

## TASMANIA.

## THE MINING ACT, 1929.

## ANALYSIS.

## PART I.—PRELIMINARY.

1. Short title.
2. Interpretation.
3. Repeal.
4. Continuation of existing leases, &c.
5. Application of Act.
6. Power to apply provisions to reserves, &c., or to exempt lands from Act.
7. Application of Act to mining for gems and precious stones.

## PART II.—MINING DISTRICTS AND COURTS

8. Constitution of mining districts.
9. Mining Courts.

## PART III.—APPOINTMENT OF OFFICERS.

10. Power to appoint Director, Secretary, wardens, and other officers.
11. Existing officers continued.
12. Officers not to hold interest in mines.

## PART IV.—PROSPECTORS' LICENCES AND MINERS' RIGHTS.

13. Issue of prospectors' licences and miners' rights.
14. Special provision for coal and oil.
15. Effect of prospector's licence.
16. Effect of miner's rights.
17. Consolidated miner's right.
18. Duplicates may be issued in certain cases.
19. Licences and rights to be produced on demand.
20. Claims to be deemed abandoned in certain cases.
21. Claims not to be held under both licences and rights.
22. Fees for licences and rights.
23. Holders of licences and rights may take up successive claims.
24. Exemptions in respect of claims.

## PART V.—LEASES.

25. Power to Minister to grant leases of unoccupied lands.
26. Leases of other lands.
27. Power to grant consolidated leases in certain cases.
28. Power to grant special leases in certain cases.
29. Rents payable in respect of leases.
30. Special provision in case of oil leases.
31. Effect of lease.
  - General.
  - Mineral leases.
  - Coal, oil, and stone leases.
32. Applications for leases.
33. Transfer of application.
34. Effect of application while pending.
  - Pendency.
  - Lapse.
  - Trespass.
  - Substantial compliance with regulations sufficient.
35. Effect of application on claims.
36. Priority of applicants.
37. Record of applications.
38. Power to Secretary to refuse applications in certain cases.
39. Objections to applications.
40. Power to allow amendment of application.
41. Priority of successful objector.
42. Granting of leases discretionary.
43. Permit to mine land under application.
44. Obligations of applicants pending issue of leases.
45. Form and execution of lease.
46. Covenants and conditions of leases.
47. Date and commencement of lease and payment of rent.
  - Commencement.
  - Renewed leases.
  - Consolidated leases.
  - Surrendered leases.
  - Where permit granted.
  - Rent.
48. Amalgamation of leases.

49. Transfer of leases.
50. Surrender of leases.
51. Lessee entitled in certain cases to renewal of lease.
52. Protection of land.
53. Power to grant exemptions.
54. Effect of exemption.
55. Forfeiture for non-payment of rent or royalty.
56. Forfeiture on other grounds.
57. Hearing of applications.
58. Forfeiture for non-payment of fine.
59. Notification of forfeiture.
60. Disposal of forfeited land.
61. Conditions of application.
62. Cesser of interest on termination of lease.
63. Disposal of lessee's property.

#### PART VI.—LICENCES FOR WATER-RIGHTS AND MINING EASEMENTS.

64. Power to grant licences.
65. Licences in respect of private property.
66. Licences generally.
  - Term.
  - Rent.
  - Quantity or area.
  - Conditions.
  - User.
  - Liability to forfeiture in certain cases.
  - Forfeiture.
67. Application of provisions relating to leases.
68. Water licences.
69. Easement licences.

#### PART VII.—MINING ON LANDS OTHER THAN CROWN LAND AND ON RESERVES, &c.

70. Permit to enter and prospect, &c., on private land.
71. Entry, search, and possession.
72. Payment for damage.
73. Conditions precedent to granting of leases.
74. Determination of compensation.
75. Special conditions as to the granting of leases.
76. Licences in respect of private land.
77. Owner entitled to royalty in certain cases.
78. Conditions precedent to granting of leases.
79. Conditions affecting licences.

#### PART VIII.—TRIBUTE AGREEMENTS.

80. Conditions relating to tributes.
81. Disputes as to tributes.
82. Cancellation of tribute.

#### PART IX.—GENERAL PROVISIONS RELATING TO MINING.

83. Mining in river beds.
84. Mining on boundaries.
85. Encroachment.
86. Timber rights.
87. Water rights.
88. Drainage of mines.
89. Tailings, &c.
90. Sludge channels and tailings areas.
91. Power to Governor to revoke leases, licences, &c.

