

# THE MINING ACT, 1911.

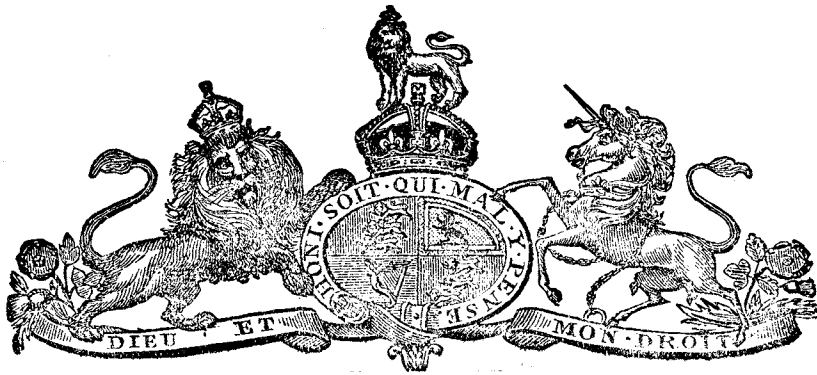
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1s. 10d.]



TASMANIA.



1911.

ANNO SECUNDO

GEORGII V. REGIS.

No. 23.



AN ACT to amend "The Mining Act, 1905." <sup>A.D.</sup> 1911.  
[30 December, 1911.]

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 This Act may be cited as "The Mining Act, 1911," and shall be deemed to be incorporated with and be construed as one with "The Mining Act, 1905" (hereinafter referred to as "the Principal Act"), and every amendment thereof.

Short title and incorporation with 5 Ed. VII. No. 23.

2 The Principal Act is hereby amended as follows:—

i. By omitting the words "Mining Fields and" from line Three of Section Three, and from the heading of Part II.:

Amendment of Sections 3, 4, 13, 16, 18, 28, 186, 195, 223, and 283 of the Principal Act.

ii. As to Section Four—

(a) By omitting the definition of "Mining Field";

(b) By omitting the definition of "Mining Manager," and substituting therefor the following:—  
"Mining Manager" means the person having immediate charge and direction of the mining operations on any mine, and includes a mine manager or manager of works appointed pursuant to Section One hundred and sixty-seven of the

Repeal of Sections 11, 12, 15, and 19.

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Principal Act, and any deputy appointed by an owner, agent, or manager, and also includes any person under whose immediate direction or control contractors or tributers work in a mine” :

III. By omitting Sections Eleven, Twelve, Fifteen, and Nineteen:

IV. As to Section Thirteen—

(a) By omitting from Paragraph I. the words “ One or more mining fields or portions thereof,” and substituting therefor the words “ any district or districts he may think fit” ;

(b) By omitting from Paragraph III. the words “ but shall exercise his jurisdiction and perform his duties and functions in such mining fields, districts, or localities as the Minister from time to time directs” :

V. As to Section Sixteen, by omitting from Subsection I. the words “ within a mining field or outside thereof” :

VI. As to Section Eighteen, by omitting from lines One and Two the words “ and situate within any mining field” :

VII. As to Section Twenty-eight, by omitting therefrom the words “ whether within or outside of a mining field” :

VIII. As to Section One hundred and eighty-six, by omitting from Paragraph (b) of Subdivision II. the words “ or the extremity of the mining field of which that seam is a part” :

IX. As to Section One hundred and ninety-five, by omitting from line Two the words “ to all mining fields,” and from line Three the words “ any particular mining field or fields only, or to” :

X. As to Section Two hundred and twenty-three, by omitting from Subsection (4) the words “ and whether within the limits of a proclaimed mining field or not” :

XI. As to Section Two hundred and eighty-three, by omitting from Subdivision LII. the words “ for the management of mining fields and.”

Amendment of  
Section 46 of  
Principal Act.

**3** Section Forty-six of the Principal Act is hereby amended by striking out in the Second line the words “ One Pound,” and inserting others, namely, “ Ten Shillings.”

Amendment of  
Section 85 of  
Principal Act.

**4** Section Eighty-five of the Principal Act is hereby amended by inserting the following provision at the end of Subsection (1), namely :—

“ When the land comprised in any such consolidated or new lease shall be leased for the purpose of mining for gold or minerals, or for gold in association or combination with other minerals, the area comprised in such consolidated or new lease shall not exceed in the whole Three hundred and twenty acres of land. The Minister shall not authorise the grant of such new lease until he shall have obtained a

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report thereon from an inspector: Provided that when the mining is carried on in alluvial open-cut mineral workings the area to be so comprised may be extended to, but shall not exceed, Six hundred and forty acres of land." A.D. 1911.

**5**—(1) Subsection (1) of Section Eighty-six of the Principal Act is hereby omitted, and the following substituted therefor:—

“**86** In any case in which it is made to appear to the satisfaction of the Minister for Mines that greater facilities for the working of several contiguous parcels of land held by the same lessee under mining leases would be ensured if the leases were amalgamated, the Minister for Mines, upon application by the lessee in the prescribed form and payment of the prescribed fee, may give a certificate of amalgamation in the prescribed form, and particulars of such amalgamation shall be registered in the Department of Mines at Hobart.

“Such amalgamation shall continue for Twelve months from the date of such certificate, or for such lesser period as shall be stated in such certificate.

“The parcels of land so to be amalgamated must be held under leases to mine for the same kind of metal or mineral.

“Where the parcels of land so to be amalgamated are held for the purpose of mining for gold, the area to be worked in conjunction shall not exceed in the whole One hundred acres.

