienated Crown Land (not being Maori ceded land), be served by the Mining Registrar on the Commissioner of Crown Lands, on the person in occupation of the land or of any part thereof, and also on such other persons and in such manner as the Warden directs:

(b) In the case of a licence of other land, be served by the Mining Registrar on the person in occupation of the land or of any part thereof and also on such other persons and in such manner as the Warden directs.

(6) Without limiting the powers of the Warden to make any order under subsection (2) of this section, the Warden may under that subsection grant a new licence to any person occupying the whole or part of the land comprised in an existing licence, if he is satisfied that—

(a) The occupier would, if the land were freehold land subject to the Land Transfer Act 1952, be entitled if application were made under the Trustee Act 1957 to an order vesting in him the whole or part of the land; or

(b) The occupier had been in possession of the land comprised in the licence, or part of that land, as the case may be, for a period of not less than twelve years and that his possession had been adverse to the title of the registered licensee; or

(c) It is just and equitable on any ground whatsoever that a licence be granted to the occupier of the whole or part of the land.

5 (7) On any application to the Warden under subsection (1) of this section, the Warden may receive as evidence any statement, document, information, or matter that may in his opinion assist him to deal effectually with the application, whether or not the same would be otherwise admissible in a Court of law.

10 (8) On any application to the Warden under subsection (1) of this section, the Warden may make such inquiries, interview such persons, and take such other steps as he considers necessary or expedient for the purpose of resolving by the agreement of all the persons concerned any question
15 arising in the proceedings.

(9) Where a licence in respect of which an application is made to the Warden under subsection (1) of this section confers on the licensee a right of renewal and the licence expires before the making of an order under subsection (2)
20 of this section, the licence shall be deemed to continue in force until the expiration of the time for appealing against the decision of the Warden or, in the event of an appeal against that decision, until the appeal has been determined. Where
25 as a result of the decision of the Warden or, as the case may be, the decision on appeal a new licence is to be granted (*to the applicant*), that licence shall be for the same term as the renewal term provided in the expired licence and at the same rent and otherwise on the same conditions as the expired licence.

30 (10) The provisions of this Act shall apply with respect to every licence granted under this section as if it were registered at the commencement of this Act, and, subject to the provisions of section 5 of this Act, the Mining Registrar shall, without further inquiry, issue in respect of
35 the licence a certificate in the form in the First Schedule to this Act.

(11) Notwithstanding anything in the Mining Act 1926, the consent of the Minister of Mines shall not be required to the grant of any licence under this section.

40 (12) Where a new licence is issued under this section to the licensee under a former licence or to an equitable owner of a former licence, the licence (whether it is in respect of the whole or part of the land in the former licence) shall be deemed to be subject to all registered encumbrances,

liens, and other interests to which the former licence was subject at the date of the granting of the new licence, and for the unexpired term of the former licence shall be entitled to the benefit of all interests to which the former licence was entitled at that date, and all such encumbrances, liens, and other interests shall be preserved in the order of their existing priority. 5

(13) Where a new licence is issued under this section to a person other than the licensee under a former licence or an equitable owner of a former licence, the new licence (whether it is in respect of the whole or part of the land in the former licence) shall be subject to such (if any) of the registered encumbrances, liens, and interests to which the former licence was subject at the date of the granting of the new licence as are specified in the order granting the new licence, and for the unexpired term of the former licence shall be entitled to the benefit of all interests to which the former licence was entitled at that date, and all such encumbrances, liens, and other interests shall be preserved in the order of their existing priority. 10 15 20

5. Description of land and diagrams—(1) Before the Mining Registrar issues a certificate in the form in the First Schedule to this Act with respect to any licence, the Chief Surveyor of the land district in which the land comprised in the licence is situated shall make such investigations as he thinks necessary for the purpose of determining whether or not in his opinion the description of the land comprised in the licence and any diagram of the land endorsed on or attached to the original licence or duplicate original licence or certified copy licence, as the case may be, registered in the office of the Mining Registrar are reasonably sufficient to identify the land. 25 30

(2) Where the Chief Surveyor is satisfied that the description and diagram as aforesaid are reasonably sufficient to identify the land, he shall endorse on or attach to the original licence or duplicate original licence or certified copy licence, as the case may be, registered in the office of the Mining Registrar, so as to be identifiable therewith, a certificate to that effect. 35

(3) Where the Chief Surveyor is not so satisfied, he shall prepare and endorse on or attach to the original licence or duplicate original licence or certified copy licence, as the case may be, registered in the office of the Mining Registrar a description of the land or a diagram thereof, or both, reason- 40

ably sufficient in his opinion to identify the land, together with a certificate that the description and diagram are reasonably sufficient to identify the land.

5 (4) For the purposes of this section, the Chief Surveyor may, by notice in writing served on the licensee, call upon him to produce for inspection by the Chief Surveyor any plan, search notes, or other document in his possession or under his control evidencing or tending to evidence in any manner the description, boundaries, extent, or position of the land
10 comprised in the licence.

