



ANNO QUINQUAGESIMO SEXTO ET QUINQUAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

A.D. 1893.

No. 587.

An Act relating to Mining.

[Assented to, December 23rd, 1893.]

BE it Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows :

PART I.

INTRODUCTORY.

- 1. This Act may be cited as "The Mining Act, 1893."
- 2. This Act is divided into eight parts, as follows :—

Short title.

Division.

PART I.—Introductory :

PART II.—Departmental and Official :

PART III.—Acquisition of Rights of Prospecting, Mining, and Occupation :

DIVISION I.—General :

DIVISION II.—Miners' Rights :

DIVISION III.—Goldfields :

DIVISION IV.—Gold Leases :

DIVISION V.—Mineral Leases :

DIVISION VI.—Coal and Oil Leases :

DIVISION VII.—Miscellaneous Leases :

DIVISION VIII.—Business and Occupation Licences :

PART I.

PART

*The Mining Act.—1893.***PART I.**

- PART IV.**—Inspection of Mines :
PART V.—Drainage of Mines :
PART VI.—Encouragement of Mining :
PART VII.—Regulations :
PART VIII.—Miscellaneous.

Repeal.

3. The several enactments mentioned in Schedule A hereto are hereby repealed to the extent therein set out ; but such repeal shall not affect any right, interest, or liability already created, existing, or incurred, nor anything lawfully done or suffered under any enactment hereby repealed ; and any proceeding in respect of such right, interest, or liability may be carried on as if such repeal had not taken place.

Definition.

4. In the construction of this Act, except where inconsistent with the context or subject matter—

“ Act ” includes regulations :

“ Business ” means any business, profession, trade, calling, or occupation, except mining :

“ Business claim ” means a claim held under a business licence :

“ Business licence ” means a business licence granted under this Act :

“ Claim ” means any area held under a miner’s right or business licence, and includes amalgamated claims :

“ Coal ” includes all descriptions of coal and shale :

“ Coal or oil lease ” means a coal or oil lease granted under this Act for the purpose of mining for coal or oil :

“ Crown lands ” means all lands in South Australia, except—

- i. Lands reserved for or dedicated to any public purpose :
- ii. Lands subject to a grant or contract for a grant in fee simple by or on behalf of the Crown :
- iii. Lands subject to any licence for mining purposes or to any lease granted by or on behalf of the Crown, or held by virtue of a miner’s right or a business licence or occupation licence :

And includes all lands situate between high and low water-mark on the seashore and on the margin of tidal rivers :

“ Gold ” means as well gold as any substance containing gold, or having gold mixed therewith, or set apart for the purpose of extracting gold therefrom :

“ Goldfield ” means a proclaimed goldfield :

“ Gold lease ” means a lease granted under this Act for the purpose of mining for gold :
“ Inspector ”

The Mining Act.—1893.

PART I.

- “Inspector” means an inspector of mines appointed under this Act:
- “Lease for mining purposes” means any lease for the purpose of mining granted under this Act, or any enactment hereby repealed:
- “Metals” includes gold:
- “Mine,” as a noun, includes all lands and works on, in, or by which mining is carried on:
- “Mining” or “to mine” includes all modes of prospecting and mining for, obtaining and making merchantable, metals, minerals, coal, or oil:
- “Mineral lands” includes all Crown lands, and also all other lands which shall be proclaimed as mineral lands pursuant to section 7, and all lands made mineral lands pursuant to section 8:
- “Mineral lease” means a lease granted under this Act, for the purpose of mining for metals or minerals other than gold:
- “Minerals” includes precious stones, but does not include coal:
- “Mining lease” means a lease granted under this Act:
- “Minister” means the Minister of Mines under this Act:
- “Miner’s right” means a miner’s right issued under this Act:
- “Oil” includes all descriptions of mineral oil:
- “Proclamation” means Proclamation by the Governor published in the *Government Gazette*:
- “Prescribed” means prescribed by this Act:
- “Prospecting” includes all modes of prospecting for metals, minerals, coal, or oil:
- “Regulations” means the regulations under this Act, or until regulations are made hereunder regulations under the enactments hereby repealed:
- “Warden” means a warden appointed under this Act or under “The Gold Mining Act, 1885.”

5. This Act shall come into operation on a day to be fixed by Proclamation. Date of commencement.

6. This Act applies only to Crown and mineral lands, and shall not apply to the Northern Territory. Application of Act.

7. The Governor, by Proclamation, may—

Governor may make certain Proclamations.

- i. Declare to be mineral lands any lands belonging to or vested in the Crown, and any lands out of which minerals have been reserved to the Crown:
- ii. Declare

The Mining Act.—1893.

PART I.

- ii. Declare any Crown or mineral lands to be a goldfield:
- iii. Reserve from the operation of all or any of the provisions of this Act any specific portion or class of Crown or mineral lands:
- iv. Revoke or alter any previous Proclamation.

Power to mine under roads and reserves.

8. All lands under the surface of any public reserve, and the fee simple whereof shall not have been alienated from the Crown, or under the surface of a public street, road, or highway, shall be mineral lands, and may be dealt with accordingly, subject to any regulations for protecting the public user of the surface of such lands, and for providing for protection to persons and property, and for securing to any person who, for the time being, shall have the right of mining upon any property intersected by or abutting on any such lands, not being a reserve, a preferential right of mining in respect of the lands intersecting or abutting on such property.

Certain lands exempt.

9. (1) Mineral lands lawfully and *bonâ fide* used as a yard, garden, cultivated field, or orchard, or as the site of a house, out-house, shed, or other building, actually used and occupied, or of any artificial dam or reservoir, are exempted from the operation of this Act.

(2) Such exemption shall cease upon payment of compensation for loss resulting from the cesser of such exemption to the person (if any) entitled to purchase such lands, or to the lessee (if any) of such lands, such compensation to be determined by arbitration in the prescribed manner. The person desiring the cesser of such exemption, and the person entitled to purchase, or the lessee, as the case may be, shall be deemed parties to a submission to such arbitration.

PART II.

PART II.

DEPARTMENTAL AND OFFICIAL.

Minister of Mines.

10. The Commissioner of Crown Lands and Immigration and his successors in office are hereby constituted a body corporate under the name of "The Minister of Mines," with perpetual succession and a common seal.

Department of Mines.

11. A Department of Mines under the control of the Minister is hereby established for the purposes of this Act.

Work of department.

12. The work of the department shall be performed by the staff of the department of the Commissioner of Crown Lands and Immigration, and by such wardens, registrars, inspectors, and other officers as may be necessary and shall be appointed by the Governor.

13. The

The Mining Act.—1893.

PART II.

13. The province, for the purposes of this Act, may be divided into mining districts, with the names and boundaries to be fixed by the Governor by Proclamation. Mining districts.

14. The Governor by Proclamation may vary the boundaries of any mining district, abolish any mining district, and constitute new mining districts. Powers of Governor.

15. A Mining Registrar shall be appointed by the Governor for each district, who shall reside therein, and shall be called "The Mining Registrar for the District of _____," such blank being filled in with the distinctive name of the particular district. Mining registrar.

16. No officer appointed under this Act, or entitled to exercise any powers hereunder, shall hold, either directly or indirectly, any share or interest in any mining venture in South Australia. Officer not to be interested in mining.

17. A warden may hear and determine in a summary way all suits concerning any right, claimed in, under, or in relation to a miner's right or business, or occupation licence, or any advantage thereof or liability thereunder, or any contract in respect thereof. Powers of warden.

18. The jurisdiction of a warden shall extend not only to cases where the litigants are the parties originally interested in the cause of suit, but to cases where the title of litigants is derived from or through any of such parties. Jurisdiction of warden.

19. The warden may decide any suit, and any matter arising therein, in such manner as may be just, and may make and give all orders and directions necessary for enforcing his decision, and may award reasonable costs. Power on hearing.

20. The mode of proceeding in a suit before a warden shall be as follows:— Mode of proceeding before warden.

- I. The person suing shall lodge a plaint note at the warden's office nearest to the land in reference to which or to any thing taken from which the cause of action arose.
- II. Where sub-section I. of this section does not apply the plaint note may be lodged at the office of any warden, and in such case, and also in any case where it shall appear that the plaint note has been lodged at the wrong office, the warden at whose office the plaint note has been lodged, if he thinks that the suit may conveniently to the parties be decided by him, may decide the same, but otherwise shall transmit a certified copy of the proceedings in the suit to the office of the warden who, in his opinion, can with most convenience to the parties decide the suit. The last mentioned warden shall thereupon have jurisdiction in the matter.