“Where the parcels of land so to be amalgamated are held for the purpose of mining for minerals or for gold in association or combination with minerals, the area to be worked in conjunction shall not exceed in the whole Three hundred and twenty acres: Provided that when the mining is carried on in alluvial open-cut workings the area may be extended to, but shall not exceed, Six hundred and forty acres.”

(2) Subsection (2) of Section Eighty-six is hereby amended by inserting the words ‘or some’ after the word ‘One’ in line Seven.

**6** Section Eighty-eight of the Principal Act is hereby amended by inserting the words “for a period exceeding Thirty days” after the word “covenant” in line Five thereof.

**7** Section Ninety-eight of the Principal Act is hereby amended by adding the following words at the end of the section:—

“If any person who is granted such prior right as aforesaid exercises such right by applying for a lease, he shall comply with the following provisions, otherwise he shall forfeit such right, and no lease shall be granted to him:—

- i. Such applicant shall at the time he makes application pay in advance the rent for Twelve months of the land applied for, and the prescribed fees, and thereupon the provisions of Section Seventy-three of this Act shall apply:
- ii. Such applicant shall at the time he makes application, or within Seven days thereafter, enter into and furnish to the Secretary for Mines a bond (with a surety or sureties if

Repeal and re-enactment of Subsection (1) of Section 86 of Principal Act.

Amalgamation of leases.

Amendment of Section 88 of Principal Act

Amendment of Section 98 of Principal Act

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required), to the satisfaction of the Secretary for Mines to secure the expenditure by the applicant in relation to the land applied for of such a sum of money as would be in compliance with and satisfy his covenant under Section Eighty-one of this Act with regard to the expenditure of money in respect of Twelve months of the lease if a lease had been issued to him : and

- iii. Such applicant shall before the expiration of Twelve months from the date of application prove to the satisfaction of the Secretary for Mines that he has expended such a sum of money as would be in compliance with and satisfy his covenant under Section Eighty-one of the Act.

Amendment of  
Section 105 of  
Principal Act.

**8** Section One hundred and five of the Principal Act is hereby amended by inserting the following provision at the end thereof, namely :—

“ Where a lessee applies to surrender his lease for the purpose of obtaining in lieu thereof a new lease of the whole or any part of the land, he shall have a prior right to the exclusion of all other persons for Twenty-one days next after the day on which the Governor consents to the surrender to apply for a lease of the whole or any part of the land, and he need not again mark off the land if he applies for a new lease of the whole of the land unless directed to do so by the Secretary for Mines.”

**9** After Section One hundred and nine of the Principal Act the following heading and section is inserted :—

*“ Determination of Priorities.”*

Priority as  
between riparian  
lessee and grantee  
of water-right to  
be determined for  
date of the  
marking off.

“ **109a** The relative rights of lessees of land for mining purposes, and of grantees of water-right licences, shall be determined by the date of the marking off of the lease or water-right respectively; and the lessee or licensee, upon the issue to him of the lease or licence, shall be deemed to have had all such rights and priorities as from the date of such marking off, and not from the date of the lease or licence.”

Amendment of  
Section 111 of  
Principal Act.

**10** Section One hundred and eleven of the Principal Act is hereby amended by inserting the following words at the end thereof :—“ Every mining easement hereafter granted authorising the construction or use of a tramway shall be deemed to be granted subject to the right of the Governor to regulate the freight and carriage of goods or passengers on or over the tramway.”

Amendment of  
Section 121  
of Principal Act.

**11** Section One hundred and twenty-one of the Principal Act is hereby amended by—

- i. Inserting the words “ or applicant for ” after the words “ the holder of ” in line One :
- ii. By striking out the words “ within One year after the passing of this Act, or within One year after the date of such lease,” in lines One, Two, and Three.

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**12** Section One hundred and sixty-seven of the Principal Act and the heading thereto, and Section Eighteen of "The Mining Act, 1908," are hereby repealed, and the following section and heading are substituted for the said Section One hundred and sixty-seven and the heading thereto, namely :—

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Repeal and re-enactment of Section 167 of Principal Act.

*"Responsibility in Connection with Mines and Works."*

"**167**—(1) Every mine while being worked and all works shall be under a manager or managers, who shall be responsible for the control, management, and direction thereof.

Appointment of manager in respect of mines and works.

See Geo. V. No. 24, s. 15 (Q.).

"The owner or agent of every mine and works, or the contractor or tributer, as the case may be, shall appoint himself or some other person or persons to be manager or managers of such mine or works, and shall, immediately upon any appointment being made, send written notice to the Chief Inspector of Mines of the manager's name and address. He shall also give notice of any change of manager forthwith after such change being made.

"The same person may be appointed manager in respect of several mines or works, or of mines and works in conjunction.

"In every case where and so long as a mine is worked or works are in operation without a manager, the owner or agent of the mine or works shall be answerable for all the obligations of the manager under this Act.

"(2) The Chief Inspector of Mines shall record in a register to be kept at his office the names and addresses of all managers of mines and works."

Name to be recorded.

**13** Section One hundred and sixty-eight of the Principal Act is hereby repealed, and the following substituted therefor, namely :—

Repeal and re-enactment of Section 168 of Principal Act.

"**168**—(1) If any mine is worked or works are operated for more than Seven days without a manager, the owner and agent of such mine or works and the contractor or tributer shall each be liable to a penalty not exceeding Ten Pounds, and to a farther penalty not exceeding Ten Pounds for each day during which such mine is so worked or works are so operated, as the case may be.

Penalty for neglect to appoint manager.

"(2) Provided that if the manager of the mine or works—

Proviso.