#### PART X.—ENCOURAGEMENT OF MINING.

92. Reward leases.
93. Grants for valuable discoveries.

#### PART XI.—COURTS OF MINES.

94. Constitution of Court.
95. Sittings of Courts.
96. Jurisdiction of Courts.
97. Powers of Court.
98. Summary determination by warden by consent.
99. Procedure in Warden's Court.
100. Mode of trial.
101. Costs.
102. Contempt of court.
103. Enforcement of orders.
  - Execution.
  - Summons.
  - Fine for disobedience to an order.
  - Damages.
  - Warrants.
104. Recovery of possession.
105. Informality and amendment.
106. Rehearing.
107. Reservation of questions of law.
108. Removal of proceedings to Supreme Court.
109. Removal of proceedings commenced in wrong court.

#### PART XII.—APPEALS.

110. Right of appeal.
  - Mode of appealing.
  - Service.
  - Security.
  - Application thereof.
  - Stay of proceedings.
  - Lapse.
111. Procedure on appeal.
112. Powers of appeal court.
113. Withdrawal or abandonment of appeal.
114. Limitation of right of appeal.
115. Limitation of costs on appeal.

#### PART XIII.—CAVEATS.

116. Lodging of caveats.
117. Duration and effect of caveats.

PART XIV.—OFFENCES: PEN-  
ALTIES: PROCEDURE.

- 118. Falsifying returns.
- Unlawful mining.
- Unlawful removal of minerals, &c.
- Obstructing officers.
- Wrongful re-entry.
- Unlawful resistance.
- Destroying marks.
- Obstruction by tailings, &c.
- Returns.
- Production of books &c.
- Unlawful prospecting.
- Production of licence, &c.
- 119. Removal of persons unlawfully min-  
ing, &c.

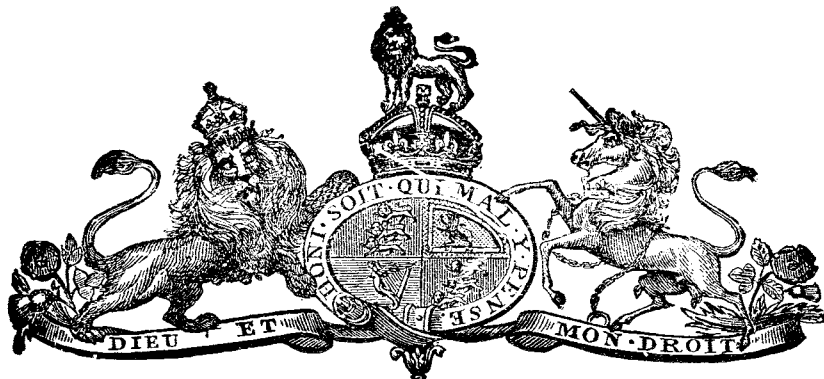
- 120. Seizure of mining products unlaw-  
fully taken
- 121. Proceedings.

## PART XV.—MISCELLANEOUS.

- 122. Mixed leases.
- 123. Sales by auction.
- 124. Interests in mining property.
- 125. Agreements as to mining.
- 126. Lease conclusive in absence of  
fraud.
- 127. Lost documents may be replaced.
- 128. Saving of civil remedies.
- 129. Payment and application of moneys.
- 130. Service of notices, &c.
- 131. Affidavits.
- 132. Regulations.



## TASMANIA.



1929.

ANNO VICESIMO  
 GEORGII V. REGIS.

No. 71.

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AN ACT to consolidate and amend the Law <sup>A.D.</sup> 1929.  
 relating to Mines and Mining.  
 [18 *January*, 1930.]

**B**E 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:—

## PART I.

## PRELIMINARY.

- 1 This Act may be cited as “The Mining Act, 1929.” Short title.
- 2 In this Act, unless the contrary intention appears— Interpretation.
- “Claim” means the land of which a person has lawfully taken possession and is entitled to occupy for mining purposes under this Act otherwise than under a mining lease or application therefor:
- “Clerk” means the clerk of the court for the district in which the subject-matter in relation to which the term is used, arose, or is situate:
- “Coal” includes shale:
- “Crown land” means all land of the Crown in this State:
- “Dam” means any accumulation or storage of water for mining purposes, whether natural or artificial:

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*Mining.*

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A.D. 1929.