The Mining Act.—1893.

PART II.

111. The plaint note shall be in the form No. 1 in Schedule D to this Act or in a form to the like effect, and shall specify shortly the subject matter of the complaint, and the relief claimed.
- iv. Upon receipt of the plaint note the warden shall give notice in the form No. 2 in the said Schedule D, by post or otherwise, to the party sued of the nature of the suit, and the time and place at which the same will be heard and determined.
- v. At the time and place appointed the parties shall attend and state their cases before the warden, and may call evidence on oath (which oath the warden is hereby authorised to administer) in support thereof, and the warden, having heard such statement and evidence, shall give his decision, which shall be final, except as hereinafter provided.
- vi. The warden may adjourn the hearing of a suit to any other time or place, and may, either at the original hearing or at any adjournment, proceed in the absence of either party.
- vii. No person who is not the holder of a miner's right in his own name shall have any right to institute proceedings before a warden.

Warden's order need not be formally drawn up.

21. A warden's order or decision need not be formally drawn up, but the record in the warden's book, which he is hereby required to keep for the purpose, shall be conclusive evidence of the order or decision and any person may obtain a copy of the record on payment to the warden of the prescribed fee.

Warden may order metal, &c., to be seized.

22. The warden, upon the hearing of a suit, may cause any metal, mineral, coal, or oil to be summarily seized and delivered to the person entitled thereto.

Inspection by Warden.

23. Any warden or any person authorised by the Minister may, at all reasonable times, enter and inspect any mine held under a claim or mining lease, and examine and take extracts from all books, accounts, vouchers, and documents relating thereto, or to any metals, minerals, coal, or oil obtained therefrom.

Justices Acts to apply.

24. Ordinance No. 6 of 1850, "The Justices Procedure Amendment Act, 1883-4," and any other Act for the time being regulating proceedings before and the powers of Justices, shall, so far as practicable, and subject to any modifications, alterations, or additions which may be prescribed, apply to proceedings before a warden, and to the enforcement of his decisions in like manner as if such decisions were the decisions of Justices.

Appeal.

25. There shall be an appeal from any determination, of a warden, or from any order of dismissal, which appeal shall be to the Local Court

The Mining Act.—1893.

Court of Full Jurisdiction nearest to which the cause of action arose, and shall be conducted in manner provided by Ordinance No. 6 of 1850, and "The Justices Procedure Amendment Act, 1883-4," for appeals against decisions of Justices.

PART II.

PART III.

ACQUISITION OF RIGHTS OF PROSPECTING,
MINING, AND OCCUPATION.PART III.—
DIVISION I.

PART III.—DIVISION I.—GENERAL.

26. Prospecting and mining shall be permitted pursuant to this Act by virtue of—

Modes of acquiring
right of prospecting,
mining, and occupa-
tion.

- (a) A miners' right:
- (b) A gold lease:
- (c) A mineral lease:
- (d) A coal lease:
- (e) An oil lease: or
- (f) A miscellaneous lease:

And in addition to the rights of occupation conferred by the foregoing, occupation shall be permitted pursuant to this Act by virtue of—

- (a) A business licence: or
- (b) An occupation licence.

PART III.—DIVISION II.—MINERS' RIGHTS.

PART III.—
DIVISION II.

27. A miner's right, to be in force for one year from the date thereof, shall be issued by any warden or mining registrar to any person applying for the same, upon payment of the sum of Five Shillings, and such right shall be in the form contained in Schedule B to this Act.

Miners' rights.

28. A miner's right may be renewed at any time during its currency on payment of the sum of Five Shillings.

Renewal of miner's
right

29. Every renewal shall be in force for one year from the expiration of the right renewed.

Effect of renewal.

30. A miner's right shall, in the first instance, authorise the holder to prospect for any metal, mineral, coal, or oil, the property of the Crown, and to peg out in the prescribed manner and of the prescribed shape and dimensions on any land whereon the same may be or be supposed to be, of—

Privileges under
miners' rights.

- (a) A gold claim not exceeding the prescribed area:
- (b) A mineral claim not exceeding forty acres in area: (c) A

*The Mining Act.—1893.***PART III.—
DIVISION II.**

(c) A coal claim not exceeding six hundred and forty acres in area:

(d) An oil claim not exceeding six hundred and forty acres in area.

Ownership of claims.

31. The holder of the miner's right shall be the person in whose name the miner's right is issued, and he shall be the owner of the claim pegged out.

Rights of owners of claims.

32. The ownership of a claim shall confer the right to reside thereon, and the following rights in respect thereof:—

(a) As to a gold claim, the preferential right to a gold lease, and in the meantime the right of mining for gold and the ownership of all gold and other metals or minerals found:

(b) As to a mineral claim, the preferential right to a mineral lease, and in the meantime the right to mine on the claim for any metals or minerals, except gold, and the ownership of all such metals and minerals when found:

(c) As to a coal or oil claim, the preferential right to a coal or oil lease, and in the meantime the right to mine for coal or oil, and the ownership of all coal or oil found.

Additional rights of owners of claims.

33. The owner of a claim, for the purpose of mining thereon, may exercise the following rights in relation to any Crown lands, that is to say, he may—

i. Cut, construct, and use water races, dams, and reservoirs, and take, divert, and use water, and cut, take and use timber, and take and use stone, clay, or gravel:

ii. Take possession of, and while actively engaged in prospecting or mining, occupy for the purpose of residence any prescribed area:

iii. Put up any building or other erection upon the area so occupied, and remove the same while in lawful possession of such area.

Priority of claims.

34. Whenever the same area shall be included in different classes of claims, the different classes shall have priority in the following order:—

(a) Gold claims:

(b) Mineral claims:

(c) Coal or oil claims:

but the owners of all claims shall comply with prescribed requisites for securing to each the benefit of his claim, and for preventing unnecessary interference with any rights previously existing.

The Mining Act.—1893.

35. No area which is pegged out under one class of claim shall be liable to be again pegged out under the same class during the term of the miner's right under which the same is held, unless the forfeiture of such claim has been declared, or the same has been abandoned.

PART III.
DIVISION II.

Claim not to be pegged twice on the same class.

36. No holder of a miner's right shall prospect or mine upon or under a street, road, or highway without the consent, in writing, of the Municipal Corporation or District Council having the control thereof.

No mining under road, &c., without consent.

37. No claim shall be pegged out upon any area which is being lawfully mined, so as wholly or partially to come within fifty yards of a shaft or sinking in actual use for the purpose of such mining without the consent in writing of the person mining.

No claim within fifty yards of shaft.

38. No person shall at the same time own more than one claim by virtue of the same miner's right; but any person may hold any number of miners' rights, and for each miner's right so held by him he may own one claim: Provided that no person shall hold more than one alluvial gold claim.

Conditions as to claims.

39. (1) Every claim shall be liable to forfeiture upon non-compliance by the owner with the prescribed conditions as to working the same.

Forfeiture.

(2) If at any time the Minister shall be satisfied by the report of a warden that payable results have been obtained on any claim, other than an alluvial gold claim, he may require the owner of the claim to take a lease of his claim, and in default of compliance with such requisition the claim shall be liable to forfeiture.

40. Any holder of a miner's right who shall, in a suit instituted by him before a warden, prove that a claim is liable to forfeiture, shall be entitled to an order declaring and enforcing such forfeiture, and shall, for fourteen days after the making of such order, have a preferential right to enter upon and peg out such claim as a claim of the same class as the one forfeited.

Person establishing forfeiture of claim to have a preferential right thereto.

41. Every claim shall be personal property.

Claim to be personal property.

42. The owner of a claim, and every person deriving title from or through him, within thirty days after the claim is first pegged out, or the title is acquired, or within such additional time (if any), not exceeding fourteen days, as the warden may, on the ground of sickness, absence, or other like disability of any such owner or person allow, shall register the claim or title in the prescribed manner, in the office of the mining registrar in the mining district wherein the claim is situated.

Claim to be registered.