(a) Is incapacitated from performing his duties ; or

(b) Is about to be absent for more than Seven days—

he or the owner, agent, contractor, or tributer may appoint some fit person or persons to be deputy-manager or deputy-managers during such incapacity or absence, and shall record the name or names of the person or persons so appointed in the Mine Record Book ; and the owner, agent, contractor, tributer, or manager shall forthwith notify such appointment and the reason therefor to the Chief Inspector of Mines.

"(3) The person so appointed shall be subject to the same obligations and liabilities as the manager."

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—  
Manager to  
enforce Act.

**14** After Section One hundred and sixty-eight of the Principal Act the following section is inserted :—

“**168a** The manager shall enforce as far as practicable the observance of the provisions of this Act in or about the mine or works under his charge ; and no agreement with the contractors or tributers or others will be allowed to relieve him of the responsibility of having all work in and about the mine or works carried on in a safe manner, and in accordance with this Act ; and in order to secure the observance of the provisions of this Act, the manager may at any time institute proceedings against any contractor or tributer or other person employed about the mine who neglects or fails to observe the provisions of this Act in regard to the safe working of the mine.”

Amendment of  
Section 169 of  
Principal Act.

**15** Section One hundred and sixty-nine of the Principal Act is hereby amended by inserting the following provision at the end thereof, namely :—

Onus of proof  
in proceedings.

“ In all proceedings in respect of any offence against any provision of this section any allegation contained in the information that no return has been furnished pursuant to this section, or that a return has been furnished but the same does not comply with the provisions of this section, as the case may be, shall be deemed to be proved in the absence of proof by the defendant to the contrary.”

Amendment of  
Section 177 of  
Principal Act.

**16** Section One hundred and seventy-seven of the Principal Act is hereby amended by inserting the words “or works” after the word “mine” in line Nine of Subdivision II.

Amendment of  
Section 183 of  
Principal Act.

**17** Section One hundred and eighty-three of the Principal Act is hereby amended by inserting the words “or works” after the word “mine” in line One.

Extension of  
meaning of the  
term “mine” in  
Sections 176 to  
183 of Principal  
Act.

**18** The word “mine” in Sections One hundred and seventy-six to One hundred and eighty-one and Section One hundred and eighty-three shall extend and apply to any pit, shaft, drive, level, or other excavation for or in connection with any operations other than mining.

Amendment of  
Sections 189 to  
192 inclusive of  
Principal Act.

**19**—(1) Sections One hundred and eighty-nine to One hundred and ninety-two inclusive of the Principal Act are hereby amended by inserting the word “marketable” before the word “mineral” wherever the latter word occurs therein.

(2) Section One hundred and ninety is hereby further amended by omitting the word “on” in the Thirteenth line of Subsection (3), and substituting therefor the word “an.”

Amendment of  
Section 199 of  
Principal Act.

**20** Section One hundred and ninety-nine of the Principal Act is hereby amended by inserting the words “or works” after the word “mine” in line One and in line Eight.



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**21** Section Twenty-six of "The Mining Act, 1908," and the Second Schedule to that Act are hereby repealed. A.D. 1911.

**22** The First Schedule to the Principal Act is hereby amended to the extent and in the manner set forth in the schedule to this Act. Repeal of Section 26 and Second Schedule of 8 Ed. VII. No. 51.

**23** The majority of persons employed underground in any mine may, at their own cost, appoint Two of their members, of not less than Five years' experience in practical mining, to inspect every or any part of the mine, its machinery, and workings, Once in every month, or oftener if and when the workings or any part of the workings of any mine are considered unsafe by any of the miners working therein. With respect to such inspection the following provisions shall apply:—

- i. The inspecting workmen, on giving reasonable notice to the mining manager, shall be allowed to visit and inspect every part of the mine, and all its machinery and appliances:
- ii. The mineowner or agent and the mining manager or One or more officers of the mine may, if the owner, agent, or manager thinks fit, accompany the inspecting workmen in their inspection, and shall give them full and free facilities for the inspection:
- iii. The inspecting workmen shall, without delay, furnish to the owner or mining manager a full and faithful report, in writing, of the result of every such inspection:
- iv. The owner or manager of the mine shall cause the report to be recorded in ink in a report-book, which shall be kept in good order and condition at the mine, and used solely for entering therein reports of workmen's inspections:
- v. If the report states the existence, or apprehended existence, of any danger, the mining manager shall forthwith cause a true copy of the report to be sent to the inspector for the district:
- vi. Any inspector of mines, or any workmen employed in the mine, or any person or persons appointed by the miners to inspect the mine, or any person authorised by the Minister, may at all reasonable times inspect the report-book, and take copies of, or extracts from, the reports recorded therein:
- vii. If the owner or manager of any mine, or any person employed by, or acting under the instruction of, any such owner or manager interferes with the appointment of workmen's inspectors or lawful inspection of the mine by workmen's inspectors under this Act, or attempts to improperly influence or impede them by withholding facilities for inspection, or by bribes, or threats, or notice of dismissal or any other penalty, they shall severally be guilty of an offence against this Act.

Amendment of First Schedule to Principal Act.  
Inspection of mines by persons appointed by employees.

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Marking off on  
Sunday illegal.

**24** After Section Twenty-five of "The Mining Act, 1908," the following section is inserted:—

"**25a** It shall not be lawful for any person on Sunday to mark off any claim under a miner's right or prospector's licence or any mining tenement for the purpose of an application under the Principal Act."

**25** After Section Three hundred and thirty-five of the Principal Act the following part and sections are inserted:—

**"PART XV.****"MINING ON PRIVATE LAND.***"Commencement.*Commencement  
of Part. XV.

"**336** This part shall commence and take effect on and from the First day of January, One thousand nine hundred and twelve.

*"Interpretation.*

Interpretation.

