

Mining Act 1886 Amendment Act 1887

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An Act to amend "The Mining Act, 1886."

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.

The Short Title of this Act is “The Mining Act 1886 Amendment Act, 1887.” It shall be read together with “The Mining Act, 1886” (hereinafter referred to as “the said Act”).

2 Section 9 of principal Act repealed.

Section nine of the said Act is hereby repealed, and in lieu thereof it is enacted as follows:—

Enactment in lieu thereof.

All claims, water-races, dams, reservoirs, machine-, business, and residence-sites, tenements, and easements held, occupied, or enjoyed under any Act repealed by the said Act shall, from and after the commencement of the said Act, be and be deemed to be held, occupied, and enjoyed under the said Act in so far only as the said Act is consistent with the Acts or regulations made thereunder, and under which the said rights and privileges were granted, and all questions of title to the said rights and privileges shall be determined under the Act and regulations in force at the time when the said rights and privileges were granted; and all fees and charges payable in respect thereof shall not exceed those fixed either by Act or regulations in force at the time the said rights and privileges were granted.

3 Register to be kept for each district.

At Every Warden’s office there shall be a register kept by the Mining Registrar for the registration of all claims and other mining rights.

From and after the passing of this Act no license or other document to hold any claim or other mining right shall be issued to any person previous to the registration thereof, and the payment of the prescribed registration fee.

4 Fine may be paid in lieu of forfeiture.

Notwithstanding anything contained in the said Act or this Act, the Warden may in any case, on sufficient cause being shown, substitute a monetary fine in lieu of forfeiture, and may allow thereout a sufficient sum to defray any reasonable expenses incurred by the plaintiff, if any, in the prosecution of his suit.

5 Construction of head-races and other mining rights under, or over, or through other constructed head-races and mining rights.

Any person or persons shall, with the consent of a Warden, be entitled to construct a head-race, tail-race, or flood-race, or drive any tunnel under or over or through any constructed head-race, tail-race, flood-race, or tunnel, or through any machine-, business-, or residence-site, provided it does not

interfere with the proper working of the same, and that compensation shall be allowed for estimated damage (if any); and the amount of such compensation shall, if necessary, be decided by arbitration.

6 Validation of mining rights, notwithstanding miners' rights not renewed.

Any claim, water-license, lease, or other mining right granted under the said Act, or any Act for the time being in force for the administration of goldfields, shall be of full force and effect, notwithstanding the owners thereof may not have been the continuous holders of miners' rights, water-licenses, leases, or other mining rights from the first day of December, one thousand eight hundred and eighty-six, to the thirty-first day of March, one thousand eight hundred and eighty-seven: Provided that nothing herein contained shall validate the title to any claim, water-license, lease, or other mining right where the owner or owners of such claim, water-license, lease, or mining right have failed to take out a miner's right within three months of the expiry of the miners' rights previously issued to them; nor shall the provision apply to any claim, water-license, lease, or other mining right the subject of litigation at the time of the passing of this Act.

7 Definition of clause 142 of principal Act. Same only to apply to drainage areas.

Subsection two of section one hundred and forty-two of the said Act shall only apply to drainage areas, and nothing in the said Act contained shall be read and construed as preventing the construction of dams across the natural streams situate in any mining district.

8 Providing how moneys to be paid for lands resumed in certain cases.

The following words shall be read and construed as an addition to section forty-six of the said Act:—

Provided further that, on the recommendation of the Minister, the Colonial Treasurer may pay one moiety of the compensation, including costs, if any, payable for lands resumed, out of the goldfields revenue of the district, or other revenues derived from such district in respect of mining.

9 Fees for water-race licenses.

There shall be payable in advance for every water-race license the sum of five shillings, and a fee of one shilling for registration of the license previous to its issue, and a like fee for the renewal of such registration in each year.

10 As to licenses in exchange for previous leases.

Every license granted under section one hundred and eighty-three of the said Act in exchange for a previously-existing lease shall be for the unexpired term only of such lease, and shall entitle the holder thereof to the same rights and privileges as he had under the lease which has been exchanged for such

license; but the Warden may, on the application of the lessee, grant such license for such other period as the Warden shall think fit, not exceeding twenty-one years inclusive of the said unexpired term, but in every such case the license shall be granted subject to the provisions of "The Mining Act, 1886."

Nothing contained in section one hundred and eighty-seven of the said Act shall be construed to supersede any of the provisions of this section in relation to licenses granted in exchange for leases under section one hundred and eighty-three of the said Act.