*The Mining Act.—1893.*PART III.—
DIVISION II.Miner's right to be
produced on registra-
tion.

43. No claim or title shall be registered unless the miner's right under which the claim is held is produced to the officer required to register the same.

Effect of non-registra-
tion.

44. If any owner or person neglects to register his claim or title pursuant to section 42, he shall not be authorised, while the default continues, to prospect or mine thereon, and for default by the owner the claim shall be liable to forfeiture.

Transfer of claims
and interests therein.

45. After, but not before, the registration of a claim the owner may, subject to the regulations, and in the prescribed manner, by instrument in writing, divide the interest in the claim into such shares as he shall think proper, and may allot shares and transfer the claim or create or transfer any interest therein.

Amalgamation of
claims.

46. Two or more adjoining claims may be amalgamated in manner prescribed, and every amalgamation shall be registered as prescribed.

PART III.—
DIVISION III.

Existing goldfields.

PART III.—DIVISION III.—GOLDFIELDS.

47. All goldfields existing at the commencement of this Act shall be deemed to have been proclaimed under this Act.

Goldfields, how
mined in.

48. Mining and occupation shall be permitted in goldfields in manner prescribed.

Discovery of payable
gold.

49. (1) On a report by any person of his discovery of gold in apparently payable quantities on mineral lands made to a warden in manner prescribed, the warden shall forthwith post a notice of the discovery outside his office, which notice shall operate to proclaim provisionally as a goldfield as on and from the day when the discovery was reported all mineral lands contained in a square, the boundary lines of which shall be directed to the cardinal points and the central point in each boundary line whereof shall be distant half a mile from such place of discovery.

Provisional Proclama-
tion of goldfield.Effect of provisional
Proclamation.

(2) Such provisional Proclamation shall be in force, and have the effect of a Proclamation under section 6, until the area comprised therein or any enlarged or diminished area is proclaimed as a goldfield under such section or such provisional Proclamation is revoked.

Revocation of
provisional
Proclamation.

50. The warden to whom such discovery is reported, or some officer to be authorised in that behalf by the Minister, shall forthwith inspect the alleged discovery and report thereon to the Minister; and if on such report the Minister is of opinion that the alleged discovery does not warrant the proclamation of a goldfield he may, by notice in the *Government Gazette*, revoke the provisional Proclamation.

PART III.—
DIVISION IV.

Gold leases.

PART III.—DIVISION IV.—GOLD LEASES.

51. (1) The Governor may grant to a holder of a miner's right a gold lease not exceeding twenty acres. (2) Lands

*The Mining Act.—1893.*PART III.—
DIVISION IV.

(2) Lands held under a miner's right or business or occupation licence may be leased under this section with the consent in writing of the holder of such right or licence, or, in case of land held under a business or occupation licence, without such consent, on payment to the holder of compensation for all loss and damage, the amount of such compensation in case of difference to be settled by the warden.

(3) Lands comprised in a goldfield shall not be leased under this section until after the expiration of one year from the date of the proclamation of the goldfield.

(4) A gold lease may be for any term not exceeding forty-two years, and shall reserve an annual rental of One Shilling per acre, payable yearly in advance, the first payment to be made on making the application for such lease.

52. Every gold lease shall contain the following covenants by the lessee— Covenants in gold leases.

- i. That he will pay the rent reserved by such lease as and when it shall become due, and a further sum of Six Pence in the Pound sterling on the net profits :
- ii. That he will not without permission in writing from the Minister use the leased land for any other purpose than that of mining on such land as authorised by his lease :
- iii. That he will, during the term of the lease, keep continuously employed in mining or prospecting for gold upon such land not less than one man for every five acres of such land, and that he will furnish the Minister, whenever required by him, with satisfactory evidence that such number of men have been and are employed.
- iv. That he will furnish the prescribed statements of the workings and proceeds of the mine, and observe all the provisions of this Act :
- v. Such other covenants and conditions as may be prescribed :

and shall contain a proviso that the lease shall be liable to forfeiture upon breach by the lessee of any covenant or condition therein.

53. Every holder of a gold lease may, within twelve months of the passing of this Act, surrender his lease and receive a new lease under the conditions of this Act.

Holders of gold leases may surrender and receive new leases.

54. The owner of a mineral claim and the holder of a mineral lease shall have a preferential right to a gold lease of the land comprised in such claim or lease, or any part thereof, subject to such terms as may be prescribed.

Holder of mineral claim or lease to have right to gold lease.

55. The

*The Mining Act.—1893.*PART III.—
DIVISION IV.Gold lessee may mine
for other metals or
minerals.

Number of leases.

55. The holder of a gold lease under this Act shall be entitled by virtue of his lease to mine for all metals, minerals, coal, and oil, in and upon such land, subject to the conditions of his lease and to the regulations.

56. Any number of gold leases may be held by one person.

PART III.—DIVISION V.—MINERAL LEASES.

PART III.—
DIVISION V.

Mineral leases.

57. (1) The Governor may grant to a holder of a miner's right a mineral lease of lands not comprised in a goldfield, and not exceeding forty acres.

(2) Lands held under a miner's right or business or occupation licence and not comprised in a goldfield may be leased under this section with the consent in writing of the holder of such right or licence, or, in case of land held under a business or occupation licence, without such consent on payment to the holder of compensation for all loss and damage, the amount of such compensation in case of difference to be settled by the warden.

(3) A mineral lease may be for any term not exceeding forty-two years from the thirtieth day of June or thirty-first day of December (as the case may be) nearest to the date of the application, and shall reserve an annual rent of One Shilling per acre, and a further sum equal to Six Pence in the Pound sterling on the net profits obtained from the occupation and working of all mines on and the sale of all metals and minerals which shall be obtained from the land comprised in such lease, and such rent shall be paid half-yearly at the Treasury, in Adelaide, on or before the twenty-eighth day of February and the thirty-first day of August in each year.

Conditions of lease.

58. Every mineral lease shall contain the following covenants by the lessee:—

- i. That he will pay the rent reserved by the lease as and when it shall become due:
- ii. That he will not, without permission in writing from the Minister, use the leased land for any other purpose than that of mining on such land:
- iii. That he will, during the term of the lease, keep continuously employed in such mining not less than one man for every ten acres or portion of ten acres of the lands leased, and that he will furnish the Minister, whenever required by him, with satisfactory evidence that such number of men have been and are employed:
- iv. That he will forward the returns required by, and observe all the provisions of this Act:

v. Such

The Mining Act.—1893.

v. Such other covenants and conditions as may be prescribed :

PART III.—
DIVISION V.

And shall contain a proviso that the lease shall be liable to forfeiture upon breach by the lessee of any covenant or condition therein.

59. Any number of mineral leases may be held by one person. Number of leases.

PART III.—DIVISION VI.—COAL LEASES, OIL LEASES.

PART III.—
DIVISION VI.

60. (1) The Governor may grant to a holder of a miner's right a coal or oil lease of lands not comprised in a goldfield, and not exceeding six hundred and forty acres. Leases for coal mining, &c.

(2) Lands held under a miner's right or business or occupation licence, and not comprised in a goldfield, may be leased under this section with the consent in writing of the holder of such right or licence, or, in case of land held under a business or occupation licence, without such consent on payment to the holder of compensation for all loss and damage, the amount of such compensation in case of difference to be settled by the warden.

(3) A lease under this section may be for any term not exceeding forty-two years, and may be granted at such a rental and upon such terms and conditions as the Governor may think fit, or as may be prescribed.

61. Every coal or oil lease shall contain the following covenants by the lessee:— Covenants in lease.

- i. That he will pay the rent reserved by such lease as and when it shall become due :
- ii. That he will not, without permission in writing from the Minister, use the leased land for any other purpose than that of mining as authorised by his lease :
- iii. That he will, during the term of the lease, keep continuously employed in mining or prospecting upon such land as authorised not less than one man for every forty acres of the land leased, and that he will furnish the Minister, whenever required by him, with satisfactory evidence that such number of men have been and are employed :
- iv. That he will observe all the provisions of this Act :
- v. Such other covenants and conditions as may be prescribed :

And shall contain a proviso that the lease shall be liable to forfeiture upon breach by the lessee of any covenant or condition therein. Proviso for forfeiture.

62. Any number of coal or oil leases may be held by one person. Number of leases.

PART

*The Mining Act.—1893.*PART III.—
DIVISION VII.Salt and gypsum
leases, &c.