"**337** In this part of this Act, if not inconsistent with the context, the following words and terms have the meanings and inclusions hereby assigned to them respectively, that is to say—

"Improved  
land."

'Improved land' means and includes the site or curtilage of any building, or any garden, lawn, yard, nursery for trees, orchard, cultivated field (not being mere pasture land), sports ground, recreation ground, rifle range, reservoir, natural or artificial storage or accumulation of water, spring, dam, bore, artesian well, cemetery, burial-place, or place of worship, or any land on which a railway, tramway, bridge, or culvert is constructed, or any land used for stacking or storing or depositing mining material, or mining requisites, or residues, mullock, slag, tailings, or mining debris:

"Minerals."

'Minerals' means and includes:—

- i. Any metals or minerals other than gold and silver; and
- ii. The ores of any metals other than gold and silver; and
- iii. Petroleum and any other mineral oil; and
- iv. Gems and precious stones:

"Mining tene-  
ment."

'Mining tenement' has the meaning and inclusion assigned to this term by Section Four of this Act, with the exception of a claim:

"Occupier."

'Occupier' means the person in actual occupation of any private land; or, if there is no person in actual occupation, the person entitled to possession thereof:

"Owner."

'Owner' means the owner or registered proprietor in fee-simple of any private land, or the person entitled to any private land under a location order, or the person who

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the time being is entitled to receive the rent of any private land, or who, if the same were let to a tenant at a rack-rent, would be entitled to receive the rent thereof: the term includes the person who is the licensee or lessee of land held under any Act relating to Crown land with the right of acquiring the fee-simple thereof: the term also includes every trust, corporation, or body having lawful control of the land in question:

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‘Private land’ means any land not being Crown land within the meaning of Section Four of this Act, or within the meaning of any Act substituted for this Act.

“Private land.”

The term does not include a reserve.

So far as relates to mining for minerals which have not been reserved, or do not belong to the Crown, the term does not include land alienated in fee-simple before the Fourteenth day of November, One thousand eight hundred and ninety-three:

See 57 Vic.  
No. 12, s. 11.

‘This Act’ means and includes this Act and all Acts amending the same, and all proclamations and regulations issued or made thereunder:

“This Act.”

‘This part’ means this part of this Act.”

“This part.”

“**338** In every case where, for the purposes of this Act, it is necessary to decide whether any mine on any land is or would be a gold or silver mine or mine of other specified mineral, the question shall be determined by the fact whether gold, silver, or other specified mineral is or is not the most profitable metallic product of the ore obtained from the mine.

Nature of mine.

*“Crown Ownership of Gold, Silver, and Minerals.”*

“**339** Subject to this Act—

- I. Gold and silver on or below the surface of all land in this State, whether alienated in fee-simple or not so alienated from the Crown, and if so alienated whensoever alienated, are the property of the Crown, unless expressly comprised in the Crown grant:
- II. All other minerals on or below the surface of all land in this State which was not alienated in fee-simple from the Crown before the Fourteenth day of November, One thousand eight hundred and ninety-three, are the property of the Crown.

Gold and silver  
are the property  
of Crown.

Other minerals.

*“Exemptions.”*

“**340** The Governor may from time to time, by proclamation, exempt from the operation of this Act, either wholly or for such period as he thinks fit, private lands in any specified locality or any specified portions of private lands.”

Private lands  
may be exempted.

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*“ Rent, &c., of Resumed Lands.*

“ **341** Every lease, licence, or mining tenement granted in respect of or occupied upon any land resumed for or in connection with mining purposes under any Crown Lands Act, shall, notwithstanding any provision of this Act to the contrary, be subject to such rent or other payment to the Crown as may be fixed by the Governor.

*“ Mining Tenements.*Mining  
tenements.

“ **342**- (1) Subject to this Act, but only after application duly made under this part, a lease, licence, or mining tenement comprising private land may be granted or registered.

“ (2) Subject to this Act, the whole or part of Two or more parcels of private land which adjoin each other may be included in One lease, licence, or mining tenement under this part.

Exemption of  
certain private  
lands.

“ **343** No lease, licence, or mining tenement shall be granted or registered in respect of private land if such land is—

i. Improved land : or

ii. Within One hundred and fifty yards, laterally, from any improved land—

unless in each of the abovementioned cases—

(a) The consent in writing of every owner of the land in question has been first obtained ; or

(b) Such grant or registration is limited to a depth of not less than Fifty feet from the natural surface of the land.

“ Provided that where private land is being mined and the warden's court determines that the whole of, or a specified part of, such private land is or is likely to be required for the purpose of the mining operations in connection with the mine on the land, no other mining tenement, except such as may be applied for by the owner of such mine, shall be granted or registered in respect of such private land or specified part thereof, as the case may be.

Permit to enter.

“ **344**- (1) Any person who desires to enter upon private land for the purposes of this section shall make an application or applications in writing to the warden for a permit or permits to enter upon the land.

“ Every such application shall be in the prescribed form, and shall contain such description of the land as will enable the boundaries to be properly defined.

“ Applications for permits shall take priority in the order in which they are lodged.

“ (2) The warden, on being satisfied that the application is made in good faith, may grant a permit in writing limited to such period not exceeding Ninety days as he thinks proper, and stating the maximum area of the surface of the land that may be broken by trenching or sinking thereon in searching for minerals. He shall at the same time fix a sum of money, and require the same to be paid to him before the issue of the permit, as and by way of security,



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to compensate the owner and occupier of the land for any damage likely to be caused by the holder of the permit during the currency thereof. A.D. 1911.

“The warden shall pay such sum either wholly or in part to the owner and occupier in satisfaction of the damage (if any) severally sustained by them, or shall return the same to the holder of the permit at the expiration thereof if he does no damage.

