

1973/77



**THE COAL MINES REGULATIONS 1939,
AMENDMENT NO. 16**

—
DENIS BLUNDELL, Governor-General
ORDER IN COUNCIL

At the Government Buildings at Wellington this 26th day of March 1973
Present:

THE HON. N. E. KIRK PRESIDING IN COUNCIL

PURSUANT to the Coal Mines Act 1925, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Coal Mines Regulations 1939, Amendment No. 16, and shall be read together with and deemed part of the Coal Mines Regulations 1939* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 1st day of April 1973.

2. Marking out—Regulation 45 of the principal regulations is hereby amended by revoking paragraph (e).

3. Coal mining rights—(1) The principal regulations are hereby further amended by revoking regulation 46, and substituting the following regulations:

“**46. Rent**—(1) The annual rent payable under a coal prospecting licence shall be 30 cents per acre or part of an acre, and shall be paid in advance.

“(2) The annual rent payable under a tramway licence shall be \$10 per acre or part of an acre, and shall be paid yearly in advance.

“(3) The annual rent payable under a coal mining lease shall be 60 cents per acre or part of an acre.

“(4) Every application for a coal prospecting licence or a tramway licence shall be accompanied by the first year's rent.

“(5) If a coal prospecting licence or a tramway licence, as the case may be, is for any reason not granted, the rent shall be refunded.

*Reprinted with Amendments Nos. 1 to 13: S.R. 1968/82
Amendment No. 14: S.R. 1970/151
Amendment No. 15: S.R. 1972/68

“46A. Application fees—(1) The application fee for a coal mining right shall be \$5.

“(2) The application fee paid in respect of an application for a coal mining right shall not be refunded on the withdrawal or rejection of the application or on the refusal to grant a right, except with the approval of the Minister who may approve the refund of the total fee or such part of it as he thinks fit.

“46B. Deposits—(1) Every application for a coal prospecting licence or a coal mining lease shall be accompanied by a monetary deposit of—

“(a) In the case of a coal prospecting licence, \$50 for each 100 acres or part thereof:

“(b) In the case of a coal mining lease, \$50 for the first 20 acres or part thereof, and \$10 for each additional 20 acres or part thereof, or, if the opencast method of mining is to be used, \$100 for each acre or part of an acre.

“(2) Instead of requiring such a monetary deposit, the Minister may in his discretion accept a bond undertaking the payment to the Crown of an equivalent amount.

“(3) If a coal prospecting licence or a coal mining lease, as the case may be, is for any reason not granted, the deposit (if any) shall be refunded.

“46C. Refund of deposits—On the expiry or surrender of a coal prospecting licence or a coal mining lease in respect of which a monetary deposit has been paid, the Secretary shall refund the deposit if he is satisfied that all of the requirements of the said Act and of the regulations for the time being in force under the said Act, and all of the conditions of the licence or lease, have been complied with.

“46D. Forms—(1) Forms 11 to 16 in the Schedule to these regulations are hereby prescribed as the forms to be used in respect of the several matters to which those forms relate.

“(2) The form of other documents to be used for the purposes of the said Act in respect of coal mining rights shall be such as may from time to time be prescribed or provided by the Secretary.

“46E. General provisions relating to applications—(1) Every application for a coal mining right shall be accompanied by 5 duplicates.

“(2) The application shall contain the applicant's address for service in New Zealand.

“(3) The Secretary shall endorse on every application received by him the precise time and date of receipt.

“(4) If an application is received when the office of the Mines Department is closed, the time of receipt shall be deemed to be the time when the office is next open for public business.

“(5) Any application which is not accompanied by the prescribed fee, rent, and deposit (if any) or which is materially incorrect or deficient shall be void.

“(6) Before any application is dealt with, the Secretary may require the applicant to supply him with further information, and may amend the application on the written request of the applicant.

“46f. Notice of application by Secretary—In addition to complying with section 22 (4) of the said Act, the Secretary shall forward a notice of or a copy of every application for a coal mining right to—

- “(a) The Commissioner of Crown Lands for the land district in which the land to which the application relates is situated; and
- “(b) The Catchment Board of the catchment district, or the Catchment Commission of the catchment area, as the case may require, in which the land is situated, or, if the land is not situated in a catchment district or catchment area, to such other public body as is responsible for soil conservation.

“46g. Reports to be given—(1) The Commissioner of Crown Lands shall report to the Secretary on every application for a coal mining right, and shall include in the report—

- “(a) The owner of the coal on or under the land in respect of which the application has been made and details of any other rights appurtenant to such ownership;
- “(b) The owner and occupier of the land;
- “(c) The area and legal description of the land.