PART III.—DIVISION VII.—MISCELLANEOUS LEASES.

63. The Governor may grant to the holders of miners' rights leases of Crown lands for any term not exceeding forty-two years, at such rent and upon such terms and conditions as may be prescribed, for all or any of the following purposes—

- I. For the manufacture or obtaining of salt or gypsum:
- II. For the working of mineral springs:
- III. For sites for smelting works or any other mining works approved by the Governor: Provided that no lease under sub-section III. shall be granted on any water frontage for a period of more than twenty-one years.

Conditions of lease.

64. Every lease granted under section 62 shall contain—

- I. A covenant by the lessee to use the leased land *bonâ fide* for the purpose for which it shall have been leased, and for no other purpose:
- II. Such other covenants and conditions as may be prescribed:
- III. A proviso for forfeiture upon breach by the lessee of any covenant or condition therein.

PART III.—
DIVISION VIII.PART III.—DIVISION VIII.—BUSINESS AND OCCUPATION
LICENCES.

Business licence.

65. A business licence in the form in Schedule C may be granted by a warden or mining registrar to any person upon payment of Ten Shillings for a licence for six months, or One Pound for a licence for a year.

Effect of business
licence.

66. (1) Every business licence shall entitle the holder to peg out a business claim, and to occupy such business claim for the purposes of residence and of business.

(2) Every such holder shall, during the continuance of such business licence, be the owner of such claim (except as against Her Majesty).

(3) No person shall own or occupy more than one business claim.

(4) No business claim shall exceed in extent a quarter of an acre in township sites and one acre on other lands.

Transfer of business
licence.

67. The holder of a business licence may by writing under his hand in the prescribed form, and signed by him before a warden, mining registrar, or Justice of the Peace, transfer the same. The
transfer

*The Mining Act.—1893.*PART III.
DIVISION VIII.

transfer shall be registered as prescribed, and shall operate to transfer the business claim to the transferee.

68. No business claim shall be pegged out within five miles of any Government township unless the same shall be pegged out within a goldfield. No business claim allowed in certain cases.

69. (1) The Minister may grant to any person an occupation licence authorising the holder thereof to occupy, for the purpose of residence and cultivation by himself and his family only, any defined portion of Crown lands not exceeding half an acre, and (with the consent in writing of the holder or lessee thereof) any portion not exceeding half an acre of the lands comprised in a claim (other than a gold claim), or comprised in a lease for mining purposes. Minister may grant occupation licences.

(2) An occupation licence shall be for fourteen years, and at such annual rent, not exceeding Two Shillings, as may be prescribed, and shall be transferable by indorsement in the prescribed form.

(3) The Minister shall renew an occupation licence on the request of the holder thereof until the land comprised therein shall be required for the purpose of any road, railway, or public work; and such licence, and every transfer thereof, shall be registered in the prescribed manner by the holder or transferee at the office of the mining registrar nearest to the site of the land comprised therein. Renewal.

70. In the case of an occupation licence granted in respect of lands comprised in a claim or a lease for mining purposes, the owner of the claim, or the holder of the lease may, on giving three months' notice in writing of his intention so to do, resume, for the purpose only of mining therein and thereon, the land comprised in such licence, on paying therefor such compensation as a warden may consider just for the loss of so much of the term of the licence as may then be unexpired, together with the value, fixed by a warden, of any improvements made thereon by the licensee or his predecessor in title. Lessee, &c., may resume lands held under occupation licence.

71. When any land included in an occupation licence is required for the purpose of any road, railway, or public work, during the term of such licence, the licence shall thereupon determine; but the holder thereof shall be entitled to claim from the Crown the same compensation and payment for the value of improvements as is by the last preceding section directed to be paid on the resumption of land by the owner of a claim. Licence to cease on alienation by Crown.

PART IV.

PART IV.

INSPECTION OF MINES.

Powers of inspector.

72. An inspector, at all reasonable times by day or night, but so as not unreasonably to impede or obstruct the working of the mine, may—

- i. Enter, inspect, and examine any mine :
- ii. Examine into and make inquiry respecting the condition and ventilation thereof, and all matters relating to the safety and health of the persons employed :
- iii. Inspect and examine the state of the external parts of the machinery used upon or in the mine, and the state of all plant, works, and ways :
- iv. The inspector shall, in case he finds any mine or any part thereof, or any matter, thing, or practice in or connected therewith, to be defective, give notice in writing to the owner, agent, or manager of the mine stating the particulars in which he considers such mine or any part thereof, or any matter, thing, or practice, to be defective, and requiring the same to be remedied :
- v. Inspect the storage of explosives upon any mine and direct in what manner the same shall be stored :
- vi. Exercise all powers necessary for carrying this part of this Act into effect.

Proceeding on objection to comply with notice.

73. If the owner, agent, or manager of the mine objects to remedy the matter complained of in any notice under the last preceding section, he may, within twenty-one days after the receipt thereof, send his objection in writing, stating the grounds thereof, to the warden, and thereupon the matter shall be submitted to and determined by the warden.

Proceedings on failure to comply with notice.

74. If the owner, agent, or manager of the mine fail to comply with the requisition of the notice, where no objection is sent within the time aforesaid, or with the decision of the warden within twenty-one days after the expiration of the time for objection or the decision of the warden (as the case may be), he shall be liable to a penalty not exceeding Five Hundred Pounds.

Adjournment.

75. The Court, if satisfied that the owner, agent, or manager has taken active measures for complying with the notice or decision of the warden, but has not been able with reasonable diligence to complete the necessary works, may adjourn any proceedings for punishing such offence, and if the works are completed within a reasonable time no penalty shall be inflicted.

The Mining Act.—1893.

76. No person shall be precluded or exempted by any agreement from doing such acts as may be necessary to comply with the provisions of the last preceding three sections, or be liable under any contract to any penalty or forfeiture for doing such acts.

PART IV.
Agreement not to preclude or exempt.

77. Every inspector shall, during the month of May in each year, make a report of his proceedings during the preceding year, which report shall be laid before both Houses of Parliament.

Inspector to make annual report.

78. The Minister may direct an inspector to make a special inquiry and report with respect to any accident in or about a mine causing loss of life or personal injury, and shall cause such report to be made public at such time and in such manner as he thinks expedient.

Special inquiry may be directed.

79. Where in or about a mine, whether above or below ground, either—

Notice of accident to be given.

1. Loss of life or serious personal injury occurs by reason of any accident whatever :

the owner, agent, or manager of the mine shall, within twenty-four hours next after the accident, send notice in writing of the accident, and of the loss of life or personal injury occasioned thereby, to the Minister, and shall specify in such notice the nature of the accident, and the number of persons killed and injured respectively.

80. Where any personal injury of which notice is required to be sent under this section results in the death of the person injured, notice in writing of the death shall be sent to the Minister within twenty-four hours after such death comes to the knowledge of the owner, agent, or manager ; and every owner, agent, or manager who neglects to comply with this section shall be liable to a penalty not exceeding Fifty Pounds.

Notice when death results.

81. Every owner, agent, or manager of a mine who refuses or neglects to furnish an inspector with the means necessary for making any entry, inspection, examination, or inquiry under this Act in relation to such mine, shall be liable to a penalty not exceeding Fifty Pounds, or to be imprisoned, with or without hard labor, for any period not exceeding six months.

Penalty for refusing means of inspection.

PART V.

DRAINAGE FROM MINES.

PART V.

82. The Governor may by Proclamation resume possession of any lands comprised in a claim or lease for mining purposes, which shall be required for the purpose of constructing drainage works under this Act, saving, nevertheless, the rights of the lessees or holders of the lands in respect of mining under the surface.

Governor may resume lands for drainage purposes.

The Mining Act.—1893.

PART V.

Governor may
proclaim districts.

83. The Governor may by Proclamation constitute any drainage district for the purposes of this part of this Act, and define the boundaries thereof, and vary or alter such boundaries, and withdraw from the operation of this part of this Act any lands included within a proclaimed district. No drainage district shall be proclaimed until a report shall have been received from an inspector, stating that, in his opinion, all the land proposed to be included therein ought, from its natural conformation, to be so included.

Governor may grant
licences for drainage
purposes.

