

NEW ZEALAND.



QUADRAGESIMO PRIMO
VICTORIÆ REGINÆ.

No. 41.

ANALYSIS.

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| <p>Title.
 Preamble.
 1. Short Title.
 2. When Act to come into operation.
 3. Interpretation.
 4. Appeal on points of law.
 5. Notice of appeal to be given and deposit made.
 6. When appeal to be heard.
 7. Proceedings on appeal.
 8. Appeal to be considered abandoned if not duly prosecuted.
 9. Supreme Court to hear and determine appeals.</p> | <p>10. Powers of District Court conferred upon Supreme Court.
 11. How decision to be enforced after appeal.
 12. Persons dissatisfied with decision of District Court on matters of fact may have same tried by a jury. Mode of procedure in such cases.
 13. District Court or Judge may give directions as to trial.
 14. Witnesses may be subpoenaed, and practice of District Court to apply. Proceedings after verdict.
 15. Costs of trial of issues of fact to be in discretion of Court.</p> |
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AN ACT to amend "The Mining Companies Act, 1872." Title.
[8th December, 1877.]

WHEREAS it is expedient that there should be a right of appeal Preamble.
 from the decisions of the District Court, or of a Judge thereof,
 in all matters under the provisions of "The Mining Companies Act,
 1872:"

BE IT THEREFORE 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 shall be "The Mining Companies Act 1872 Amendment Act, 1877." Short Title.

2. This Act shall come into operation on the first day of January, one thousand eight hundred and seventy-eight. When Act to come into operation.

3. In the construction of this Act the words "the said Act" shall mean "The Mining Companies Act, 1872," and the word "decision" shall include judgment, decree, order, decision, determination, or direction. Interpretation.

Mining Companies Act 1872 Amendment.

Appeal on points of law.

4. Any person who may feel himself aggrieved by any decision of any District Court, or any Judge thereof, on any point of law, made or given in any matter or proceeding under the provisions of the said Act, may appeal from the same to the Supreme Court of New Zealand.

Notice of appeal to be given and deposit made.

5. The person appealing shall within ten days from the giving of the decision appealed against serve upon the other party to the matter or proceeding a notice of appeal, stating his intention to appeal and the grounds of appeal, and shall give a like notice to all other persons interested in supporting the decision appealed against by publishing the same in some newspaper usually circulating in the town or place where such judgment or decision was made or given, and shall also within such ten days deposit with the Clerk of the District Court for such district the sum of twenty pounds to abide the costs of such appeal, which sum shall also be forfeited unless the appellant shall duly prosecute his said appeal with effect.

When appeal to be heard.

6. The appeal shall be heard at the next sitting of the Supreme Court which shall be held nearest to the place at which the decision appealed against shall have been made or given not sooner than twenty days from the time such decision was made or given: Provided that the Supreme Court may fix any other time for the hearing of such appeal upon such terms as such Court may think fit.

Proceedings on appeal.

7. The appeal shall be in the form of a special case agreed on by the parties who were actually before, or represented by counsel, solicitor, or agent in or before, the District Court, or a Judge thereof, on the original hearing of the matter appealed against, or their solicitors; and if they cannot agree within fourteen days from the time such decision was made or given, then the Judge of the District Court, on being applied to by either party, shall settle the case. The case, when agreed to or settled, shall be transmitted by the party appealing to the Registrar of the Supreme Court at the place where such appeal is to be heard, and the party so appealing shall set down the same for hearing, and serve notice thereof upon all parties who were actually before, or represented by counsel, solicitor, or agent in or before, the District Court or a Judge thereof on the original hearing of the matter appealed against.

Appeal to be considered abandoned if not duly prosecuted.

8. If no case is set down for hearing within thirty days from the time notice of appeal was given, the appeal shall be considered to be abandoned, and the same proceedings may be had and taken upon the order, judgment, decree, or decision appealed against, as though no notice of appeal had been given: Provided that if the party appealing shall be unable to get a case settled within such thirty days as aforesaid, after using reasonable effort to do so, the Court to which such appeal is made may, if it sees fit, enlarge the time for setting down such case for hearing.

Supreme Court to hear and determine appeals.

9. The Supreme Court shall, after the hearing of such appeal, make an order reversing or varying the decision appealed against or dismissing such appeal, and such order shall be final and conclusive on the parties, and the Supreme Court may make such order with respect to the costs of the appeal and of the proceeding appealed from as such Court shall think fit.

Powers of District Court conferred upon Supreme Court.

10. For the purposes of dealing with appeals under this Act, the Supreme Court shall have and may exercise all the powers which the District Court or a Judge thereof might or could exercise under the said Act.

How decision to be enforced after appeal.

11. After any appeal shall have been determined, if such appeal shall be dismissed, it shall be lawful for the District Court, on receiving a certificate to that effect from the Registrar of the Supreme Court,

Mining Companies Act 1872 Amendment.

to proceed to enforce such decision in the same manner as such District Court might have done if no such appeal had been brought; and in case any such decision shall have been varied upon appeal, the decision so varied shall be deemed to be the decision of the District Court, or the Judge thereof, from which or from whom the appeal shall have been made, and it shall be lawful for the District Court to proceed to enforce the decision so varied in the same manner as if it had been the original decision in the matter or proceeding.

12. In case any person shall feel himself aggrieved by the decision of a Judge of any District Court upon any matter of fact in any matter or proceeding under the said Act, he may require such matter of fact to be tried by a jury in like manner in all respects as civil cases may be tried by a jury in District Courts.

Persons dissatisfied with decision of District Court on matters of fact may have same tried by a jury.

Provided that he shall, within ten days from the time of the giving of such decision, serve upon the other party to the matter or proceeding a notice in writing stating specifically the question or questions of fact which he wishes to have tried by such jury, and shall give a like notice to all other persons interested in supporting the decision appealed against by publishing the same in some newspaper usually circulating in the district where such decision was made or given, and shall also within such ten days deposit with the Clerk of the District Court for such district the sum of twenty pounds to abide the costs of such appeal; such issues of fact shall be tried by a jury at the next sittings of the District Court to be held in the district in which such decision was given not sooner than twenty days from the time the same was given: Provided also that the District Court or a Judge thereof may, upon such terms as such Court or such Judge may think fit, fix any other time for the trial of such issues.

Mode of procedure in such cases.

13. The District Court, or a Judge thereof, may make any order or give any directions as to the conduct of the trial of such issues as such Court or Judge may think fit.

District Court or Judge may give directions as to trial.

14. Witnesses may be subpoenaed by either party interested in the trial of any such issues, and the rules and practice for the time being of the District Court for the trial of civil cases shall, as far as the same are applicable, regulate the trial of such issues of fact.

Witnesses may be subpoenaed, and practice of District Court to apply.

After the verdict upon such issues of fact shall have been given, the District Court, or a Judge thereof, shall give a decision upon the whole matter or proceeding originally under consideration, but in doing so shall take the verdict of the jury upon the issues so tried as being the true state of the facts in the matter or proceeding to be adjudicated upon.

Proceedings after verdict.

15. The District Court, or a Judge thereof, may make such order with respect to the costs of the trial of such issues, and of all proceedings connected therewith, including the subsequent decision thereon, as such Court or Judge may think fit.

Costs of trial of issues of fact to be in discretion of Court.