

AID TO MINING.

No. 13 of 1958.

AN ACT to amend the *Aid to Mining Act 1927*
and to repeal the *Aid to Mining (Drilling) Act*
1947. [3 July 1958.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Aid to Mining Act* Short title and citation
1958.

(2) The *Aid to Mining Act 1927*, as subsequently amended, is in this Act referred to as the Principal Act.

2—(1) Part IV of the Principal Act is repealed. Repeal.

(2) The *Aid to Mining (Drilling) Act 1947* is repealed.

3 Section three of the Principal Act is amended— Assistance to prospectors.

(a) by omitting from subsection (2) the words “five pounds per week”; and

(b) by inserting in that subsection, after the word “engaged”, the words “such rate as may be prescribed”.

4 Section five of the Principal Act is repealed and the following sections are substituted therefor:—

“5.—(1) The Minister may pay or expend or cause to be expended, in such manner and under such supervision as he may think proper, such amounts as he may think necessary for assistance to miners, tributers, leaseholders, and other persons engaged in mining, for the purpose of testing or proving by sinking, driving, or other prospecting operations any deposit or discovery of any mining product worked or proposed to be worked by them under the provisions of the *Mining Act 1929*, but the amount to be so paid or expended shall not exceed one pound for every pound paid or expended by the miner, tributer, leaseholder, or other person. Assistance for testing or proving deposits and discoveries.

“(2) The Minister may, in such cases as he thinks fit, make it a condition of the payment or expenditure of any money under this section for the purpose of testing or proving any deposit or discovery of a mining product that the amount to be paid or expended, together with (if it is so prescribed)

interest thereon at a prescribed rate and calculated in a prescribed manner, shall be repaid by means of a royalty, payable in accordance with the provisions of section five B.

“(3) Subject to section five B, the royalty shall be at such rate as may be prescribed on the gross value of such mining products won from the mining tenement within which the deposit is situated or the discovery is made, as the Minister may specify at the time of his making the condition, and shall be paid at such times and in such manner as may be prescribed.

Loans for
mining
purposes.

“5A.—(1) The Minister may advance money by way of loan for mining purposes upon such security (if any) as he may determine and upon such other terms and conditions as may be prescribed.

“(2) In such cases as may be prescribed, an advance under this section shall not be made except with the consent of the Governor.

“(3) Without prejudice to the generality of the foregoing provisions of this section, it may be made a condition upon which an advance is made thereunder that it shall be repaid (with or without interest) by means of a royalty, payable in accordance with the provisions of section five B, on the gross value of all or any of the mining products won from the land comprised within the mining tenement in respect of which the advance is to be made.

Repayment
of grants and
advances by
way of
royalty.

“5B.—(1) This section applies in any case where—

I Any money is or is to be paid or expended under section five upon such a condition as is referred to in subsection (2) of that section: or

II Any money is or is to be advanced under section five A upon such a condition as is referred to in subsection (3) of that section.

“(2) Before the money is paid, expended, or advanced the holder of the relevant mining tenement who, by virtue of his interest therein, is entitled to mine the specified mining products shall covenant with the Minister to pay the specified royalty and, if he holds a lease of that mining tenement, shall deposit with the Director the duplicate of the lease executed by the Minister.

“(3) Where any covenant has been entered into under this section binding a lessee to pay a royalty to the Minister on the gross value of any mining products won from any land contained or comprised within his lease, the Minister may, if he thinks fit, refuse to recognize and record the transfer of the lease unless the person to whom the lease is to be transferred first covenants with the Minister to pay to him a royalty, at such rate as the Minister may determine, not exceeding (except as otherwise may be agreed with that person) the rate of the specified royalty, on the gross value of those mining products.

"(4) Where a covenant has been entered into under this section binding the holder of a mining tenement to pay a royalty to the Minister on the gross value of any mining products won from any land contained or comprised within the tenement (in this section referred to as 'the relevant land'), a lease, other than a lease granted under section twenty-eight of the *Mining Act* 1929, that authorizes the lessee to win from that land all or any of those mining products shall not, if the Minister so determines, be granted unless the person to whom it is granted covenants with the Minister to pay to him a royalty, at such rate as the Minister may determine, not exceeding (except as may otherwise be agreed with that person) the rate of the specified royalty, on the gross value of all or such of those mining products as the Minister may determine, won from the whole, or such part as the Minister may determine, of the land to be comprised within the lease.