84. The Governor may grant licences to any person for the occupation of lands resumed as aforesaid, and of any mineral lands within a drainage district, for any term not exceeding forty-two years, for the purpose of constructing works for the drainage of mines, and for conveying away the water to be raised therefrom on and through the resumed land, and on and through any Crown or mineral lands.

Power to cross roads
and railways.

85. (1) Any person holding a licence as aforesaid may, upon giving the prescribed notice (if any), enter upon and may construct drainage works as aforesaid on, under, over, through, or across any railway and lands used for the purposes of any railway, and any road, doing no unnecessary damage, and making compensation for any damage to be done or occasioned thereby.

Incorporation of Land
Clauses Act.

(2) "The Lands Clauses Consolidation Act" (being No. 6 of 1847), the Act to amend the same (being No. 26 of 1855-6), and "The Lands Clauses Consolidation Act Amendment Act, 1881," and any Act or Acts amending the same or substituted therefor, shall be incorporated with and form part of this Act.

Contents of licence.

86. Every such licence shall contain a description of the works to be undertaken and completed, and clauses and stipulations for the protection of the interests of the public.

Any person may use
drains.

87. Any person may lead water into any drains constructed under such licence, upon payment of such a sum as may be agreed upon between the parties, or, as may, in case of disagreement, be fixed by arbitration, and the person or company holding such licence, and any person desiring to lead water into such drains, shall be deemed parties to a submission to such arbitration.

Licences to be
numbered.

88. (1) Licences granted under this part of this Act shall be numbered consecutively, and as soon as the works by any licence authorised to be executed are complete and ready for use a Proclamation shall be made assigning a number to such works, which shall be called a public drainage work, and distinguished by such number.

Proclamation shall
specify drainage
work.

(2) The Proclamation shall specify the area of the lands the water from which is intended to be drained into the public drainage work specified in the Proclamation. The Governor may, by Proclamation, withdraw any lands within the said area from the operation
of

The Mining Act.—1893.

of the first-mentioned Proclamation, but may, notwithstanding such withdrawal, grant a licence under section 84 in relation to the lands so withdrawn.

PART V.

(3) No person shall, after one month's notice in writing given to him of the completion of the drainage works referred to in any Proclamation under sub-section (1) of this section, permit or suffer any water pumped or raised from lands comprised in the area specified in the Proclamation to flow out, over, along, or across, or to remain on lands comprised in such area, so as in the opinion of an inspector to impede or injure the working of any neighboring mine.

(4) Any person not complying with sub-section 3 of this section within thirty days after notice to him of the said opinion of the inspector shall forfeit and pay to the person or company working the public drainage work mentioned in such Proclamation the sum of Five Pounds for every day on which such non-compliance shall continue after such notice as last aforesaid, but the liability to such penalty shall not prejudice or affect any right of action of such person or company, or any other person, for damages occasioned by such non-compliance.

Penalty.

PART VI.

PART VI.

ENCOURAGEMENT OF MINING.

89. The Minister, out of any moneys which shall be appropriated by Parliament for the purpose, shall cause to be paid to the future actual discoverer of any new mineral district, or of any new and valuable deposit of metals, minerals, coal, or oil, such reward as may be prescribed.

Rewards to discoverers.

90. The Minister, out of any moneys which shall be appropriated by Parliament for the purpose, may subsidise and assist persons engaged in deep sinking or otherwise prospecting or mining, and either directly or by loan of diamond drills or other machinery, or by advance of money. Any money received by way of subsidy under this section shall be a debt due to the Crown, and shall be repaid as may be prescribed: Provided that no such subsidy shall be granted unless the same be recommended by the Government Geologist or Inspector of Mines.

Subsidies.

91. The Minister, out of any moneys which shall be appropriated by Parliament for the purpose, may purchase and obtain plant suitable for boring for prospecting purposes, and may let such plant to persons applying for the use thereof upon terms to be prescribed.

Boring plant.

The Mining Act.—1893.

PART VII.

PART VII.

REGULATIONS.

Governor may make regulations

92. In addition to any power by this Act conferred on the Governor to make regulations as to any special matter (which power shall in every case be implied for the purposes of any section in this Act in which regulations are referred to, or in which the word “prescribed” is used), the Governor may, subject to the provisions of this Act, make regulations, either of general or limited application. Such regulations may be for any of the purposes following:—

- i. For prescribing the terms and conditions upon which miners’ rights, business licences, and occupation licences shall be granted, and the modes, times, and places of issue thereof:
- ii. For prescribing the mode of transferring or assigning any lease or miner’s right, or business licence or occupation licence, or any claim, and for prohibiting any such transfer or assignment, and regulating the form thereof and the fees to be paid therefor:
- iii. For enforcing, under a penalty in any case of default of not more than One Hundred Pounds, the proper ventilation and safe construction and timbering or supporting of all mining shafts, tunnels, drives, or other mining workings used in mining; for prescribing the mode of inspection of all such mines, shafts, tunnels, drives, or workings, and the powers and duties to be exercised by inspectors; and for determining and enforcing the distance at which all such shafts and other mining workings are to be kept from public and private roads, ways, and passages, and from private land, dwellings, and other buildings:
- iv. For determining the dimensions, boundaries, shapes and position of any gold claim, or class of gold claims, and the subsequent adjustment of the same where necessary; when such determination shall be deemed to take effect; and the number, extent, and classes of gold claims which any one person or any two or more persons in conjunction may take possession of under a miner’s right, or miners’ rights:
- v. For regulating the cutting, constructing, use, and maintenance of races, dams, and reservoirs upon Crown or mineral lands, or upon claims or lands held under leases for mining purposes under this or any other Act:
- vi. For prescribing the manner in which, and with what incident rights and obligations, and subject to what liabilities as to forfeiture and otherwise, any claim or class of claims, business or residence areas, race, dam, or reservoir, or any water taken or diverted by virtue of a miner’s right, shall be taken possession of, held, occupied, used, worked or transferred:
- vii. For

The Mining Act.—1893.

PART VII.

- vii. For determining the order of priority among the holders of miners' rights entitled to the use of any water; how such priority is to be regulated, and under what conditions and circumstances:
- viii. For prescribing the mode of registration of land occupied under this Act for residence or business, or of any claim, race, dam, reservoir, or easement enjoyed under a miner's right, or any share or interest therein or encumbrance thereon; and the mode of registration of the transfer or assignment of any such land, claim, race, dam, reservoir, or easement, or of any share or interest therein or encumbrance thereon, or of the discharge of any such encumbrance; and the mode of registration of the devolution of any such share or interest; or of the sale of any such share or interest under the decree, judgment, or order of any Court, or the decision of a warden; and the mode of registration of amalgamated claims, and of claims for suspension of work, and for fixing the fees to be charged on any such registration.
- ix. For enforcing and regulating the drainage of claims and of lands held under leases for mining purposes heretofore or hereafter granted:
- x. For regulating the mode in which the rights and privileges of the owners of claims, and of races, dams, reservoirs, and easements under a miner's right, and of land occupied under this Act for residence or business, may be exercised or enjoyed, and limiting, qualifying, or restricting the exercise and enjoyment of such rights and privileges; and generally for the protection of such owners in the exercise and enjoyment of the rights, privileges, and interests conferred by this Act:
- xi. For providing for specially-sized claims to be pegged out under the prescribed sanction by the discoverer of payable gold on his reporting such discovery in the prescribed manner:
- xii. For preventing the accumulation, and for the removal to some convenient place, of sludge, tailings, and other refuse matter oozing or flowing from or connected with any land held or occupied under this Act, and of waste water; and for the making of channels for any of the purposes aforesaid; and for otherwise regulating, as between claims, such oozing, flowing, and running to waste:
- xiii. For the protection from injury, destruction, and unlawful removal of races, drains, dams, and reservoirs used or enjoyed under miners' rights, and of the water therein, and of pegs, posts, fences, and notices, and of plant or appliances used for or in connection with mining, and for the protection from obstruction of such races and dams,

*The Mining Act.—1893.*PART VII.

dams, and of channels, drains, creeks, and rivers, used for mining purposes :