- “ Director ” means the Director of Mines appointed under this Act :
- “ District ” means a mining district constituted under this Act :
- “ Earth ” means any rock, stone, or soil :
- “ Gold ” includes any earth containing gold or having gold mixed in its substance, or which has been set apart for the purpose of extracting gold therefrom :
- “ Inspector ” means an Inspector of Mines appointed in accordance with this Act :
- “ Lease ” means any lease granted under this Act or to which the provisions of this Act are made applicable :
- “ Lessee ” means the holder, for the time being, of any lease, and includes any person upon whose application the Governor has consented to the granting of a lease :
- “ Mine,” used as a substantive, means any place, pit, shaft, drive, level, excavation, drift, gutter, lead, vein, lode, or reef wherein or whereby any operation is carried on for the purpose of winning from the earth any valuable substances, and, used as a verb, means to disturb, remove, carry, wash, sift, smelt, refine, crush, or otherwise deal with any earth for mining purposes :
- “ Mineral ” means any metal and the ore of any metal, but does not include coal, stone, oil, or precious stones :
- “ Mining product ” means any mineral, coal, oil, quartz, ore, earth, or matter won from the earth by mining :
- “ Mining purposes ” and “ mining operations ” mean all works and operations carried out or undertaken with the view or for the purpose of winning or obtaining any mining product in or from any mine, and the handling and treatment of any such mining product, and of any earth for any such purpose, and all operations and proceedings incidental thereto :
- “ Mining tenement ” means any mining section or area of land held under this Act, or in any respect of which an easement licence has been granted thereunder, or any right to take water under licence granted thereunder :
- “ Oil ” means any free mineral oil, but does not include oil contained in or extracted from shale :
- “ Part,” used in relation to a legislative enactment, means such one of the Parts into which this Act is divided as is indicated in the context :
- “ Registrar ” means the registrar for the district in which the subject-matter in relation to which the term is used, arose, or is :
- “ Schedule ” means schedule to this Act :
- “ Secretary ” means the Secretary for Mines, appointed as provided by this Act ;

*Mining.*

- “Section” means such one of the sections into which this Act is divided as is indicated by the context: A.D. 1929.
- “Stone” means any clay, sand, gravel, serpentine, gabbro, quartz, diabase, basalt, sandstone, slate, limestone, dolomite, granite, gypsum, porphyry, freestone, or other building stone:
- “Tributer” means a person who agrees to work a mine, or portion of a mine, upon terms, providing that the owner thereof shall receive a portion or percentage of the proceeds won by him therefrom:
- “Unoccupied land” means any Crown land to which this Act applies, and which is not in the lawful possession or occupation of any person under this Act:
- “Warden” means the warden appointed in accordance with this Act to whom is allocated the district in which the subject-matter in relation to which the term is used, arose, or is situated.
- “Warden’s Court” means the Court of Mines constituted under this Act for the district in which the subject-matter in relation to which the term is used, arose, or is situated, and includes the Warden when acting in a judicial capacity, either alone or with assessors.

**3** The Acts set forth in the First Schedule are hereby repealed. Repeal.

**4**—(1) All leases, licences, rights, permits, and authorities in force at the commencement of this Act shall continue in force, and shall be subject to, and be deemed to have been granted under, the provisions of this Act. Continuation of existing leases, &c.

(2) All applications made and notices given under the provisions of any Act hereby repealed shall have effect as if made or given under this Act, and if in conformity with such repealed Act shall be deemed to be in conformity with this Act.

(3) The operation of this section shall not affect any special conditions contained in any special lease granted before the commencement of this Act.

**5**—(1) Except as otherwise provided therein, this Act shall apply to all Crown land. Application of Act.

(2) Subject to the provisions of Subsection (3) hereof, and except as provided by Section Six, this Act shall not apply to the surface, or within fifty feet below the surface, of any land comprised in any public reserve or of any land set apart or dedicated for any public purpose.

(3) In any case in which—

- i. Any of the lands mentioned in Subsection (2) hereof were subject, at the commencement of this Act, to the provisions of the Mining Act, 1917, or any of them: or

*Mining.*

A.D. 1929.