(5) Subject to the provisions of sections 10 and 22 of this Act, the description and diagram of the land comprised in any licence as certified by the Chief Surveyor under this section shall for the purposes of this Act and the Land Transfer
15 Act 1952 be deemed to be the correct description of the land for which the licence was granted.

6. Power to compel production of licences, etc.—(1) Where on making an inquiry under section 3 of this Act with respect to any licence the Mining Registrar is satisfied that—

20 (a) The original licence is not filed in the office of the Mining Registrar and no duplicate original or certified copy of the licence is filed in that office; or

(b) The original of any instrument referred to in paragraph (c) of subsection (1) of section 9 of this Act is not
25 filed in the office of the Mining Registrar and no duplicate original or certified copy of the instrument is filed in that office; or

(c) No sketch plan or diagram reasonably sufficient to identify the land is held in the office of the Mining
30 Registrar,—

the Mining Registrar may require any person having in his possession or under his control the original licence or instrument, as the case may be, or any duplicate original or certified copy of the licence or instrument, or any written or printed
35 document evidencing or tending to evidence in any manner the licence or instrument, or any sketch plan or diagram or other document evidencing or tending to evidence in any manner the boundaries or extent or position of the land, to produce the same within a reasonable time to be fixed by a
40 notice requiring that production and indicating the particular documents or kind of documents or plans or diagrams required, and to deposit the same in the office of the Mining Registrar for such time as may be necessary to enable the Mining Registrar to make copies thereof.

(2) The Mining Registrar may make a copy of any such document or plan or diagram and certify it as being a true copy thereof.

(3) The Mining Registrar may require any person of any of the classes hereinafter mentioned to give any information, explanation, or evidence, in writing upon oath or otherwise, concerning the licence or instrument, or to attend at the time specified in the notice at the office of the Mining Registrar nearest to the place where that person resides, and give to the Mining Registrar that information, explanation, or evidence orally upon oath or otherwise. The classes of persons referred to in this subsection are the following:

(a) Any person appearing from the register kept in the office of the Mining Registrar to be the owner of, or of any estate or interest in, the licence or claiming to be the owner of the licence or of any estate or interest therein:

(b) Any person being the solicitor or agent of, and acting on behalf of, any of the aforesaid persons.

(4) If upon a requisition in writing made by the Mining Registrar for any purpose mentioned in the foregoing provisions of this section any person without reasonable cause refuses or neglects to comply with the requisition, he commits an offence, and is liable on summary conviction to a fine not exceeding five pounds for every day during which the refusal or neglect has continued.

7. Provisions as to lost or destroyed licences—(1) Where on making an inquiry under section 3 of this Act with respect to any licence the Mining Registrar is satisfied that—

(a) The licence is current; and

(b) The original of the licence is not filed in the office of the Mining Registrar and no duplicate original or certified copy of the licence is filed in that office; and

(c) The Mining Registrar is satisfied that by reason of the loss or destruction of the original licence and of all duplicate originals and certified copies of the licence a duplicate thereof cannot be issued under the provisions of subsection (2) of section 433 of the Mining Act 1926,—

the Mining Registrar shall serve notice on the person appearing to him to be the licensee requiring him within three months after service on him of the notice to apply to the Warden for the grant of a licence of the land comprised in

the original licence, and advising him that if he fails to do so the licence will be cancelled at the expiration of that period.

5 (2) Notwithstanding anything in section 6 of the Mining Amendment Act 1953 or in section 2 of the Mining Amendment Act 1961, the Warden, on the application of the person appearing to him to be the licensee, made within three months after service on that person of the notice referred to in subsection (1) of this section, or within such
10 further period as the Warden in any special case may allow, may grant to that person a new licence of the land comprised in the original licence for the unexpired term of the original licence, at the rent payable under the original licence at the date of the application, and otherwise upon the conditions of
15 the original licence:

Provided that the term of every renewal to which the licensee is entitled under the new licence shall be the same as the term of every renewal to which the licensee under the original licence was entitled.

20 (3) Subject to the provisions of subsection (2) of this section, if no such application is made within the said period of three months, the licence shall be deemed to be cancelled at the expiration of that period, and the Mining Registrar shall make an entry in his register that the licence has been cancelled
25 under this subsection:

Provided that, if under subsection (2) of this section the Warden extends the time within which an application may be made under that subsection, the licence shall thereupon be deemed to be revived.

30 (4) If on any such application the Warden refuses to grant a new licence, the original licence shall thereupon be deemed to be cancelled. The Registrar of the Warden's Court shall notify the Mining Registrar of the refusal of the Warden to grant a new licence, and the Mining Registrar shall make
35 an entry in his register that the licence has been cancelled under this subsection.