- xiv. For regulating the mode of construction and the materials used in the construction, and the strength of embankments of dams and reservoirs used or to be constructed by virtue of a miner's right :
- xv. For the construction and keeping in repair of suitable bridges or other crossings over races, channels, or drains used for mining purposes cut across roads or thoroughfares, or over such races, channels, or drains over which roads or thoroughfares shall be carried, and for making proper approaches to such bridges or crossings, and for determining the width of such bridges, crossings, and approaches :
- xvi. For making and keeping in repair and for regulating the width and formation of private ways and passages used for mining purposes over claims or races, or any lands used in connection with mining under this Act, or business carried on under business licences, and for regulating and imposing conditions on the right to change the direction of any such way or passage, and for the protection of the same from injury or obstruction by the leaving of felled or fallen timber or other obstruction, or any waste or injurious matter thereon :
- xvii. For the prevention of nuisances in and about residences or places of business held under a miner's right or business or occupation licence, and for cleansing and keeping clean the same :
- xviii. For securing the baling of water from mines so as to prevent injury from such water to any mining workings :
- xix. For preventing the defiling or wasting of water used for domestic purposes, and for determining whether any and what waterhole, spring, or other depository of water shall be reserved for domestic use, and the mode of such reservation :
- xx. For ensuring the fencing and protection of all mines and works for the safety of man and beast :
- xxi. For compelling contributions by parties benefited of a fair share of the cost of pumping in cases where pumping in one mine benefits other mines :
- xxii. For fixing fees, prescribing forms, regulating registration and otherwise fully and effectually carrying out and giving force and effect to the various objects, purposes, powers, and authorities of this Act, and guarding against evasions and violations thereof :
- xxiii. For prescribing the duties and powers of wardens, inspectors, mining registrars, and other officers to be appointed under this Act :

xxiv. For

The Mining Act.—1893.

xxiv. For imposing penalties for breaches of the regulations not exceeding One Hundred Pounds for any one offence:

PART VII.

General words in this section shall not be limited or controlled by particular words.

93. Every regulation made by the Governor under the authority of this Act shall, when published in the *Government Gazette*, have the force of law. Every such regulation made after the first day of March, one thousand eight hundred and ninety-four, before being so published, shall be laid before Parliament within fourteen days, if Parliament be then sitting, and if Parliament be not then sitting, within fourteen days from its next sitting for the dispatch of business.

Regulations to be published and laid before Parliament.

PART VIII.

PART VIII.

MISCELLANEOUS.

94. When payable gold is struck, or metals, minerals, coal, or oil are found in payable quantities on any claim or mining lease, the matter shall be reported to a warden in manner prescribed, and if default shall be made in compliance with this section, the claim or lease shall be liable to forfeiture.

Payable results to be reported.

95. Every holder of a mining claim or lease, other than an alluvial claim, shall half-yearly, in the months of January, and July, furnish to the warden of the district in which such mining claim or lease is situated a full and true return, showing the quantity of stone or ore treated, and the quantity of gold and other minerals or metals taken from such claim or lease during the preceding quarter, and if default shall be made in compliance with this section shall be liable, on conviction, to forfeit and pay a sum not exceeding Ten Pounds for every such default.

Claimholders and leaseholders to furnish quarterly returns.

96. The Minister may, at any time before breach thereof, suspend or wholly or partially remit all or any of the covenants and conditions contained in any lease for mining purposes, in any case where he is satisfied that by reason of special circumstances it would be impossible to comply with, or would inflict great hardship upon the lessee to enforce, such covenants, or conditions.

Minister may remit covenants.

A return of all such remissions, with the reasons therefor, shall be annually laid before Parliament within one month after the opening of Parliament for the dispatch of business.

Return of remissions.

97. The Governor may—

- (a) When lands have been proclaimed as mineral lands:
- (b) When a goldfield has been proclaimed upon mineral lands:
- (c) When a mining lease has been granted or a claim pegged out under this Act:

Partial suspension of pastoral leases, &c., on proclamation of mineral lands, &c.

suspend

The Mining Act.—1893.

PART VIII.

suspend or cancel any lease or licence in respect of the mineral land comprised in the Proclamation, or in the mining lease, or the claim, subject to the conditions as to resumption contained in such lease or licence, or upon payment of such compensation as may be agreed upon between the Commissioner and the lessee or licencee, or as may, in case of dispute, be determined by arbitration. The Minister and the lessee or licencee shall be deemed parties to a submission to such arbitration. Upon suspension or cancellation of the lease or licence the Minister shall remit to the lessee or licencee a fair proportion of the rent or other consideration for the lease or licence.

Reservation of rights to surface waters.

98. Notwithstanding the existence of any claim or mining lease other than a gold claim every pastoral lessee of the area included in such claim or lease shall retain a right of access and user for domestic purposes, and for the purpose of watering stock, to and of any surface water on such area which shall not have been provided or stored by artificial means by the owner of the claim or by the mining lessee.

Amalgamation of leases.

99. The Minister may, subject to the regulations, allow one or more lessees of contiguous lands held under a mining lease or leases to surrender the lease or leases and obtain one or more leases of the same nature of the lands included therein, or any part thereof, but no such lease shall include an area greater than that heretofore specified with regard to a lease of the same nature.

Survey.

100. No survey shall be required of the area included in any claim, licence, or lease unless and until a warden shall be satisfied that such survey is necessary for the prevention of differences as to the boundaries of such land, or for securing a proper definition of such area; and provision shall be made by the regulations for the making of surveys at a reasonable cost, to be prescribed, and for the appointment of officers licensed to make such surveys.

Lease may be surrendered.

101. A lessee may, subject to the regulations, surrender a lease for mining purposes.

Rights of surrender subject to other rights.

102. All rights of surrender conferred by this Act are subject to the rights of persons claiming from or under the lessee.

Rent, how recoverable.

103. The rent reserved by any mining lease may be levied or recovered by or under the authority of the Minister, in like manner as rent is or shall be leviable or recoverable by law in cases where Her Majesty's subjects only are concerned; and, in case such rent is levied by distress, an order under the hand of the Minister shall be a sufficient warrant and authority to distrain. This section shall not affect any other remedy for recovery of the rent.

104. If

The Mining Act.—1893.

PART VIII.

Penalties on non-payment of rent.

104. If the rent or any other sum payable under a mining lease is not paid on or before the day appointed for payment thereof, a penalty of five per centum shall be added to such rent, and if the said rent or sum be not paid within one month after such day, together with such penalty, a further penalty of ten per centum shall be added; and if the said rent and such penalties be not paid within one month after such first month, the same shall be recoverable by the Minister by action in his own name in any Court of competent jurisdiction.

Forfeiture of lease.

105. In every case where the rent of land held under a mining lease is unpaid for more than three months after the day on which the rent is payable under such lease, the Governor may cancel such lease, and the Minister shall thereupon insert a notice in the *Government Gazette* declaring the lease to be forfeited, and in every case where the Minister has reason to believe that there has been a breach of any of the covenants or conditions contained in such lease, except in the case of non-payment of the rent as aforesaid, and except in cases of non-compliance with the labor conditions of any leases, the Minister shall give written notice to the lessee specifying the covenants or conditions which he has reason to believe are not being complied with, and notifying him that such lease will be liable to forfeiture at the expiration of one month from the date of such notice, unless in the meantime such covenants and conditions are duly complied with; and if at the expiration of such notice such covenants or conditions are still not being complied with by the lessee, the Governor may cancel such lease, and the Minister shall thereupon insert a notice in the *Government Gazette* declaring the lease to be forfeited. In case of non-payment of rent or the non-compliance with the labor conditions, the Governor may exercise the power of cancellation without giving the written notice hereinbefore mentioned. Every such notice shall be conclusive evidence that the lease therein mentioned was legally cancelled and forfeited, and the land included therein may be dealt with as if such lease had never been granted; and the Registrar-General shall, at the request of the Commissioner, make the entries in the register book necessary to give effect to such cancellation and forfeiture.

Extension after breach.

106. Whenever a lease for mining purposes is liable to forfeiture, and in the opinion of the Minister a less penalty than forfeiture would meet the justice of the case, the Minister may (except as to any case coming under section 108) extend the period during which the lessee may perform the conditions of his lease, for such time and subject to such terms and conditions as he may think fit; and the terms and conditions so imposed by the Minister shall bind the lessee and all transferees, mortgagees, assignees, and other persons claiming through or under him, and the lease shall thereafter be construed as if such terms and conditions were inserted therein. The Minister shall advertise such extension in the *Government Gazette* with his reasons for granting the same.