II. The Governor has declared, by proclamation, that any such land, or any portion thereof, shall be subject to all or any of the provisions of this Act and such proclamation remains in force—

such land or portion, as the case may be, shall be subject to the corresponding or proclaimed provisions of this Act, as the case may require.

Power to apply provisions to reserves, &c., or to exempt lands from Act.

**6**—(1) The Governor, from time to time, by proclamation, may declare—

I. That this Act, or any provisions thereof specified in such proclamation, shall apply to any specified public reserve or land set apart or dedicated for any public purpose, or any part thereof respectively : or

II. That any land specified in such proclamation shall be exempted from this Act or any specified provisions thereof.

(2) Any land so exempted shall cease, to the extent specified in such proclamation, to be subject to this Act, so long as such proclamation remains in force.

Application of Act to mining for gems and precious stones.

**7**—(1) The Governor, at any time and from time to time by proclamation, may declare that all or any of the provisions of this Act which are applicable thereto shall apply to mining for gems and precious stones.

(2) The Governor, by such proclamation or any other proclamation, may fix and determine the area in respect of which leases, licences, or other authorities may be granted for such purpose, and the terms and forms thereof and the conditions to be imposed and the rents and fees to be payable in respect thereof.

(3) The Governor, at any time and from time to time, may alter, vary, or revoke any such proclamation, but no existing rights, privileges, obligations, or liabilities acquired, accrued, or incurred thereunder while such proclamation was in force shall be taken away, impaired, or affected by such alteration, variation, or revocation.

## PART II.

## MINING DISTRICTS AND COURTS.

Constitution of mining districts.

**8**—(1) The State shall be divided into such number of mining districts as the Governor may determine from time to time by proclamation.

(2) Each such district shall be designated by an appropriate adjective indicating its situation, with the words "Mining District" added thereto.



*Mining.*

9--(1) There shall be a Court of Mines for each district, which shall be held before a Warden of Mines, with or without assessors, as hereinafter provided.

A.D. 1929.

Mining Courts.

(2) The several courts shall be styled "The Court of Mines for the.....," with the name of the appropriate district added in each case respectively.

(3) Every such court shall be a court of record.

(4) If at any time any alteration of the several mining districts, or any of them, shall necessitate the abolition of any court or the constitution of a new court, the Governor, by Order-in-Council, may direct that the records of any court affected by such alteration or any of them or any proceedings pending therein shall be transferred to such other court as he may think fit.

PART III.

APPOINTMENT OF OFFICERS.

10--(1) The Governor from time to time may appoint a Director of Mines, a Secretary for Mines, and such Wardens of Mines, registrars, bailiffs, clerks, inspectors, and other officers as he may think necessary for the purposes of this Act.

Power to appoint Director, Secretary, wardens, and other officers.

(2) All such appointments shall be made under and in accordance with the provisions of the Public Service Act, 1923.

13 Geo. V. No. 25.

(3) The person for the time being holding the office of Secretary shall be a warden by virtue of such office.

(4) In case of the illness, suspension, removal, or absence from any cause of a warden, or in any case of emergency, the Governor may appoint some fit and proper person as deputy for such warden, and such person, while acting as such deputy, shall have all the powers and authority of such warden, and shall be a justice of the peace for Tasmania by virtue of his office.

(5) If at any time a registrar, clerk, assistant clerk, bailiff or assistant bailiff is incapacitated, or unable by reason of absence, illness, or other sufficient cause, to perform the duties of his office the Secretary may appoint some fit person as deputy in the place of such officer, and such person, while acting as such deputy, shall have, exercise, and perform all the powers, functions, and duties of such officer.

11--(1) All officers appointed under the provisions of the Mining Act, 1917, shall continue to hold office, and shall be deemed to have been appointed under, and be subject to the provisions of, this Act.

Existing officers continued.

7 Geo. V. No. 62.

*Mining.*

A.D. 1929.  
6 Geo. V. No. 41.

(2) All inspectors appointed under the provisions of the Mines and Works Regulation Act, 1915, whether before or after the passing of this Act, shall be inspectors under this Act, and be subject to its provisions.

Officers not to hold interest in mines.

**12** No person directly or indirectly holding any interest in any mine in this State shall be appointed to, or continue to hold, any office under this Act.

## PART IV.

## PROSPECTORS' LICENCES AND MINERS' RIGHTS.

Issue of prospectors' licences and miners' rights.