“During the currency of a permit no other permit shall be granted for the same land.

“(3) Such permit shall, upon demand, be produced to the owner and occupier respectively of the private land or his agent.

“(4) By virtue of such permit the holder thereof may enter upon the land and search for gold, silver, or minerals, and may detach one or more samples of any vein, or lode, or any earth or substance supposed to contain gold, silver, or mineral, not exceeding in the aggregate Twenty-eight pounds in weight, and remove such samples for the purpose of assaying or testing the value thereof, and may mark out any lease, licence, or mining tenement

“(5) If in any case the warden refuses to grant any such permit, the applicant may within Fourteen days apply to the Minister for such permit.

“**345**—(1) Application for a lease, licence, or mining tenement situated on private land shall be made in the manner prescribed. Applications.

“(2) Every applicant shall state and describe in his application the area of surface, if any, for which he applies; and further, the purpose for which he requires such area, if any. He shall also describe any right of way applied for on the proposed tenement and therefrom through any other land to the nearest practicable point of a street or road. But, unless with the consent of the owner, no such right of way shall be applied for through any improved land.

“(3) Notice of such application shall be given by the applicant as prescribed to the actual occupant of the land, or, if the land is vacant, shall be affixed in some conspicuous place on the land. Notice of the application shall also be sent by registered letter through the post-office to every person who appears by the assessment roll then in force of the local authority within whose area the land is situated, to be the owner or occupier of the land or of any other land in respect of which any right of way is applied for. And every such owner and occupier shall be entitled to be heard before the warden's court before the application is granted.

“(4) When the applicant does not apply for any area of surface, it shall not be necessary to mark out the tenement applied for on the surface.

“(5) When his title confers upon the owner of the lease, licence, or mining tenement a right to occupy a portion only of the surface thereof, he may at any time make application for an extension of the surface area. Every such application shall be made and dealt with in the same manner as the original application,

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Cases where no surface applied for.

“**346** When any person other than the owner of the land applies for a lease, licence, or mining tenement in respect of private land and does not apply for any portion of the surface, then, if the consent of such owner has not been obtained, before any such application is granted, the applicant shall prove to the satisfaction of the warden that he possesses—

- i. Adjoining the land applied for, a lease, licence, or mining tenement occupied for the purpose of seeking for gold or silver or minerals or land held in fee-simple not being private land within the meaning of this Act: or
- ii A lease, licence, or mining tenement with such way-leaves and other rights through intermediate lands as will enable him to mine in the land applied for.

Rights of owners and their assigns.

“**347** The owner of any private land may acquire a lease, licence, or mining tenement of or comprising such land, or of so much thereof as is not already the subject of a lease, licence, or mining tenement.

“And if before the First day of July, One thousand nine hundred and twelve, the owner or any assignee of the owner makes application for a lease, licence, or mining tenement of or comprising the whole or part of such land, his application, save as hereinafter provided, shall have priority over all others.

Right to mine, &amp;c.

“**348** The grant or registration of a lease in respect of private land shall confer upon the lessee—

- i. Where the lease comprises an area of surface—

- (a) The right to mine on or under so much of the surface or extended surface as is stated and described in the lease; and
- (b) The right to mine under the remainder, if any, of the lease at such depth from the surface as shall be stated in the lease; and
- (c) A right of ingress and egress to and from the land comprised in the lease, by a right of way to be stated and described in the lease:

- ii. Where the lease does not comprise any area of surface, the right to mine under the whole of the land comprised in the lease at such depth from such surface as shall be stated in the lease.

Compensation.

“**349**—(1) Compensation under this part for the right to occupy and work the land comprised in a lease, licence, or mining tenement, or for any right of way, shall not be payable where no portion of the surface of the private land is so comprised.

To be paid or agreed upon before mining.

“(2) So far as regards any private land in respect of which compensation is payable, the grant or registration of a lease, licence, or mining tenement shall not confer any rights, unless or until the owner thereof

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has paid or tendered to the persons severally entitled the amount of compensation, if any, determined in the manner prescribed, or made an agreement in writing with every such person as to the payment of compensation, if any. A. D. 1911.

“(3) Such payment, tender, or agreement shall be certified on the lease or licence by an officer of the Department of Mines authorised by the Minister in that behalf.

“(4) If no compensation is payable, that fact shall be so certified.

“(5) If any doubt exists as to who are the persons entitled to compensation, or if they or any of them cannot be found, the Minister shall be deemed to represent them, and any such payment may be made to the Minister in trust for all persons entitled.

*“ Compensation.*

“**350**—(1) The applicant for any lease, licence, or mining tenement of or situated on private land may agree with the persons severally entitled to compensation as to the amount of such compensation. Power to agree as to compensation.

“No such agreement shall be valid unless the same is in writing and signed by the parties thereto or their agents, and filed at the registrar’s office.

“(2) If within such time as may be prescribed the parties are unable to agree upon the amount of compensation to be paid, then either party may, upon a plaint in that behalf, have the amount determined in the warden’s court. Either party shall have the right to require that such plaint shall be heard before the warden sitting with Two assessors, and in that case the provisions of this Act relating to assessors shall be applicable. Where no agreement warden to determine compensation.

“**351**—(1) The compensation to be made under this part shall be compensation for— Measure of compensation.

- i. Deprivation of the possession of the surface or of any part of the surface : and
- ii. Damage to the surface or any part thereof, and to any improvements thereon, which may arise from the carrying on of mining operations thereon or thereunder : and
- iii. Severance of the land from other land of the owner or occupier : and
- iv. Surface rights of way : and
- v. All consequential damages.