107. The

The Mining Act.—1893.

PART VIII.

Minister may
authorise exploration.

107. The Minister may, if he think fit, by licence, authorise any person, by giving a fortnight's notice to the owner or lessee, to remove any earth, rock, or ore, and to do any other necessary work for the purpose only of tracing any lode, vein, or gutter from any property held under claim or mining lease into any adjoining property: Provided that such work shall not interfere with the mining operations of such owner or lessee, nor shall such owner or lessee be deprived of any gold or mineral or coal which may be thus won from his property: Provided also that the licensee shall pay compensation to the owner or lessee for any damage occasioned by the exercise of the powers herein contained, and a fair rent for the use of such powers, the amount of such compensation and rent in case of difference to be fixed by the warden.

Person giving
information leading
to forfeiture to be
entitled to lease.

108. Where any person proves to the satisfaction of the Minister that a mining lease is liable to forfeiture, or where such person gives information which leads to the establishment of the liability of such lease to forfeiture, and such person at the time of proving such liability to forfeiture, or of giving the information leading to the establishment of such liability to forfeiture, applies by writing under his hand for a lease under this Act of the lands comprised in such lease, the Governor may cancel the lease under the power in that behalf hereinbefore contained, and issue to such applicant a mining lease, of the kind specified in such application, of the lands comprised in the cancelled lease, for the unexpired balance of the term of such lease.

Deposit may be
forfeited.

109. Any person who shall apply to have a lease forfeited, as provided in the foregoing section, must at the same time as he makes such application forward a sum of not less than Two Pounds, which, if the Minister should consider the application frivolous, and not otherwise, shall be absolutely forfeited to the Government.

Owner may remove
plant.

110. The owner of any machinery on any forfeited or surrendered lease shall have three months in which to remove any plant, machinery, engines, or tools, from the date of forfeiture or surrender, but shall not, under a penalty of not more than One Hundred Pounds nor less than Five Pounds for each such offence, be permitted to remove or to interfere with any timber in any mine.

Person under six-
teen not to hold
mining lease, &c.

111. No person under the age of sixteen years shall hold, directly or otherwise, a mining lease, business or occupation licence, or miner's right, except in a representative capacity. All covenants and conditions contained in or imposed by a mining lease or a licence granted to an infant of the age of sixteen years or upwards shall be as binding upon him as if he were of full age.

Arbitration.

112. Every arbitration in pursuance of this Act shall be under "The Arbitration Act, 1891," and the parties to the submission shall, for the purposes of such arbitration and of such last mentioned Act,

The Mining Act.—1893.

PART VIII.

Act, be deemed to have entered into a written agreement to submit the differences in respect of the matter in question to the arbitration of two arbitrators, one to be appointed by each party, and "The Arbitration Act, 1891," shall apply accordingly.

113. The holder of a miner's right or business licence granted under "The Gold Mining Act, 1885," and valid and unexpired on the coming into operation of this Act, and by virtue whereof a gold claim or portion of land for business purposes is held and occupied, shall have the following rights, powers, and privileges:—

Miner's rights and business licences, where land occupied.

i. He may continue his occupation and user of such gold claim or land during the remainder of the currency of such miner's right or business licence as if this Act had not been passed:

ii. He may—

(a) Subject to the Regulations, in lieu of the right of renewal under "The Gold Mining Act, 1885," during the currency of such miner's right or business licence, or within one week after the expiration thereof, on payment of the prescribed fee, obtain a miner's right or business licence under this Act, or

(b) On production of the miner's right or business licence at the office of the nearest Mining Registrar, surrender such miner's right or business licence and obtain without fee a miner's right or business licence to be in force for the then unexpired term of the surrendered miner's right or business licence.

And in either case may thereupon peg out the gold claim or portion of land as a gold claim or business claim under this Act, and thereafter such gold claim or business claim shall be deemed a gold claim or business claim pegged out under section 30.

114. The holder of a miner's right or business licence granted under "The Gold Mining Act, 1885," and valid and unexpired on the coming into operation of this Act, but by virtue whereof no gold claim or land for business purposes is then held, shall not thereafter take possession of or hold any lands by virtue thereof, but shall be entitled, on production of such miner's right or business licence at the office of a Mining Registrar, to surrender the same and obtain, without fee, a miner's right or business licence under this Act, to be in force for the then unexpired term of the surrendered miner's right or business licence.

Miner's right and business licences, where no land occupied.

115. The holder of any Crown lands under a mineral licence granted under section 107 of the "Crown Lands Act, 1888," and valid

Mineral licences under section 104 of "Crown Lands Act, 1888"

The Mining Act.—1893.

PART VIII.

valid and unexpired on the coming into operation of this Act, shall have the following rights, powers, and privileges:—

- i. He may continue his occupation and user of such lands during the remainder of the currency of such mineral licence as if this Act had not been passed.
- ii. He may, at any time during the currency of such mineral licence, or within one week after the expiration thereof, on taking out a miner's right or miners' rights under this Act, have a preferential right to peg out the lands held under such mineral licence as a mineral claim or mineral claims, but so that no one mineral claim shall exceed forty acres in area, and that not more than one such mineral claim shall be pegged out under the same miner's right.
- iii. He shall, in lieu of the right to a mineral lease under the "Crown Lands Act, 1888," have, upon proof to the satisfaction of the Minister that he has duly complied with the conditions of such mineral licence, a preferential right to apply for and obtain at any time during the currency of such mineral licence, a mineral lease or mineral leases under this Act of the lands held by him under such mineral licence, but so that no one mineral lease shall exceed forty acres in area.

Mineral licences
under section 107 of
"Crown Lands Act,
1888."

116. The holder of a mineral licence granted under section 107 of the "Crown Lands Act, 1888," and valid and unexpired on the coming into operation of this Act, shall have the following rights, powers, and privileges:—

- i. He may, during the remainder of the currency of such mineral licence, have and exercise the rights, powers, and privileges, other than the preferential right to a mineral lease, conferred upon him by the said section 107 of the "Crown Lands Act, 1888," as if this Act had not been passed:
- ii. He may, on production of such mineral licence at the office of a mining registrar, surrender the same and obtain, without fee, a miner's right, to be in force for the then unexpired term of the surrendered licence:
- iii. If, during the currency of such mineral licence, he discovers any metals or minerals on lands searched or mined by him under such licence, he shall, in lieu of any preferential right under the "Crown Lands Act, 1888," have a preferential right to apply for and obtain a mineral lease or mineral leases under this Act (not exceeding eighty acres in the whole) of the lands upon which he shall have discovered metals or minerals, but so that no one mineral lease shall exceed forty acres.

117. The

The Mining Act.—1893.

PART VIII.

117. The lessee under a gold lease or lease for mining purposes granted under any enactment heretofore in force shall have the following rights, powers, and privileges:—

Gold leases and leases for mining purposes.

- i. He may continue to hold such lease, and hold and enjoy the land comprised therein, subject only to the covenants and conditions contained in or imposed by such lease or the enactment by virtue whereof the same was granted to him, and to sub-section III. of this section:
- ii. He may, with the consent of the Minister, subject to the regulations, at any time during the currency of such lease, upon proof to the satisfaction of the Minister of the due performance and observance by him of all the covenants and conditions in the lease, surrender such lease and obtain a lease under this Act of a similar nature to that of the surrendered lease, and for the term of forty-two years less the expired term of his existing lease:
- iii. Notwithstanding anything in sub-section i. of this section, no renewal of any such lease shall be granted under any enactment heretofore in force, but any lessee having a right of renewal under any such enactment may obtain a lease of a similar nature under this Act and upon similar terms and conditions as if such first-mentioned lease had been a lease of a similar nature under this Act.

118. Any person who shall prospect or mine shall, unless he is authorised so to do by virtue of this Act or some enactment heretofore in force, be liable to pay for each such offence a penalty not exceeding One Pound for every day on which he shall so prospect, search, or mine.

Unauthorised mining.

119. Any person who shall occupy mineral lands for the purpose of business or residence, except as legally authorised, shall be liable to a penalty not exceeding Five Pounds for the first offence, and not exceeding Ten Pounds nor less than Five Pounds for every subsequent offence.