(5) Where a licence in respect of which an application is made to the Warden under subsection (2) of this section confers on the licensee a right of renewal and the licence
40 expires before the making of an order under that subsection, the licence shall be deemed to continue in force until the expiration of the time for appealing against the decision of the Warden or, in the event of an appeal against that decision, until the appeal has been determined. Where as a result of

the decision of the Warden or, as the case may be, the decision on appeal a new licence is to be granted to the applicant, that licence shall be for the same term as the renewal term provided in the expired licence and at the same rent and otherwise on the same conditions as the expired licence.

(6) Every new licence granted under this section shall be deemed to be subject to all registered encumbrances, liens, and other interests to which the original licence was subject at the date of the granting of the new licence, and for the unexpired term of the original licence shall be entitled to the benefit of all interests to which the former licence was entitled at that date, and all such encumbrances, liens, and other interests shall be preserved in the order of their existing priority.

(7) Notwithstanding anything in the Mining Act 1926, the consent of the Minister of Mines shall not be required to the grant of a licence under this section.

(8) The provisions of this Act shall apply with respect to every licence issued under this section as if it were registered at the commencement of this Act, and, subject to the provisions of section 5 of this Act, the Mining Registrar shall, without further inquiry, issue in respect of the licence a certificate in the form in the First Schedule to this Act.

8. Appeal against Warden's decision—Any person aggrieved by a decision of the Warden under section 4 or section 7 of this Act may appeal against that decision to the Supreme Court. The provisions of the Mining Act 1926, as far as they are applicable and with the necessary modifications, shall apply with respect to every such appeal as if it were an appeal to which section 366 of that Act applied.

9. Mining Registrar to forward licences, etc., to District Land Registrar—(1) Where a certificate in the form in the First Schedule to this Act has been issued in respect of any licence under section 3 of this Act, the Mining Registrar shall forward to the District Land Registrar—

- (a) The licence or, as the case may require, the duplicate original or certified copy thereof filed in the office of the Mining Registrar; and
- (b) The certificate in the form in the First Schedule to this Act issued in respect of the licence; and

(c) All original instruments, duplicate original instruments, or certified copies of instruments held in the office of the Mining Registrar pursuant to the Mining Act 1926 or any former Mining Act, being current transfers or transmissions or leases or mortgages or encumbrances or other dispositions of or dealings with the licence or any interest therein or any part thereof:

10 Provided that, where any such document is also a grant of a mining privilege that is not a licence within the meaning of this Act or is also a disposition of or dealing with any such mining privilege, the Mining Registrar, instead of forwarding to the District Land Registrar the document filed in the office of the Mining Registrar, shall forward a copy thereof
15 certified by him to be a true copy.

(2) Where the Mining Registrar has, under the provisions of subsection (1) of this section, forwarded to the District Land Registrar any original licence or duplicate original licence or certified copy of a licence,—

20 (a) He shall give to the licensee written notice thereof and of the provisions of sections 15 and 16 of this Act, and also, in the case of a licence comprising any unalienated Crown land (not being Maori ceded land), of section 18 of the Act; and

25 (b) He shall give written notice thereof to the Commissioner of Crown Lands and to every person having any estate or interest in the land comprised in the licence that is evidenced by the licence or by any memorial endorsed thereon.

30 **10. Registration of licences under Land Transfer Act—**

(1) Notwithstanding anything in the Land Transfer Act 1952, the District Land Registrar shall, without fee, register under that Act every licence forwarded to him by the Mining Registrar under the provisions of section 9 of this Act by
35 constituting as a folium in the register book the original or duplicate original or certified copy thereof, as the case may be, so forwarded to him.

(2) Every licence brought under the Land Transfer Act 1952 pursuant to this Act shall continue to be subject to all
40 registered encumbrances, liens, and other interests subsisting at the date when the licence is brought under that Act, and shall continue to be entitled to the benefit of all interests to which the licence was entitled at that date; and all such encumbrances, liens, and other interests shall be preserved in

the order of their existing priority, and shall thereafter, notwithstanding variation in form, be dealt with as if the same or corresponding interests had been originally created under the Land Transfer Act 1952; and every dealing therewith shall imply all powers, conditions, and covenants incidental to dealings in the like form with land under the Land Transfer Act 1952. 5

(3) Where any licence has been brought under the Land Transfer Act 1952 pursuant to this Act, all dealings with or transmissions of the licence shall be made in a form acceptable for registration under the Land Transfer Act 1952, and shall in respects to subject thereto: 10

Provided that any instrument (being a dealing with or transmission of any such licence) that might have been registered in the office of the Mining Registrar under the provisions of the Mining Act 1926 and the regulations thereunder if this Act had not been passed may, if the instrument bears date before, or within six months after, the date on which the licence is brought under the Land Transfer Act 1952 pursuant to this Act, be registered under the Land Transfer Act 1952, notwithstanding that it is not an instrument in one of the forms prescribed by the last-mentioned Act. 15 20

(4) Where the District Land Registrar has constituted any licence a folium of the register book, he may, if the land is not properly defined by survey or cannot for any other reason be fully described, endorse on the licence the words "Limited as to parcels". 25