“46h. Posting of notice on land—(1) On completing the marking out of any land or, if marking out is not required, before making an application, every applicant for a coal mining right shall affix on the land in a conspicuous place a notice to the following effect:

“This land containing (area) is the subject of an application for (state type of coal mining right) under the Coal Mines Act 1925.

(Date of posting) (Name of applicant).’

“(2) Every such notice shall be maintained in a weatherproof condition by the applicant until the application has been disposed of.

“(3) This regulation shall not apply to any area covered wholly by the sea or the waters of any lake, pond, river, or stream.

“46i. Secretary may waive requirements—If any applicant or objector fails to comply with any requirement of the said Act or of these regulations relating to the time or manner of serving, giving, posting up, or maintaining any notice or objection, the Secretary may in his discretion, if he is satisfied that the non-compliance was not wilful, waive the requirement to such extent as he thinks fit.

“46j. Surrender of coal mining right—(1) Every surrender of a coal mining right shall be lodged with or forwarded to the Secretary and shall be accompanied by the holder’s copy of the right being surrendered and an application fee of \$2 for each right being surrendered. If the holder has lost his copy of the right, the Secretary may accept a declaration of loss.

“(2) If only part of the right is being surrendered, the Secretary shall endorse the holder’s copy of the right to that effect, identifying the part surrendered, and return that copy to the holder.

“(3) The Secretary shall, before lodging any surrender with the District Land Registrar, endorse on the surrender the date of its acceptance.

“(4) On the acceptance of a surrender, the Secretary shall notify the appropriate Commissioner of Crown Lands.”

(2) Every application for a coal mining right, and every objection to such an application, that before the commencement of these regulations has been made to a Warden, but has not been determined at the commencement of these regulations shall, whether the application or objection has been partly heard or not, be forwarded by the Warden to the Minister together with all documents relating to the application or objection.

(3) On receipt of an application or objection under subclause (2) of this regulation, the Minister shall deal with it in accordance with the provisions of the said Act. Any objection so received shall, unless the objector and the applicant agree to the objection being dealt with under section 23B of the said Act, be referred to a Magistrate in accordance with section 23C of the said Act.

(4) Before dealing with any such application or objection the Minister may require the applicant or objector to comply with any relevant provision of the said Act that has not been complied with.

4. Administration charge—Regulation 49 of the principal regulations is hereby amended by adding the words “, and the administration charge to be deducted from payments under section 29 (5) of the said Act shall be 5 percent of the amount payable”.

5. Consequential revocations—The following regulations are hereby consequentially revoked:

- (a) Regulations 1 (4), 47, 48, 51, 52, and 53 of the principal regulations:
- (b) Regulation 10 of the Coal Mines Regulations 1939, Amendment No. 4.

6. Schedule amended—The Schedule to the principal regulations is hereby amended by revoking forms 11 to 16, and substituting the forms set out in the Schedule to these regulations.

Reg. 6

SCHEDULE

NEW FORMS 11 TO 16 IN SCHEDULE TO PRINCIPAL REGULATIONS

“Form 11

APPLICATION FOR A COAL MINING RIGHT UNDER COAL MINES ACT 1925

Secretary of Mines,
Wellington.

PURSUANT to the Coal Mines Act 1925, I [*Full name, address, and occupation*] hereby apply for a [*State type of coal mining right*] in respect of the following land:

[*Here specify and identify the land with reasonable particularity by reference to its area and legal description, and state whether the land is Crown land, endowment land, etc. Also show location in relation to cadastral boundaries, survey monuments, topographical features, etc.*]

(Annex plan.)

SCHEDULE—continued

Precise time of marking out (if required): [*e.g.*, 26 September 1973 at 2 p.m.]

Proposed method of prospecting or mining, as the case may be:

Proposed programme of work and expenditure (coal mining lease only) (annex statement):

Address for service:

Names of owners and occupiers and all other persons whose interests may be affected, to whom notice of the application has been forwarded.

Notice posted up on the ground on the day of 19 .

Dated at this day of 19 .

.....
Signature of Applicant
or
his Solicitor or Authorised Agent.

“Form 12

AUTHORITY TO ACT AS AGENT (SECTION 21 (2) OF THE COAL MINES ACT 1925)

I of hereby authorise of to act as my agent to [*State here special power delegated to agent*], and I agree that whatever the said shall lawfully do under this authority, until revoked by me, I will at all times ratify and confirm as good and valid.

Dated at this day of 19 .

