

Gold Mines Drainage Act 1871

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An Act to provide for enforcing Contribution towards the cost of Draining Gold Mines by the Owners of adjacent Mines.

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

1 Short Title.

The Short Title of this Act shall be “The Gold Mines Drainage Act 1871.”

2 Interpretation.

In the construction of this Act the words following shall have the meanings assigned to them as follows:—

“Person” shall include incorporated companies “Machine” shall include any appliance whatever for raising or lifting water from mines “Owner” any person for the time being having possession of and working a machine “Mine” shall mean any shaft or excavation sunk or worked for the purpose of obtaining gold thereby or therefrom.

3 Machine owners entitled to contribution for drainage.

The owner of any machine which is employed in draining water from any mine shall be entitled to receive from the holders of or persons working adjacent mines benefited by such machine contribution towards the expenses thereof.

4 Notice to be given of intention to require contribution.

Such owner intending to claim contribution as aforesaid shall serve upon one of such holders or persons a notice in writing stating that he claims contribution and the amount claimed and that if such contribution is not agreed to an application will be made to the Warden’s Court to enforce the same.

5 If contribution refused action may be commenced in Warden’s Court.

If the persons from whom contribution is so required refuse to contribute to the amount stated in the notice or for twenty-one days shall neglect to signify their assent thereto it shall be lawful for the owner of the machine to commence an action in the Warden’s Court.

6 Proceedings in Warden’s Court same as in ordinary actions.

A summons shall thereupon be issued and all proceedings shall be conducted and carried on in like manner as in ordinary actions in the Warden’s Court and the provisions of any Act in force under which such Court is constituted and all rules and regulations applicable thereto shall apply to the proceedings under this Act.

7 Court first to determine whether defendant benefited and if so amount of contribution.

On hearing the case the Court shall first determine whether the defendant is benefited by the machinery of the plaintiff and if so the Court shall forthwith or at some adjournment proceed to determine the amount of contribution which it

would be reasonable under all the circumstances of the case for the defendant to pay to the plaintiff and the time mode and conditions of payment and the period not exceeding twelve months during which such contribution shall be continued.

8 An order to be made in conformity with determination of Court.

An order of Court shall be drawn up in conformity with such determination and shall be served on the defendant or left with the manager of the mine in respect of which contribution is required.

9 If contribution not paid execution may issue.

If at any time any sum due in respect of such contribution is not paid as directed by such order the plaintiff may issue execution from the Warden's Court to enforce payment in the form applicable to ordinary proceedings.

10 At termination of period fixed by orders other notices may be given.

At the termination of the period fixed for payment of any contribution it shall be lawful for the machine owner to give another notice as aforesaid whereupon the like proceedings shall be taken as herein provided in respect of the first notice and if a further order for contribution is made by the Court such contribution shall commence from the termination of the period fixed in the next preceding order.

11 Notice to be given of intended discontinuance of drainage operations.

If at any time the owner of any machine to whom contribution is paid as aforesaid shall intend to discontinue drainage operations he shall give at least six calendar months' notice of such his intention to all contributors and if he do not do so he shall be liable for any injury that they may sustain in consequence of the more early stoppage of the drainage machine to be recovered as damages in the Warden's Court.

12 Machine owner not liable on account of accidents.

Such machine owner shall not be liable for any injury or damage on account of the sudden stoppage of drainage operations if such stoppage was caused by accident to machinery or other cause over which he had no control Provided that all due diligence be exercised in repairing such damage or injury.