"(5) Except as may otherwise be agreed by the person to whom the lease is to be granted, the Minister is not entitled to determine under subsection (4) of this section that the royalty shall be paid on any mining products won from any land, other than the relevant land, unless the Minister considers that it would be impracticable to determine the gross value of the specified mining products won from that land separately from that of those won from the relevant land.

"(6) Where a covenant is entered into under subsection (4) of this section, the duplicate of the lease granted to the covenantor which is executed by the Minister shall, instead of being issued to the lessee, be deposited with the Director.

"(7) The aggregate of the amounts paid by way of royalty under this section shall not exceed the amount paid, expended, or advanced, together with any interest required to be paid thereon under the condition upon which the money was paid, expended, or advanced.

"(8) Where a duplicate of a lease is deposited with the Director under this section, the Director shall retain it in his custody until all obligations of the lessee under any covenant entered into under this section have been released or discharged.

"(9) In this section—

'Relevant mining tenement' and 'specified royalty' mean respectively the mining tenement and the royalty referred to in subsection (3) of section five or subsection (3) of section five A, as the case may be:

'Specified mining products' means the mining products on the gross value of which the specified royalty is or is to be paid.

"5c.—(1) Where the Minister makes any advance under this Act on the security of any machinery, plant, appliances, implements, equipment or materials (in this section referred to as 'the mortgaged equipment'), any such security may be by way of a mortgage to the Minister under this section.

Mortgages
of mining
equipment.

"(2) A mortgage under this section shall be in a prescribed form and shall be registered within thirty days of the date thereof by filing with the Registrar of the Supreme Court (in this section referred to as 'the Registrar') a true copy thereof, certified by affidavit.

"(3) A mortgage made and registered under this section entitles the Minister to all property in the mortgaged equipment therein specified or described, as security for the advance, to the exclusion of any other person and during the continuance of the mortgage the possession of any such mortgaged equipment shall be deemed to be possession by the Minister.

"(4) A mortgage registered under this section expires and ceases to have effect at the expiration of two years from the date of its registration, or, if it is re-registered under this section, from the date of its last re-registration.

"(5) A mortgage registered under this section may be re-registered at any time before it expires by filing an affidavit, in the prescribed form and showing the prescribed particulars, showing that the mortgage is a subsisting security for the amount stated in the affidavit.

"(6) When a mortgage registered under this section expires, or when no further sum is due thereunder, whichever happens first, the property in the mortgaged equipment reverts in the mortgagor, except so much of it as has, before the date of the expiration, been seized under the mortgage for disposal, or, before the payment, has been disposed of under the mortgage.

"(7) A receipt signed by the Minister for all moneys due under a mortgage registered under this section, or for the final balance thereof, may be registered without the payment of any fee, by filing in the office of the Registrar a true copy thereof, verified by affidavit, and by producing to him the original receipt and the mortgage to which it relates.

"(8) The registration of a receipt under subsection (7) of this section operates as an extinction of the mortgage to which it relates, but does not affect anything done thereunder before that registration.

"(9) The Registrar shall keep a register in the prescribed form of all mortgages registered under this section and make the prescribed entries therein and shall keep in the prescribed manner and form an index to the register.

"(10) The provisions of sections four, twenty-one, twenty-two, twenty-six to twenty-eight, thirty-two, and forty to forty-five of the *Bills of Sale Act* 1906, so far as they are applicable, apply to mortgages under this section as if those sections were incorporated in this section with the substitution therein for any references to a bill of sale of references to a mortgage under this section, and for any references to a grantor and to a grantee of references to the mortgagor and to the Minister, respectively.

"(11) Except as provided in subsection (10) of this section the *Bills of Sale Act* 1906 does not apply to a mortgage made and registered under this section.

" 5D In any cases in which the Minister considers it reasonable so to do, the Minister may release any person from any obligation arising under sections five, five A, five B, and five C to pay any sum to the Minister, and may, by agreement with any person, vary the terms of any agreement or covenant entered into under those sections and that is binding on that person. Release of obligations, &c.

" 5E The Minister may, upon such terms and conditions as he thinks fit, let out on hire to any person any machinery, plant, appliances, implements, equipment, or materials for use in any prospecting operations or for the testing or proving of any deposit or discovery of any mining product or for use in any other mining operations. Letting of machinery, &c.