“Provided that in determining the amount of compensation no allowance shall be made for any gold, silver, or mineral known or supposed to be on or under the land

“(2) In determining the amount of compensation, the warden’s court shall take into consideration the amount of any compensation which the owner and occupier or either of them have or has already received for or in respect of the damage for which compensation is being determined, and shall deduct the amount already so received from the amount which they would otherwise be entitled to for such damage.

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*“ General.*

Other rights of  
action not  
affected.

“ **352** Nothing in this part shall be construed to take away or prejudicially affect any right of action which any person may have for any loss or damage sustained by him by reason of any mining operations carried on pursuant to this Act upon private land, other than for loss or damage for which compensation is payable under this part.

Owner, &c., may  
inspect under-  
ground workings.

“ **353** Owners and occupiers of private land under or adjoining which mining is authorised by this part shall be entitled, on application to the warden, from time to time as in the opinion of the warden may be necessary, and at the expense of the lessee, licensee, or holder of the mining tenement, to inspect and survey the underground workings.

Survey officers  
may enter upon  
any private land.

“ **354** Any surveyor acting under the authority of the Minister or a warden may, with his assistants and workmen, if any, from time to time enter upon any private land, and there execute any survey for any of the purposes of this part without making compensation to any person.

“ Such surveyor and his assistants and workmen shall do as little damage as may be in the execution of the powers conferred by the said authority.

Re-entry by  
owner.

“ **355** If mining operations have not been commenced during the Twelve months following the registration of a mining lease, licence, or mining tenement, or if after mining operations have been commenced in or upon any private land held under a lease or licence, or as a mining tenement the same have wholly ceased, the Governor may, if he thinks fit, on the application of the owner of the land, authorise him to re-enter and take possession of the land.

Application of  
general  
provisions.

“ **356** Save as by this part is otherwise provided, and subject to the regulations, all the provisions of this Act shall apply to leases, licences, and mining tenements situated upon private land and applications therefor as if they were situated upon Crown land; and all the powers, authority, and jurisdiction of the warden and of the warden's court, and of every other court having jurisdiction under this Act with respect to mining on Crown land, shall extend and apply to private land and to mining on or under such land.

“ Provided that—

- i. No prospector's licence or miner's right shall be issued in respect of private land :
- ii. A holder of a lease, licence, or mining tenement shall not, without the consent of the owner and occupier of the private land comprised in the lease or licence, or whereon the mining tenement is situated, be entitled to use water artificially conserved by such owner or occupier, or to fell trees, strip bark, or cut timber on such land :
- iii. A holder of a lease, licence, or mining tenement shall not have the right to impound any stock belonging to or being



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the property of, or being in the custody or under the control of, the owner or occupier of any land comprised in the lease, licence, or mining tenement, or of any adjoining land, or to disturb or molest any such stock in any way whatever, or to prevent any such stock from depasturing on or over the land comprised in the lease, licence, or mining tenement, unless such land is enclosed by a substantial fence. A.D. 1911.

“**357** The Governor may from time to time make regulations for carrying this part into effect. Regulations.

“The provisions of this Act relating to regulations shall apply to regulations made under this part.”

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## SCHEDULE.

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### AMENDMENTS TO PART (1.) OF FIRST SCHEDULE OF PRINCIPAL ACT.

#### GENERAL RULES FOR ALL MINES AND FOR “WORKS.”

The following new rule is hereby inserted immediately after Rule 2 as Rule 2A:—

“2A. In dry roads or other workings, if the broken material is dry and dusty, the inspector of mines may forbid its removal until it has been effectually damped.”

#### *As to Rule 3—*

The following words are inserted at the end of Rule 3:—

“Every person employed in a mine who damages or misuses, or fails to use when necessary, any appliance for the prevention of dust, fumes, or smoke, or any other sanitary appliance provided by the mine-owner, is liable to a penalty not exceeding Five Pounds.”

#### *As to Rule 4.*

Rule 4 is hereby amended as follows:—

Paragraph i. is repealed, and the following substituted therefor, namely:—

- “i. It shall not be stored by anyone in the mine or on the surface unless—
- (a) When the quantity exceeds 50 lb. in weight he holds a licence under “The Explosives Act, 1900.”
  - (b) When the weight does not exceed 50 lb. he obtains the permission, in writing, of the inspector of mines.”

In Paragraph ii. the words “written authority” are repealed, and the words “licence or permission” substituted therefor.

Paragraph v. is repealed, and the following substituted therefor, namely:—

- “v. Explosives shall be taken for use into the working underground faces of the mine only in securely-covered cases or canisters of a pattern and make approved of by an inspector of mines, and containing not more than 15 lb. of gunpowder or 15 lb. of high explosive in each case or canister.”

In Paragraph vi. the words “and in actual use” are repealed.

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The following new paragraphs are hereby inserted at the end of Rule 4 as Paragraphs XIX. and XX. :—

“XIX. A bulled hole shall under no circumstances be loaded with a further bulling charge unless it is thoroughly washed or swabbed out with water.

Before loading the main firing charge, either a sufficient quantity of water to fill the bulled chamber must be poured in, or, as an alternative, the hole must be allowed to stand unloaded (after bulling) for at least 30 minutes, and then a copper tamping-rod must be inserted in the hole for at least five minutes and found to be nowhere hot to the touch.

“XX. Under no circumstance whatever shall any person use any high-explosive compound for the purpose of igniting fuse. Provided that any person engaged in blasting operations may, for the purpose of ‘spitting’ fuse, use a small piece of gelignite or blasting gelatine, if it is carefully and securely inserted at the extremity of the fuse.”

The following new rules are hereby inserted immediately after Rule 4 as Rules 4A and 4B :—

“4A. No blast shall be fired under circumstances likely to injure any person.