Signed

“Form 13

NOTICE OF APPLICATION (SECTION 22 (1) OF THE COAL MINES ACT 1925)

To: [*State name of owner, occupier, etc.*]

PURSUANT to the Coal Mines Act 1925, I [*Full name, address, and occupation*] give notice of an application to the Secretary of Mines, Wellington, for [*Describe nature of coal mining right*] over that area of land containing [*Describe land by reference to area, legal description, etc.*]

Public notice of the application will be published in a newspaper circulating in the district and any objections must be made within 21 days after the publication of the notice. If the objection is on a question of law the written notice of objection must be lodged with the Registrar of the Magistrate's Court nearest to the land to which the application relates, or, with my consent, any other Magistrate's Court. Section 23 of the Coal Mines Act 1925 requires you at the same time to send a copy of the objection to me and to the Secretary of Mines, Wellington. If the objection is on any ground not involving a question of law, the form

SCHEDULE—*continued*

of objection is to be sent to the Secretary of Mines, Wellington, in accordance with section 23A of the Coal Mines Act 1925, and you are to state if you require the objection to be referred to a Magistrate for hearing under section 23C of the Act. A copy of the objection must also be served on me.

Dated at this day of 19 ..

.....
Signature of Applicant
or
his Solicitor or Authorised Agent.

“Form 14

PUBLIC NOTICE OF APPLICATION (SECTION 22 (2) OF THE
COAL MINES ACT 1925)

I [*Full name, and address of applicant*] hereby give notice that I have applied to the Secretary of Mines, Wellington for a
[*Specify type of coal mining right*] over the following land [*Identify land by reference to legal description, locality, and ownership*]:

Dated at this day of 19 ..

.....
Applicant

“Form 15

NOTICE OF OBJECTION TO AN APPLICATION UNDER COAL MINES ACT 1925

¹The Registrar,
Magistrate's Court,
.....

or
Secretary of Mines,
Wellington.

The undersigned ² hereby objects to the grant of a ^{3(a)}
to ^{3(b)} over an area of ^{3(c)} described as ^{3(d)}
upon the following grounds ⁴ (continue on separate sheet if necessary):
.....

In terms of section 23A of the Coal Mines Act 1925, it is required that this objection be referred to the Magistrate's Court at ⁵ for hearing.

SCHEDULE—*continued*

Address for service:

Dated at this day of 19 .

.....
 Signature of Objector
 or
 his Solicitor or Authorised Agent.

I consent to this objection being heard in the Magistrate's Court
 at

.....
 Signature of Applicant
 for coal mining right

NOTES ON PREPARATION OF OBJECTION FORM

1. (a) If the objection is on a question of law only, this form of objection must be lodged with the Registrar of the Magistrate's Court nearest to the land to which the application for the right relates, or, with the consent of the applicant, with the Registrar of any other Magistrate's Court—see also paragraph 5 (b) below.

A copy of this objection must also be sent to the Secretary of Mines.

(b) If the objection is not on a question of law this form must be sent direct to the Secretary of Mines in the first instance.

(c) A copy of the objection form in every case must be served on the applicant for the right.

2. Specify full name, address, and occupation of the objector.

3. Specify the following details of the application for the right being objected to:

(a) Type of right, e.g., coal prospecting licence.

(b) Name of applicant.

(c) Total area applied for.

(d) Give legal description of land applied for and, when known, make reference to survey district and block numbers over which the application for the right has been made. Attach separate page if necessary.

4. Set out grounds for objection clearly, concisely, and in numbered consecutive paragraphs.

5. (a) Nominate the Magistrate's Court at which the application is to be heard only if the objection is not on a question of law which the objector requires to be referred to a Magistrate's Court.

(b) If the Magistrate's Court nominated is not the Court nearest the land to which the application for the right relates, the consent of the applicant for the right must be obtained on the front of this form.

(c) In all other cases, enter N.A.

SCHEDULE—*continued*

"Form 16

SURRENDER/PARTIAL SURRENDER OF COAL MINING RIGHT UNDER COAL
MINES ACT 1925Secretary of Mines,
Wellington.

I, [*Full name, address, and occupation*] being the holder of the coal mining right(s) specified in the First Schedule hereto apply to surrender the same absolutely or as to the parts of the land set out in the Second Schedule.

FIRST SCHEDULE

Specify Coal Mining Right

SECOND SCHEDULE

Identify area by reference to legal description, ownership, and by reference to its location in relation to cadastral boundaries, survey monuments, and topographical features, etc.

(Annex plan).

Dated at Wellington this day of 19 .

.....
Signature of Applicant
or
his Solicitor or Authorised Agent."

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations provide for various matters relating to coal mining rights under the Coal Mines Act 1925, as amended by the Coal Mines Amendment Act 1972.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 29 March 1973.

These regulations are administered in the Mines Department.