(5) Where a licence is endorsed as provided in subsection (4) of this section, the licence shall be limited as to parcels, and the provisions of Part XII of the Land Transfer Act 1952, as far as they are applicable and with the necessary modifications, shall apply to the licence as if it were a certificate of title limited as to parcels issued under that Part of that Act. 30 35

(6) No person claiming any estate or interest in any licence by virtue of any instrument that might have been registered against that licence under the Mining Act 1926 or any former Mining Act shall have any claim or action against the Crown by reason of the deprivation of that estate or interest consequent upon the bringing of that licence under the Land Transfer Act 1952 pursuant to this Act, unless that instrument had been so registered or unless the Mining Registrar has been served personally with notice in writing of the estate or interest claimed, or has had actual personal knowledge thereof, and has omitted to recognise the same. 40 45

(7) Subject to the provisions of this Act, the provisions of the Land Transfer Act 1952, as far as they are applicable and with the necessary modifications, shall apply with respect to any licence brought under that Act as if the licence were a
5 lease of land subject to that Act.

11. New licences issued on subdivision of land in existing licence—Where after the commencement of this Act new licences are issued under the provisions of section 4 of the Mining Amendment Act 1941 on a subdivision of the land
10 comprised in any licence, then—

(a) In any case where at the time of the issue of the new licences the original licence had not been registered under the Land Transfer Act 1952 pursuant to this Act,—

15 (i) The provisions of this Act shall apply with respect to the new licences as if they had been registered in the office of the Mining Registrar at the commencement of this Act; and

20 (ii) Subject to the provisions of section 5 of this Act, the Mining Registrar shall, without further inquiry, issue in respect of each of the new licences a certificate in the form in the First Schedule to this Act:

25 (b) In any case where at the time of the issue of the new licences the original licence had been registered under the Land Transfer Act 1952 pursuant to this Act, the new licences shall be registered under the Land Transfer Act 1952, and section 4 of the Mining Amendment Act 1941 shall apply as if the reference
30 in subsection (7) to the Mining Registrar were a reference to the District Land Registrar.

12. Renewal of licences—(1) Notwithstanding anything in the Mining Act 1926, where any residence site licence or business site licence is registered under the Land Transfer
35 Act 1952 pursuant to this Act,—

(a) The licensee shall be entitled, on making application therefor in accordance with the provisions of section 176 of the Mining Act 1926, to a renewal or to a further renewal, as the case may be, of the licence for the same term as the term of the licence being renewed, subject, in the case of a licence granted under the provisions of subsection (2) of section 4 of this Act, to the provisions of subsection (3) of that section and, in the case of a licence granted
40 under the provisions of subsection (2) of section 7 of this Act, to the provisions of that subsection:
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- (b) The licence may be renewed in accordance with the provisions of the Mining Act 1926 or by a memorandum of renewal in the form and in the manner prescribed by regulations made under this Act:
- (c) The consent of the Minister of Mines shall not be required to any such renewal. 5
- (2) On the registration with the District Land Registrar of any memorandum of renewal under subsection (1) of this section, the licence shall be deemed to have been renewed in the same way as if a new licence for the term and subject to the conditions set out in the memorandum of renewal had been duly executed and registered, and shall continue to be subject to the same encumbrances, liens, and other interests to which the licence was subject immediately before the registration of the memorandum of renewal. 10 15

13. Land Settlement Board to exercise powers of Warden and Mining Registrar where licence registered under Land Transfer Act—(1) Notwithstanding anything in the Mining Act 1926, but subject to the provisions of this Act, the Land Settlement Board shall exercise with respect to licences brought under the Land Transfer Act 1952 pursuant to this Act all the powers of the Warden or the Mining Registrar conferred by the Mining Act 1926, as if references in the Mining Act 1926 to the Warden or the Mining Registrar were references to the Land Settlement Board. 20 25

(2) The provisions of section 15 of the Land Act 1948 (which authorises the Land Settlement Board to delegate its powers) shall apply with respect to any powers conferred on the Board under subsection (1) of this section.

14. Application of certain provisions of Mining Act 1926 and Land Act 1948 to licences registered under Land Transfer Act—(1) Where any licence of unalienated Crown land (not being Maori ceded land) has been registered under the Land Transfer Act 1952 pursuant to this Act,— 30

- (a) The provisions of the Mining Act 1926 and its amendments which are specified in the Second Schedule to this Act shall not apply with respect to that licence: 35
- (b) The provisions of the Land Act 1948 which are specified in the Third Schedule to this Act shall, as far as they are applicable and with the necessary modifications, apply with respect to that licence as if it were a renewable lease under the Land Act 1948. 40

(2) Where any licence of Maori land (including Maori ceded land) or private European land has been brought under the Land Transfer Act 1952 pursuant to this Act, the provisions of the Mining Act 1926 and its amendments which are specified in the Fourth Schedule to this Act shall not apply with respect to that licence.