Penalty for unauthorised occupation.

120. No boy under the age of fourteen years and no girl or woman of any age shall be employed underground in any mine.

Regulation of labor.

121. Any person who shall forge a miner's right, business licence, occupation licence, or lease, issued or purporting to be issued under the authority of this Act or any enactment heretofore in force, or fraudulently use, utter, or exhibit any such forged miner's right, business licence, occupation licence, or lease, knowing the same to be forged, or fraudulently personate the holder of any such miner's right, business or occupation licence or lease, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding

Forgery.

The Mining Act.—1893.

PART VIII.

exceeding ten years, with or without hard labor; and any person who shall fraudulently use or exhibit as his own any such miner's right, business licence, occupation licence or lease, belonging or granted to any other person, or use or exhibit as a valid miner's right, business licence, occupation licence or lease, any miner's right, business licence, occupation licence or lease, which shall have expired, shall be deemed guilty of a misdemeanor, and shall be liable to be imprisoned for any term not exceeding two years, with or without hard labor.

Obstructing officer.

122. Any person who shall wilfully obstruct, hinder, assault, or resist a warden or inspector, or a person duly authorised by a warden or inspector, or a person authorised by this Act or the regulations to exercise any right or power or execute any duty, or who shall wilfully disobey a warden's order other than an order for the payment of money, or shall be guilty of contempt of a warden acting in a judicial capacity, shall be liable to a penalty not exceeding Fifty Pounds, or to be imprisoned, with or without hard labor, for any period not exceeding six months.

Infringement of Act or regulation.

123. Any person who shall infringe a provision of this Act, or the regulations, for the infringement whereof no penalty is prescribed, shall be liable for every such offence to a penalty not exceeding Ten Pounds.

Officer not to hold mining interest or adjudicate when interested.

124. If any officer appointed under this Act shall hold, either directly or indirectly, a share or interest in any mining venture in South Australia he shall be liable to a penalty not exceeding Five Hundred Pounds or imprisonment with or without hard labor for any term not exceeding six months.

Onus of proof.

125. In any action, suit, or proceeding under this Act the averment that any lands are Crown lands, mineral lands, dedicated lands, reserved lands, or lands belonging to or vested in the Crown, or that any person is an inspector of mines, warden, mining registrar, or other person authorised to take any proceedings or perform any duty under this Act, shall be sufficient without proof of such fact, unless the defendant proves the contrary. If any question arises as to the authority of the defendant to do the act complained of, the proof thereof shall lie upon the defendant. Judicial notice shall, in such action, suit, or proceeding, be taken of all miners' rights, mining leases, licences, certificates, maps, plans, and office copies purporting to be signed by any person authorised by this Act or the regulations to sign the same.

Proceedings for recovery of penalty

126. (1) All proceedings for offences against this Act or any regulation which are punishable by fine or pecuniary penalty, or by imprisonment for not more than six months, and which are not within the jurisdiction of a warden under Part II., shall be taken before and determined in a summary way by any Special Magistrate or two Justices of the Peace of the said province.

(2) All

The Mining Act.—1893.

PART VIII.

(2) All such proceedings shall be regulated by Ordinance No. 6 of 1850, "The Justices Procedure Amendment Act, 1883-4," and any other Act that may be law in that behalf.

(3) In every case of the adjudication of a fine or pecuniary penalty or amends under this Act, or any regulation, by Justices or a warden, and of non-payment thereof, any Justice may commit the offender or person making default in payment to any gaol in the said province for a term not exceeding twelve months, the imprisonment to cease on payment of the sum due, and any costs which may have been awarded, and of the costs of the proceedings taken under this section, which latter costs such Justice shall have power to assess.

127. There shall be an appeal from any order of Justices made under this Act, and from any conviction by any Justices for any offence against this Act, or from any order dismissing any information or complaint under this Act, which appeal shall be to the nearest Local Court of Full Jurisdiction; and the proceedings on such appeal shall be conducted in manner provided for appeals to Local Courts by Ordinance No. 6 of 1850, and "The Justices Procedure Amendment Act, 1883-4," or any Act for the time being in force in that behalf. And the Local Court may make such order as to the payment of the costs of appeal as it shall think fit, although such costs may exceed Ten Pounds. Appeal.

128. The Local Court, upon the hearing of any appeal, whether under the last preceding section or under section 25 hereof, may state one or more special case or cases for the opinion of the Supreme Court, and the Supreme Court shall hear and decide on such special case or cases according to the practice of the Supreme Court on special cases, and may make such order as to the costs thereof as shall appear just; and the Local Court shall make an order in respect of the matters referred to the Supreme Court in conformity with the certificate of the Supreme Court, or of any Judge thereof, which order of the Local Court shall be enforced in manner provided for the enforcement of orders of Justices under the said Act Ordinance No. 6 of 1850, or under any Act relating to the duties of Justices of the Peace. Special case.

129. All moneys received for penalties imposed for offences against this Act, or for fees, shall be paid to the Treasurer for the public revenue of the province. Application of penalties.

130. The *Government Gazette* in which shall be published any proclamation, regulation, or notification under this Act, shall be *prima facie* evidence of the matters therein appearing. Government Gazette evidence.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

S. J. WAY, Lieutenant-Governor.

SCHEDULES.

The Mining Act.—1893.

SCHEDULES.

SCHEDULE A.

Acts Repealed.

Reference to Acts.	Title of Acts.	Extent of Repeal.
No. 18 of 1861..	The Drainage from Mines Act, 1861	The whole Act
No. 11 of 1865..	An Act to facilitate the Drainage from Mines in South Australia	The whole Act
No. 26 of 1870-71	An Act to amend the Laws relating to Gold Mining, and for other purposes	The whole Act
No. 18 of 1875..	The Mineral Leases Amendment Act, 1875	The whole Act
No. 353 of 1885	The Gold Mining Act, 1885	The whole Act
No. 444 of 1888	The Crown Lands Act, 1888	(a) Sub-section iv. of division (f), and the whole of division (i) of section 6 (b) The whole of Part v., being from section 94 to section 115, both in- clusive (c) Section 116, so far as the same relates to coal or petroleum, or other mineral oils (d) Sub-sections vii., ix., and x. of section 118 (e) Sections 161 and 162 (f) Schedule C
No. 472 of 1889	The Crown Lands Amendment Act, 1889	Sections 30 and 38
No. 502 of 1890	The Crown Lands Amendment Act, 1890	Section 62.

SCHEDULE B.

South [Royal Arms] Australia.

Miner's Right.

No. _____ Date _____
 Issued at the mining office for the district of _____ to A. B., of [*residence
 and occupation*], under the provisions of "The Mining Act, 1893."
 To be in force until the _____ day of _____, 18 ____
 Fee paid. _____ C. D.,
 Mining Registrar for the District of _____

SCHEDULE C.

South [Royal Arms] Australia.

Business Licence.

No. _____ Date _____
 Issued at the mining office for the district of _____ to A. B., of [*residence and
 occupation*], under the provisions of "The Mining Act, 1893."
 To be in force until the _____ day of _____, 18 ____
 Fee paid. _____ C. D.,
 Mining Registrar for the District of _____

SCHEDULE

The Mining Act.—1893.

SCHEDULE D.

No. 1.

South [Royal Arms] Australia.

[“The Mining Act, 1893.”]

To C. D., Esquire, Warden.

A. B., of _____, complains of E. F., of _____, and says—

1. That, &c.

2. That, &c.

[Set forth the subject-matter of complaint in paragraphs.]

The complainant therefore prays [set forth relief sought], or such other or further relief as shall be just. The amount sought to be recovered, so far as the demand is pecuniary, is £

Dated the _____ day of _____ 18 .

A. B.

No. 2.

South [Royal Arms] Australia.

[“The Mining Act, 1893.”]

Plaint No.

To [insert names of all the defendants] of _____

You are hereby summoned to appear before me, or some other warden, at _____, on the _____ day of _____ 18 at _____ o'clock in the _____ noon precisely, to answer the complaint of [insert names, addresses, and occupations of all the complainants], by which complaint he seeks [here insert nature of complaint]

You may have a summons to compel the attendance of any witness, or for the production of any books or documents, by applying at my office.

Bring this summons with you when you come to my office.

Given under my hand, this _____ day of _____ 18 .

C. D., Warden.