“4B. No person shall remove any explosives from a mine without the written consent of the manager of the mine.”

*As to Rule 12—*

Rule 12 is repealed, and the following substituted therefor, namely :—

“12. When a shaft is being sunk, or a rise put up in rock formation, and blasting operations are necessary, short cross-drives or man-holes, of such dimensions as shall be approved of by an inspector of mines, shall be formed throughout the shaft or rise, as the case may be, for use by miners as places of refuge during the occurrence of blasts, and suitable and convenient means of access to such places of refuge shall be provided from the bottom of the shaft and the top of the rise.

“In no case shall the cross-drives or man-holes for a—

i. Shaft be more than 200 feet apart :

ii. Rise be more than 100 feet apart :

nor shall more than 200 feet as to a shaft, or 100 feet as to a rise, intervene between the top or bottom of the shaft or rise, as the case may be, and the nearest cross-drive or man-hole.”

*As to Rule 13—*

The following words are inserted at the end of Rule 13 :—

“When deemed necessary by the inspector all stopes shall be kept securely timbered, and shall also be stowed up or refilled as closely as working conditions will allow.”

*As to Rule 16—*

The following words are inserted at the end of this rule, namely :—

“Entering or crossing the winding compartment of a shaft is prohibited, except to ascend or descend, or for the purpose of effecting repairs; and before repairs are commenced the person in charge of or directing the repairs must inform the enginedriver of the nature thereof.

“When any repairs taking over one hour to execute have been effected in any winding-shaft, the cage, skip, or bucket shall be run empty from top to working bottom of same, and back again before being used for men or materials.”

*As to Rule 19—*

The following words, namely, “Unless an inspector of mines considers it impracticable,” are inserted at the commencement of this rule.

*As to Rule 26—*

Rule 26 is repealed, and the following substituted therefor, namely :—

“26. During shaft-sinking operations no other work in any other place in the shaft shall be executed, nor any tools, ore, mullock, stone, or other material

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hoisted or lowered to or from any other place in such shaft, while men are at work in the bottom of the shaft, unless the winding compartment used for the purposes of such other work or such hoisting or lowering be protected to its full width below such place by a securely constructed penthouse. A.D. 1911.

“During shaft-sinking operations the manager of every mine shall provide adequate protection for men who are engaged in shaft-sinking, and in all cases such penthouse or penthouses shall be constructed, or other suitable provision made, as an inspector of mines may require and order for the safety of men working in the bottom of shafts.”

*As to Rule 27—*

Rule 27 is repealed, and the following substituted therefor, namely:—

“27.—(1) A proper ladder shall be provided in every shaft or winze which has an inclination of 35° or more from the horizontal, and is used for men ascending or descending, and whether machinery is used or not.

No person shall ascend or descend in any such shaft or winze except by means of ladders or in a man engine or safety-cage, unless for the purpose of effecting repairs to the shaft, or in case of pressing necessity. Provided that men employed in shaft-sinking may ascend and descend for a distance not exceeding 200 feet by means of the bucket used for hoisting material.

“(2) All shafts or winzes used for men ascending or descending shall, if inclined at less than 35° from the horizontal, be provided with a proper footway and guiding-rope, or chain, or, if so directed by the inspector of mines, with a ladder.

*As to Rule 31—*

Rule 31 is repealed, and the following substituted therefor, namely:—

“(1) Under no circumstances shall any ladder be fixed in an overhanging position.

“(2) A ladder permanently and habitually used for the ascent or descent of persons in the mine shall not, unless under exceptional circumstances, and with the consent of the inspector of mines, be fixed in a vertical position, except in the pump compartment of any shaft or in rises giving access to stopes actually being worked; but shall, subject to the provisions of paragraph (3), be inclined at the most convenient angle which the space available allows.

“(3) In no case, excepting in the pump compartment of any shaft, or in rises giving access to stopes actually being worked, shall any ladder be fixed at an inclination of more than 80° from the horizontal unless with the consent of the inspector of mines.

“(4) Every ladder, inclusive of ladders fixed in pump-shafts which are not used exclusively for pumping, shall, when the ladder-way exceeds 60 feet in depth and has an inclination of 70° or more from the horizontal, have substantial platforms or resting-places at intervals of not more than 30 feet, approved by the inspector of mines as adequate resting-places, and as sufficient for the protection of men using the ladders. Such platforms or resting-places so approved as aforesaid shall also be provided in ladder-ways with a less inclination than 70° from the horizontal whenever the inspector of mines shall so direct.

“(5) Every ladder shall project at least 3 feet from the mouth of the shaft. At each platform or resting-place there shall be provided a suitable fixture for a hand-grip placed above every ladder for the convenient use of persons ascending or descending.

“(6) Ladders shall be so placed as to cover the man-holes of the resting-places.

“(7) Every ladder used in a mine shall be of strong construction, and shall be securely fastened to the timbering or wall of the shaft in such a manner as the inspector of mines shall approve, and shall be maintained in good repair.

“(8) The spaces between the rungs in every ladder provided after the First day of January, 1912, shall not exceed 10 inches, and the rungs shall in no case be less than 5 inches distant from the wall against which the ladder is placed.

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The rungs shall be kept clear of everything which might interfere with the foot-hold.

“(9) During sinking operations chain or rope ladders shall be provided from the end of ladder-ways to the bottom of shafts in order to secure the fixed ladders from damage during blasting, and to ensure a safe means of exit. Chain or rope ladders must not be so used over a greater length than 20 feet unless with the consent of the inspector of mines.”

*As to Rule 34—*

The words “Twice the weight of the ordinary load,” wherever occurring in this rule, are repealed, and the words “One and a half times the weight of the ordinary load” substituted therefor.