15. Rent, etc., under licences to be paid to Department of Lands and Survey—(1) Subject to the provisions of subsection (2) of this section, as from the date when any licence is registered under the Land Transfer Act 1952 pursuant to this Act, all rent, licence fees, and other money (not being registration fees) which if this Act had not been passed would have been payable by the licensee to the Mining Registrar or to the Receiver of Gold Revenue in respect of the licence shall be payable to the Department of Lands and Survey at the Principal Land Office for the land district in which the land is situated, and shall be paid into the Public Account to the credit of the Land Settlement Account:

Provided that the provisions of the Mining Act 1926 shall continue to apply, as if this Act had not been passed, with respect to all rent, licence fees, and other money which became due in respect of the licence before the date when it was so registered, and all such rent, licence fees, and other money shall be paid to the Mining Registrar or to the Receiver of Gold Revenue, as the case may require, and shall be disbursed by him accordingly under the provisions of the Mining Act 1926.

(2) Where any money paid to the Department of Lands and Survey is in respect of a licence of land other than unalienated Crown land or of any Maori ceded land, that money shall be paid into a deposit account, and, after deducting therefrom such amount as the Minister of Finance from time to time approves for the expenses incidental to the collection thereof, shall be paid by the Department,—

(a) In the case of land other than Maori land, to the person lawfully entitled to the land from which the revenues accrue by virtue of the payment:

(b) In the case of Maori land (including Maori ceded land) to the Maori Trustee for distribution to the persons entitled to receive the same, and the provisions of section 45 of the Maori Trustee Act 1953 shall thereupon apply to the same.

(3) All amounts deducted under the provisions of this section in respect of expenses incidental to the collection of the money shall be paid into the Public Account to the credit of the Consolidated Fund.

16. Notice to be given to Commissioner of Crown Lands of transfer of licence—Any licensee who transfers to any other person any licence that has been brought under the Land Transfer Act 1952 pursuant to this Act shall forthwith notify the Commissioner of Crown Lands in writing of the full name and address of the transferee, and no such transfer shall be registered by the District Land Registrar unless and until he is satisfied that the notice has been given to the Commissioner, and the former licensee shall continue to be liable under the licence until that notice has been given to the Commissioner.

17. Payments to local authorities—(1) Where the Minister of Finance is satisfied that, because of the registration of any licences under the Land Transfer Act 1952 pursuant to this Act, any local authority has suffered an undue loss of the revenue which it would otherwise have received under the provisions of section 447 of the Mining Act 1926, there shall from time to time be paid to the local authority out of the Land Settlement Account, from money in that Account appropriated by Parliament, such sums as the Minister of Finance determines.

(2) Money paid to a local authority under this section shall be deemed to be goldfields revenue for the purposes of any enactment.

18. Licensees of Crown land may acquire fee simple—(1) Subject to the provisions of sections 21 and 23 of this Act, the licensee under a licence that includes any unalienated Crown land (not being Maori ceded land) and is registered under the Land Transfer Act 1952 pursuant to this Act (not being a licence of land that is subject to the Westland and Nelson Coal Fields Administration Act 1877) who has paid all rent, licence fees, and other money for the time being payable in respect of his licence may at any time during the currency of that licence acquire the fee simple of any unalienated Crown land (not being Maori ceded land) described in the licence in accordance with the provisions of this section.

- (2) The purchase price of the land shall be as follows:
- (a) Where the licensee acquires the fee simple of the whole of the land comprised in the licence, an amount equal to twenty times the rent, licence fees, or other money payable annually under the licence; or
 - (b) Where the licensee acquires the fee simple of part only of the land comprised in the licence, or where no rent, licence fees, or other money are payable annually under the licence, such amount as the Land Settlement Board fixes.

New

15 (2A) In fixing the purchase price of any land in any case where no rent, licence fees, or other money are payable annually under the licence, the Land Settlement Board shall—

- 20 (a) In the case of land used principally for residential, farming, agricultural, or horticultural purposes, fix a price not exceeding the price that would be payable if the land were held under a residence site licence granted when the first-mentioned licence was granted:
- 25 (b) In the case of land used principally for any other purposes, fix a price not exceeding the price that would be payable if the land were held under a business site licence granted when the first-mentioned licence was granted.

30 (3) Where under paragraph (b) of subsection (2) of this section the Land Settlement Board fixes the purchase price of any land, the licensee may within one month after notice of the decision of the Board has been given to him appeal against that decision to the Land Valuation Court, and the decision of that Court shall be binding on the licensee and the Board.

35 (4) The licensee may exercise the right of acquisition of the fee simple hereby conferred by giving notice to the Commissioner of Crown Lands that he desires to acquire the fee simple of the land.

(5) The delivery of that notice shall constitute a contract between the licensee and the Crown for the purchase and sale of the land.