11 Renewal of miners' right alter expiry.

If the holder of either a miner's right or a business license shall neglect, on the expiration thereof, to take out a new right or license, as the case may be, a new right or license dated of the day of such expiration may nevertheless be granted to such holder upon production of such expired right or license within thirty days from such expiration, and within three months upon payment of the sum of five shillings in addition to the ordinary price of a miner's right or business license as aforesaid; and every new right or license so issued shall be in such one of the forms in the Fourth Schedule to the said Act as shall be applicable, and shall be of the same force and efficacy as if issued on the day of the expiration of the former right or license.

12 Notices published in newspapers.

Any notice required by the said Act to be advertised in a newspaper published in a district shall be deemed to be duly advertised if inserted in a newspaper circulating in such district in case none is published there.

13 Bailiff may sell without license.

It shall not be necessary for any bailiff to take out an auctioneer's license for the purpose of conducting any sale which he is authorized to effect under the said Act; but in such case he shall not be entitled to charge any commission for acting as auctioneer at such sale.

14 Amendments in other sections of principal Act.

The said Act is amended as follows, that is to say,—

- (1.) Section eleven: The definition of "underground manager" is hereby repealed, and the following substituted in lieu thereof:—
"Mining manager" or "manager" means the manager who shall have the principal control and direction of any mine.
- (2.) Section sixteen: The Governor may, under the provisions of this section, from time to time appoint, within any mining district, as many fit persons to be Receivers of Gold Revenue therein as he shall think necessary.
- (3.) Section one hundred and forty-one: Before the words "for purposes of irrigation" the word "or" is hereby inserted.

- (4.) Section one hundred and fifty-three: After the words “Crown lands” the following words are hereby inserted: “for the construction of tail-races, or sludge-channels, or.”
- (5.) Section one hundred and seventy-one: After “sell,” insert “or cause to be sold by the bailiff or any other person.”
- (6.) Section one hundred and eighty: All costs granted under this section may be recovered as a judgment in a Resident Magistrate’s Court.
- (7.) Section two hundred and three: The words “an underground” and the word “underground,” wherever occurring before the word “manager,” are hereby respectively repealed.
- (8.) Section two hundred and fifteen: The word “underground” is hereby repealed.
- (9.) Section two hundred and twenty-six: The power of appointing a Clerk for every Warden’s Court shall be deemed to include the power of appointing a Clerk for such Court at every place within a district where such Court shall sit; and all appointments of Clerks heretofore made are hereby validated, notwithstanding that more than one Clerk may have been appointed for any such Court.
- (10.) Section two hundred and thirty-one: The words “in cases only in the absence of the Warden may be signed” are hereby repealed.
- (11.) Section two hundred and eighty: The word “Warden” is hereby repealed.
- (12.) Sixth Schedule. The form of “Notice of Construction of Water-race” in the said Schedule is hereby repealed, and the form in the Schedule to this Act is hereby substituted.

15 Validation of regulations.

Every regulation made since the commencement of the said Act, and purporting to be made under the provisions of section two hundred and seventy-six of the said Act, is hereby declared to have been validly made, and to have had due force of law from the date of the publication thereof in the *Gazette*, notwithstanding the same was not previously presented to the General Assembly, and notwithstanding anything to the contrary contained in the proviso at the end of the said section.

The aforesaid proviso shall be deemed to have applied in respect to regulations in force at the commencement of the said Act, and not to regulations authorized to be made subsequent to such commencement, and previous to the then next session of the General Assembly.

16 Manager may not act as sharebroker. Penalty.

No manager shall act as a sharebroker; and if he shall so act, either directly or indirectly, he shall be liable to a penalty of fifty pounds, to be recovered in a summary way.

Schedule

Notice of Intention to construct Water-race.

(District.)

(Date.)

To the Warden at.

 hereby give notice that intend to construct a water-race to divert and use water for mining purposes, commencing at a point and terminating at.

The length of such race is or thereabouts, and its intended course is.

The mean depth of such race is ft. in., and the mean breadth is ft. in., and it is proposed to divert Government-heads of water.

Cost of construction: £

Time required for construction:

Number and date of miner's right:

Applicant.

Any person objecting to the granting of this application must lodge his objection in writing at the Warden's Office at within fourteen clear days from the date hereof.

Hearing at o'clock on the, 188

Warden's Office , 188 .

Warden.