



ANNO VICESIMO PRIMO

**ELIZABETHAE II REGINAE**

A.D. 1972

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**No. 142 of 1972**

An Act to amend the Mining Act, 1971.

[Assented to 7th December, 1972]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Mining Act Amendment Act, 1972". Short titles.

(2) The Mining Act, 1971, as amended by this Act, may be cited as the "Mining Act, 1971-1972".

(3) The Mining Act, 1971, is hereinafter referred to as "the principal Act".

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. Section 19 of the principal Act is amended by striking out subsection (3) and inserting in lieu thereof the following subsection:— Amendment of principal Act, s. 19—

(3) The Minister may reject an application under subsection (1) of this section—

(a) where, in his opinion, the mining operations in the area to which the application relates have been insignificant, or have not been genuinely conducted for the recovery of minerals, or for the purpose of ascertaining whether a deposit of minerals that may be profitably exploited exists;

or

Private mine, etc.

- (b) where the area, or any portion of the area, to which the application relates was at the commencement of this Act, and at the date of the application, subject to a mining tenement.

Amendment of  
principal Act,  
s. 59—  
Use of  
declared  
equipment.

4. Section 59 of the principal Act is amended by striking out from subsection (8) the passage "This section" and inserting in lieu thereof the passage "Subsections (2) to (7) (inclusive) of this section".

Amendment of  
principal Act,  
s. 65—  
Powers, etc.,  
of court.

5. Section 65 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsections:—

(1) For the purposes of any proceedings before the warden's court, the warden's court may—

- (a) by summons signed by a warden, require the attendance before the court of any person whom the warden thinks fit to call before the court;
- (b) by summons signed by a warden, require the production of any books, papers or documents;
- (c) inspect any books, papers or documents produced before the court, and retain them for such reasonable period as the court thinks fit, and make copies of any of them, or of any of their contents;
- (d) require any person to make an oath or affirmation that he will truly answer all questions put to him before the court (which oath or affirmation may be administered by a warden, or any other person);

or

- (e) require any person appearing before the court (whether he has been summoned to appear or not) to answer any question put to him by the court, or any person appearing before the court.

(1a) Subject to subsection (1b) of this section, if any person—

- (a) who has been served with a summons to attend before the court neglects or fails to appear in obedience to the summons;

(b) who has been served with a summons to produce any books, papers or documents neglects or fails to comply with the summons;

(c) misbehaves himself before the court, wilfully insults the court or a warden, or interrupts the proceedings of the court;

or

(d) refuses to be sworn or to affirm, or to answer any relevant question, when required to do so by the court,

he shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

(1b) A person shall not be obliged to answer a question if the answer to that question would tend to incriminate him, or to produce any books, papers or documents if their contents would tend to incriminate him.

(1c) In addition to the powers and authorities conferred on a warden's court by this Act, the court shall have such of the powers and authorities of a justice, or a court of summary jurisdiction, under the Justices Act, as may be conferred on the court by regulation.

6. Section 74 of the principal Act is amended by inserting after the present contents thereof (which are hereby designated subsection (1) thereof) the following subsections:—

Amendment of  
principal Act,  
s. 74—  
Penalty for  
illegal mining,  
etc.

(2) Where a person is upon a precious stones claim for the purpose of mining in contravention of subsection (1) of this section, he shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars or imprisonment for two years.

(3) The Minister may, by order in writing served personally upon any person, prohibit that person from entering or remaining upon any precious stones field.

(4) No order shall be made under subsection (3) of this section after the expiration of twelve months from the commencement of the Mining Act Amendment Act, 1972, nor shall any order made under that subsection have any further force or effect after the expiration of that period.

(5) An order shall not be made against any person under subsection (3) of this section unless that person has been convicted—

(a) of an offence against this section;

(b) of an offence involving larceny of minerals or attempted or intended larceny of minerals;

or

(c) of an offence, committed on a precious stones field, involving an assault upon the person of another,

and the order is, in the opinion of the Minister, necessary to restore or safeguard good order on a precious stones field.

(6) A person in respect of whom an order is in force under subsection (3) of this section who enters or remains upon a precious stones field in contravention of the order shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars or imprisonment for two years.

(7) Proceedings for an offence against this section shall be instituted and disposed of in accordance with the procedure prescribed for minor indictable offences under the Justices Act.

Amendment of  
principal Act,  
s. 91—  
Proceedings.

7. Section 91 of the principal Act is amended by inserting after the word "shall" the passage ", subject to any provision of this Act to the contrary,".

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

M. L. OLIPHANT, Governor