" 5F.—(1) The Minister may—

- I Cause testing, drilling, surveying, prospecting, or any other mining operations to be undertaken and carried out in such manner and upon such conditions as he may think proper or as may be prescribed: Mining operations, &c., by Minister.
- II Do, execute, and perform all such acts, deeds, and things upon, under, or in relation to any Crown land as he might do if he were the holder of a lease thereof, and as he may think necessary or desirable for the purposes of this Part: and
- III Enter upon Crown land and mark out thereon in the manner prescribed such area as he may think necessary for the purposes of this Part.

"(2) Nothing in paragraph II of subsection (1) of this section entitles the Minister to carry on mining operations for the purposes of profit.

"(3) No person shall, without the authority of the Minister, enter upon, work, or deal with any land within an area marked out under paragraph III of subsection (1) of this section.

Penalty: Fifty pounds.

"5G.—(1) Without prejudice to any other powers that the Minister may have in that behalf, the Minister may, for the purposes of this Part— Supplementary powers of Minister.

- I Purchase or hire any machinery, plant, appliances, implements, equipment, or materials:
- II Employ persons at such wages or remuneration and upon such terms and conditions as he may think proper: and
- III Enter into contracts for the performance of any work, the carrying out of any operations, or the supply of any machinery, plant, appliances, implements, equipment, or materials.

"(2) A person who is employed by the Minister under this section is not subject, by reason only of that employment, to the provisions of the *Public Service Act 1923*."

Gold or
minerals
discovered to
belong to
Crown.

5 Section seven of the Principal Act is amended—

- (a) by omitting from subsection (5) the words “or if any such discovery is made on land not held under a mining lease,” and the words “, and any such sale may be subject to such reserve price as the Minister may think fit”;
- (b) by inserting after subsection (5) the following subsections:—

“(5A) If any such discovery is made on land not held under mining lease, the Minister may, as he thinks fit—

I Sell by public auction or tender the right to work and mine the land: or

II Let the land (with such area of land adjoining it as he may think necessary) on tribute upon such royalty, and subject to such conditions, as he may think fit.

“(5B) A sale under subsection (5) or subsection (5A) of this section may be subject to such reserve price as the Minister may think fit.”; and

- (c) by omitting from subsection (7) the words “no such sale as aforesaid is effected” and substituting therefor the words “no sale is effected under subsection (5) of this section”.

Constitution
of Fund.

6 Section fourteen of the Principal Act is amended—

- (a) by inserting after paragraph II of subsection (2) the following paragraph:—

“IIA All moneys received under this Act in respect of the letting on hire of any machinery, plant, appliances, implements, equipment, or materials: and”; and

- (b) by adding at the end thereof the following subsection:—

“(3) All moneys that, immediately before the commencement of the *Aid to Mining Act* 1958, stand to the credit of the Drilling Trust Fund, established under the *Aid to Mining (Drilling) Act* 1947, shall forthwith after the commencement of this subsection, be transferred to and placed to the credit of the Fund, and any sums that, after the commencement of this subsection, would, but for the enactment of the firstmentioned Act, have been paid to and placed to the credit of the Drilling Trust Fund shall be paid to and placed to the credit of the Fund.”.

7 After section sixteen of the Principal Act the following section is inserted in Part V:—

"16A Where the Minister is satisfied that there is no reasonable likelihood of the recovery of any sum that, if it was received, would be paid to and placed to the credit of the Fund under paragraph I, paragraph II, or paragraph IIA of subsection (1) of section fourteen or under subsection (3) of that section, that sum may, with the consent of the Governor, be written off in the books of the Treasurer as being irrecoverable."

Writing off of
irrecoverable
sums.

8 Section eighteen of the Principal Act is amended—

Regulations.

- (a) by omitting from paragraph I the words "and the nature and form of the security to be taken therefor,"; and
- (b) by inserting in paragraph IV, after the word "notices," the word "covenants,".

9 The Principal Act is amended by omitting therefrom the heading to Part III and substituting therefor the following heading:—

Consequential
amendment.

"PART III.

"ASSISTANCE FOR MINING."

STAMP DUTIES.

No. 14 of 1958.

AN ACT to amend the *Stamp Duties Act 1931*.
[3 July 1958.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Stamp Duties Act 1958*.

Short title,
citation, and
commence-
ment.

(2) The *Stamp Duties Act 1931*, as subsequently amended, is in this Act referred to as the Principal Act.

(3) Section four of this Act shall be deemed to have commenced on the first day of January 1958.