40 (6) The licensee shall pay to the Commissioner of Crown Lands the purchase price, together with all rent, licence fees, and other money payable under the licence accrued to the date of receipt of that payment by the Commissioner and

the fees payable under the Land Act 1948 in respect of the issue of the certificate of title, and upon those payments being made in full the purchase shall be deemed to have been completed, and the licensee shall be entitled to a certificate of title in respect of the land.

(7) Where under this section the licensee acquires the fee simple of any unalienated Crown land comprised in a licence, then, as from the date of the issue of a certificate of title for that land, the licence shall be deemed to be cancelled in respect of that land.

(8) The Te Aroha Crown Leases Act 1920 is hereby repealed.

19. Residence site used as a business site to be treated as a business site—(1)

Where the land comprised in any residence site licence registered under the Land Transfer Act 1952 pursuant to this Act has for a continuous period of three months at any time after the passing of this Act, or for a continuous period of three months during the period of six months immediately before the passing of this Act, been used as a business site, the licence shall for the purposes of this Act be deemed to be a business site licence, and the licence fees payable in respect of the licence and any renewal thereof and the purchase price payable on the acquisition of the fee simple of any of the land comprised in the licence shall be calculated as if the site were a business site.

New

(2) Where any land comprised in a residence site licence is used principally for farming, agricultural, or horticultural purposes, the land shall be deemed for the purposes of this section not to be used as a business site.

20. Special provisions as to residence area grants—(1) In this section the term “residence area grant” means a grant of the right to take possession of and occupy Crown land for the purpose of residence or cultivation made under the provisions of section 20 of the Mines Act 1877 or the corresponding provisions of any former Act.

(2) Subject to the provisions of sections 21 and 23 of this Act, the proprietor of any residence area grant (not being a grant of land that is subject to the Westland and Nelson Coal Fields Administration Act 1877) shall be entitled at any time before the first day of April, nineteen hundred and sixty-eight, to acquire the fee simple of the land comprised in the grant at a purchase price fixed by the Land Settlement Board.

(3) The provisions of subsections (3) to (7) of section 18 of this Act shall apply with respect to the acquisition under this section of the fee simple of the land comprised in a residence area grant as if references in those subsections to
5 a licence and to the licensee were references to a residence area grant and to the proprietor of a residence area grant, respectively.

(4) Where—

10 (a) The proprietor of any residence area grant to which subsection (2) of this section applies has not before the first day of April, nineteen hundred and sixty-eight, exercised the right of acquisition of the fee simple of the land conferred by that subsection; or

15 (b) The land comprised in any residence area grant is subject to the Westland and Nelson Coal Fields Administration Act 1877,—

then, notwithstanding anything to the contrary in the grant or in any other enactment, the grant shall be deemed to have expired on that date and, subject to the provisions of sections
20 21 and 24 of this Act, the proprietor of the grant shall be deemed to be the lessee of the land or of such part thereof as the Land Settlement Board determines, as if a renewable lease of the land under the Land Act 1948 commencing on that date had been granted to him, and he shall be entitled on
25 making application to the Land Settlement Board to the grant of a renewable lease accordingly:

Provided that the rental value of the land for the purposes of the renewable lease and of each renewal thereof and the rent payable thereunder shall be fixed by the Land Settlement Board.
30

New

35 (4A) In fixing for the purposes of this section the purchase price of any land comprised in a residence area grant or the rental value and rent for the purposes of a renewable lease of any such land, the Land Settlement Board shall—

40 (a) In the case of land used principally for residential, farming, agricultural, or horticultural purposes, fix a purchase price or rental value at an amount not exceeding the purchase price that would be payable under section 18 of this Act if the land were held under a residence site licence granted when the residence area grant was granted, and a rent not exceeding the amount of the licence fees that would be payable annually under a residence site licence
45 of the same land granted when the residence area grant was granted:

New

(b) In the case of land used principally for any other purposes, fix a purchase price or rental value at an amount not exceeding the purchase price that would be payable under section 18 of this Act if the land were held under a business site licence granted when the residence area grant was granted, and a rent not exceeding the amount of the licence fees that would be payable annually under a business site licence of the same land granted when the residence area grant was granted.

(5) The Commissioner shall, as soon as possible after the commencement of this Act, cause notice of the provisions of subsections (2) to (4) of this section and of section 18 of this Act, to be given to the proprietor of every residence area grant to which subsection (2) of this section applies, either by advertisement published three times at an interval of not less than one month between each advertisement in one or more newspapers circulating in the mining district in which the land comprised in the residence area grant is situated or by serving the notice on each proprietor of such a grant.

(6) Where before the commencement of this Act the proprietor for the time being of a residence area grant has (whether as of right or not) subdivided the land comprised in the grant and has transferred to any other person his interest in part of the land comprised in the grant, that person shall be deemed for the purposes of this section to be the proprietor of a residence area grant in respect of that part of the land as if such a grant had been duly made to him, and shall be entitled to exercise the powers conferred by subsections (2) and (4) of this section in respect of that part accordingly.