*As to Rule 37—*

Rule 37 is repealed, and the following substituted therefor, namely:—

“37. There shall be attached to every machine worked by steam, water, oil, gas, electricity, air, or mechanical power, and used for lowering or raising persons, an adequate brake or other sufficient appliance (in addition to any on the fly-wheel) fitted to each winding-drum or gear in such manner that it can be applied by the enginedriver without leaving the starting-handle of the engine. A dial or indicator (in addition to any mark on the rope) shall be attached to every machine used for raising or lowering persons or material, excepting winches, and electric and air-hoists, used in sinking from an underground level, and shall be so placed that it will show to the person who works the machine the position of each of the cages or loads in the shaft when at any level or chamber, or place of refuge. In the case of shafts exceeding 1000 feet in depth, such brakes, if so ordered by an inspector of mines, must be worked by steam, air, electricity, or water. No brake shall be allowed on a flywheel unless with the approval of an inspector of mines.”

*As to Rule 40—*

In line 8, after the word “plat-set,” the words “or with other suitable appliances to be approved of by an inspector of mines,” are inserted in this rule.

*As to Rule 41—*

The following words at the end of the rule, namely, “All cages to be tested from the drums with full and empty trucks, and wherever in a shaft an inspector directs,” are repealed, and the following words substituted therefor, namely:—  
“All cages to be tested with full and empty trucks, and either from the shackle or from the drums, as an inspector of mines may direct. Any cage used for raising or lowering men shall be equipped with side-guard bars, or a centre bar.”

*As to Rule 42—*

Rule 42 is repealed, and the following substituted therefor, namely:—

“42.—(1) In raising or lowering men with a bucket, the speed, except in case of apprehended danger, shall not exceed 200 feet per minute when the bucket is within 100 feet of the surface, or 500 feet per minute in any other part of the shaft.

In all other cases the inspector of mines shall fix the maximum speed at which the winding-engine shall run, and such speed shall not be exceeded.

“(2) The driver of a winding-engine shall avoid shocks in starting and stopping the engine, and shall cause cages, buckets, or other means of conveyance to be gently brought to rest at stopping-places.”

The following new rule is hereby inserted immediately after Rule 43, as Rule 43A:—

“43A. Every dressing-room in connection with a mine shall be provided with a fire or suitable heating appliances for the purposes of drying the clothing of the persons employed in and about such mine. Such dressing-room shall be available to the workmen free of cost, at all reasonable hours, and so that the same, or part of the same can be used by every shift, and shall be reasonably comfortable and sufficiently lighted after dark.”

*Mining Act Amendment.**As to Rule 51—*

A.D. 1911.

Rule 51 is hereby repealed, and the following substituted therefor, namely:—

“51. Ladders, and, when necessary, convenient platforms connecting therewith, or suitable footways, shall be provided in each rise, winze, jump-up, or passage giving access to stopes or workings at a higher or lower level or place in the mine. Where stages are used, means for ascending them safely shall be provided.

All such rises, winzes, jumps-up, and passages, with their ladders, platforms, footways, and stages, shall be such as are approved by the inspector of mines.

Places of refuge shall be opened in rises at such points as may be determined by the inspector.”

*As to Rule 54—*

Rule 54 is repealed, and the following substituted therefor, namely:—

“54. In no case shall the face of an opencut be worked over ground that is considered dangerous by an inspector of mines, except with his permission and upon compliance with such conditions for safe working as he may impose. This rule, however, shall not prohibit the sinking of passes from the floor of an opencut for the purpose of filling up underground stopes.”

The following new rules are hereby inserted immediately after Rule 62:—

“63. Whenever and as often as any inspector of mines shall deem it necessary, or shall desire to inspect, examine into, and make inquiry respecting the state and condition of any dredge, and of any pontoon, barge, or other vessel, and any machinery used in connection with dredging operations, and any matters and things connected with or relating to the safety of the persons employed on or about any dredge, or in connection with dredging operations, it shall be the duty of the owner and person in charge, upon being required by the inspector so to do, to provide for such inspector safe means of access to and from such dredge, pontoon, barge, or other vessel, or any place where dredging operations are being carried on; and to furnish to such inspector the means necessary for making any inspection, examination, or enquiry. For the purposes of this rule, ‘owner’ shall mean any person who, or body corporate which, is the immediate proprietor or lessee of any dredge or the immediate proprietor, lessee, or occupier of any land for the purpose of mining thereon or thereunder by dredging; and ‘person in charge’ shall mean any person who has the control, management, or direction of any dredge or dredging operations.

“64. Every dredge, pontoon, barge or other vessel used in connection with dredging operations shall at all times be equipped with life-saving appliances to the satisfaction of an inspector of mines.

“65. The hull of every dredge, floating pontoon, barge, or other vessel used in connection with dredging operations shall be kept sound and water-tight.

AMENDMENTS TO PART (2) OF FIRST SCHEDULE OF PRINCIPAL ACT.

GENERAL RULE FOR COLLIERIES ONLY.

*As to Rule 1—*

In line 3 of this rule, after the word “employed,” the word “underground” is inserted.

*As to Rule 2—*

In line 2 of this rule the word “daily” is repealed.

*As to Rule 18—*

In line 4 of this rule the words “to within 5 feet of the face” are repealed, and the following words substituted therefor, namely:—“As close to the face as an inspector of mines considers reasonably practicable.”

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*Mining Act Amendmen..*

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A.D. 1911.  

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*As to Rule 19—*

The following words are inserted at the end of the rule, namely:—" And provided also that where seams of less than 4 feet in thickness are worked, the size of the pillars shall be such as shall be ordered by an inspector of mines."