(7) Where the proprietor for the time being of a residence area grant, instead of taking out a miner's right in any year, has paid to the Mining Registrar an amount by way of rent for that year in respect of the grant equal to the amount that would have been payable in respect of a miner's right and has continued those payments up to the date of the commencement of this Act, he shall be deemed to have complied with the conditions of the grant requiring him to be the holder of a miner's right throughout the term of the grant, and the grant shall be deemed to continue in force at the date of the commencement of this Act accordingly.

21. Fee simple may not be acquired in certain cases—

Where—

- 5 (a) The land comprised in any licence or residence area grant, or any part of that land, forms part of a road or street or public reserve; or
- 10 (b) The land comprised in any licence or residence area grant, or any part of that land, was land that was reserved from alienation by section 58 of the Land Act 1948 or the corresponding provisions of any former Land Act,—
- the licensee or proprietor of the residence area grant shall not be entitled under this Act to acquire the fee simple of the land or of that part, as the case may be, and, in the case of land comprised in a residence area grant, any renewable lease granted under subsection (4) of section 20 of this Act shall
- 15 confer no right on the lessee to acquire the fee simple of the land or of that part, as the case may be.

22. Issue of certificate of title or renewable lease limited as to parcels—

- (1) Where under the provisions of this Act the licensee under any licence of unalienated Crown land or the
- 20 proprietor of a residence area grant acquires the fee simple, or the proprietor of a residence area grant acquires a renewable lease, of the whole or part of the land comprised in the licence or grant, and the land is not properly defined by survey or cannot for any other reason be fully described,
- 25 then—

- (a) Where the fee simple is so acquired, the District Land Registrar may issue to the licensee or to the proprietor of the grant, as the case may be, a
- 30 certificate of title limited as to parcels, and thereupon the provisions of Part XII of the Land Transfer Act 1952, as far as they are applicable and with the necessary modifications, shall apply as if it were a certificate of title limited as to parcels issued under that Part of that Act:
- 35 (b) Where a renewable lease is so acquired, the District Land Registrar may accept the lease for registration, but in such a case he shall endorse on the registered copy of the lease and on the outstanding copy thereof the words “Limited as to parcels”, and thereupon the provisions of Part XII of the Land
- 40 Transfer Act 1952, as far as they are applicable and with the necessary modifications, shall apply to the lease as if it were a certificate of title limited as to parcels issued under that Part of that Act.

(2) Nothing in subsection (1B) of section 82 of the Land Act 1948 (as inserted by section 5 of the Land Amendment Act 1954) shall apply with respect to any lease that is limited as to parcels under paragraph (b) of subsection (1) of this section. 5

23. Provisions of Land Act 1948 as to land on seashore, lakes, and rivers, and as to minerals reserved from sale, to apply to dispositions under this Act—Where under the provisions of this Act the licensee under any licence of unalienated Crown land or the proprietor of a residence area grant acquires the fee simple, or the proprietor of a residence area grant acquires a renewable lease, of the whole or part of the land comprised in his licence or grant, the provisions of sections 58 and 59 of the Land Act 1948 shall apply with respect to the acquisition of the fee simple or the granting of the lease as if it were a disposition of Crown land under that Act. 10 15

24. Acquisition of fee simple or renewable lease of land having no frontage to an existing road or street—Where under the provisions of this Act the licensee under any licence of unalienated Crown land, or the proprietor of a residence area grant applies for the fee simple of the whole or part of the land comprised in the licence or grant or the proprietor of a residence area grant applies to the Commissioner for a renewable lease of the whole or part of that land, and the land does not have a frontage to an existing road or street or private street,— 20 25

- (a) Nothing in this Act or in the Land Act 1948 or in section 124 of the Public Works Act 1928 or in any other Act or in any rule of law shall impose any obligation on the Crown or the Land Settlement Board to provide road or street access to the land: 30
- (b) In the case of an application for a renewable lease by the proprietor of a residence area grant, the provisions of subsection (2) of section 67 of the Land Act 1948 (as substituted by section 6 of the Land Amendment Act 1951) shall apply with respect to the land as if it were Crown land available for disposal under the Land Act 1948. 35

25. District Land Registrar may enter memorial of licence on certificate of title—Where the District Land Registrar has notice that the land included in a certificate of title under the Land Transfer Act 1952 is subject to a licence that is registered under the Land Transfer Act 1952 pursuant to 40

this Act, he may, without payment of any fee, enter on the certificate of title a memorial of the existence of the licence:

Provided that the failure to enter such a memorial shall not affect the validity of the licence.

5 26. Service of notices—Any notice required by this Act to be given to or served on any person may be given or served by delivering it to him personally or by sending it to him by registered post addressed to him at his last known place of abode or business in New Zealand, and in the last-mentioned case the production of a receipt given to an officer of the Post Office, and purporting to be signed by the person to whom it is addressed, shall be sufficient proof of the service.

15 27. Regulations—The Governor-General may from time to time, by Order in Council, make all such regulations as may be necessary for giving full effect to the provisions of this Act and for the due administration thereof.

SCHEDULES

FIRST SCHEDULE Sections 3 (2), (3), 4 (10), 7 (8), 11 (a) (ii)

MINING REGISTRAR'S CERTIFICATE AS TO TITLE AND OCCUPATION

The Mining Tenures Registration Act 1962

Registered No.: [Name] Mining Registry.

Full name of Licensee:

Address of Licensee:

Occupation of Licensee:

Nature of Licence: Residence site licence (business site licence) (special site licence) (lease under section 45 of Mining Act 1926) (lease under section 47 of Mining Act 1926)

New

Rent, licence fees, or other money payable annually under the licence

Date to which paid

To the District Land Registrar at

1. I hereby certify that due inquiry has been made with respect to the above-mentioned licence as required by section 3 of the above-mentioned Act, and the licence is in order for registration under the Land Transfer Act 1952.

2. Forwarded herewith are the following instruments held in this registry, being current dispositions of or dealings with the licence or any interest therein or any part thereof:

[Set out details, giving registered number in each case]

Dated this day of 19....

..... Mining Registrar.

Section 14 (1) (a)SECOND SCHEDULE

PROVISIONS OF MINING ACT 1926 AND ITS AMENDMENTS THAT DO NOT APPLY TO LICENCES OF UNALIENATED CROWN LAND (NOT BEING MAORI CEDED LAND) REGISTERED UNDER LAND TRANSFER ACT 1952

Number of Section	Subject-matter
<i>The Mining Act 1926</i>	
149 (b) and (c)	Acquisition of several residence site licences, and amalgamation of residence site licences.
155	Surrender of mining privileges, etc.
156	Substitution of titles under Mining Act 1926 for titles under former Act.
157	When area of exchanged land may exceed limit.
158	Provisions where roads excluded from surrendered area.
178	Mining privilege to be deemed a chattel interest.
179	Registration of transfers.
180	Licence or renewal to be sent to Registrar.
183	Other interests which may be registered.
184	Several rights may be transferred in same instrument.
185	Effect of registration.
186	Registration fee.
188	Power of Registrar to revise register.
189	Effect of removal from register.
190-193	Forfeiture of mining privileges by decree of Warden's Court.
194	When mining privilege deemed abandoned.
198-200	Miscellaneous provisions as to abandonment.
201-207	General provisions as to forfeiture and abandonment.
209	Grant of easements to holder of mining privilege.
217	Reduction of rent or suspension of labour conditions.
336-339	Jurisdiction of Warden's Court.
353	Supplementary powers of the Court.
433 (2)	Provisions as to lost or destroyed licences.
447	Application of gold revenue.
<i>The Mining Amendment Act 1927</i>	
2	Surrender of business site and residence site licences.
<i>The Mining Amendment Act 1941</i>	
5	Provisions as to defaced or dilapidated licences.

THIRD SCHEDULE Section 14 (1) (b)

PROVISIONS OF LAND ACT 1948 THAT APPLY TO LICENCES OF UN-ALIENATED CROWN LAND (NOT BEING MAORI CEDED LAND) REGISTERED UNDER THE LAND TRANSFER ACT 1952

Number of Section	Subject-matter
15	Land Settlement Board may delegate its powers.
18	Appeals to Supreme Court against decisions of Land Settlement Board.
19	Questions of law may be submitted to Judge.
20	Procedure on appeals and on questions submitted to Supreme Court.
21	No appeal affecting title of Crown.
95	Encumbrances not to affect Board's power of forfeiture for breach of conditions.
114	Bringing down encumbrances registered against lease or licence where fee simple or renewable lease acquired in exchange.
116	Title to issue on payment of the purchase price.
145	Surrender of lease or licence.
146	Lease or licence may be forfeited.
147	Correction of register after forfeiture.
148	Liability for rent up to time of forfeiture.
149	Reoffering of land after forfeiture.
150	Improvements to be purchased by incoming lessee or licensee.
151	Provision where land not again opened for acquisition.
171 (1) (2)	Issue of certificate of title where fee simple of several leases acquired; and amalgamation of leases.

FOURTH SCHEDULE Section 14 (2)

PROVISIONS OF MINING ACT 1926 THAT DO NOT APPLY TO LICENCES OF MAORI LAND (INCLUDING MAORI CEDED LAND) OR PRIVATE EUROPEAN LAND REGISTERED UNDER LAND TRANSFER ACT 1952

Number of Section	Subject-matter
178	Mining privilege to be deemed a chattel interest.
179	Registration of transfers.
180	Licence or renewal to be sent to Registrar.
183	Other interests which may be registered.
184	Several rights may be transferred in same instrument.
185	Effect of registration.
186	Registration fee.
336-339	Jurisdiction of Warden's Court.
353	Supplementary powers of the Court.