**13**—(1) For the purposes of this Act documents of title, to be known as "Prospectors' Licences" and "Miners' Rights" respectively, may be issued as hereinafter provided to persons of or above the age of eighteen years.

(2) Such documents as aforesaid may be issued by a Warden or registrar, or by any person authorised in that behalf by the Minister as may be prescribed.

(3) Every such document shall —

- i. Be in the prescribed form :
- ii. Be signed by the officer issuing it :
- iii. Set forth the date and place of issue, and the full name and address of the person to whom it is issued :
- iv. Continue in force until the thirty-first day of December next after the date of its commencement, and no longer, except in the case of a coal and oil licence : and
- v. Except where otherwise specially provided, commence and take effect from the date of issue.

(4) Except where otherwise specially provided, no person shall hold more than one prospector's licence or more than one miner's right at any one time.

(5) It shall be lawful to issue, during the month of December, to the holder of any such document as aforesaid which is in force another such document of the same kind by way of renewal for the then ensuing year, and the same shall commence and take effect from the first day of such year.

Special provision for coal and oil.

**14**—(1) The Secretary, with the approval of the Minister, may issue to any person qualified as hereinbefore provided a prospector's licence, to be called a "coal and oil licence," authorising the holder thereof to prospect for coal and oil upon unoccupied land therein specified, not exceeding in area three thousand two hundred acres.

*Mining.*

(2) Application for a coal and oil licence shall be made in writing in the prescribed form to the Secretary, and shall be accompanied by a sum equal to twopence for every acre of the land in respect of which such application is made, together with the prescribed fee payable in respect of such licence.

A.D. 1929.

(3) Every such licence may be for such period not exceeding two years as the Minister may approve, and upon application by the holder before (or if the land comprised therein is still unoccupied, within thirty days after) the expiration thereof may be renewed for such further period not exceeding one year as the Minister may approve.

(4) Upon any such renewal the licensee shall pay a sum equal to one penny for every acre of the land comprised in his licence, together with the prescribed licence fee.

(5) The holder of every coal and oil licence shall commence prospecting operations for coal and oil, or either of them, upon the land therein comprised, within ninety days after the issue of such licence, and at all times during the continuance thereof shall continue such operations in accordance with the regulations.

(6) If at any time during the currency of a licence issued under this section the Minister has reason to believe that the holder thereof has not complied with the provisions of Subsection (5) hereof he may direct the warden to hold an inquiry thereon.

(7) The warden shall thereupon cause a notice to be served on such holder to show cause, at the time and place specified therein, why such licence should not be cancelled.

(8) Upon such inquiry, the warden, upon being satisfied that such holder has failed, without reasonable excuse, to comply with such provisions as aforesaid, may make a report to the Minister recommending the cancellation of such licence, and the Minister may cancel the same.

(9) The Minister, at any time during the currency of a coal and oil licence, by notice in writing to the holder thereof, may require such holder, within twenty-eight days after the receipt by him of such notice to select, and apply for a lease of, such portion of the land specified in such licence, not exceeding the area in respect of which a lease may be granted, as such holder may think fit, and if within the time aforesaid, or such further time as the Minister may allow, such holder fails to comply with such notice, the Minister may cancel such licence.

(10) The holder of a coal and oil licence, upon applying for a lease of any of the land therein specified, shall lodge such licence with his application, and upon such application being granted such licence shall be cancelled.

**15—**(1) Every prospector's licence, other than a coal and oil licence, while in force, shall authorise and empower the holder thereof, in accordance with the regulations, to take up and hold a

Effect of prospector's licence,

*Mining.*

A.D. 1929.

prospecting claim of such area and subject to such conditions as may be prescribed, and to prospect and search therein for all mining products.

(2) Any such prospecting claim may be taken up on any unoccupied land or on any reserve which is subject to the relevant provisions of this Act.

(3) Upon the recommendation of the warden and upon being satisfied as to the ability of the applicant to prospect the same effectively, the Minister may grant to such applicant a prospector's licence in respect of such area of land in addition to the area prescribed in ordinary cases as the Minister may think fit.

(4) Every such licence may be granted for such limited term and subject to such special conditions as the Minister shall determine, and shall be subject to forfeiture, as may be prescribed, if default is made in compliance with any such condition.

(5) A coal and oil licence, while in force, shall authorise and empower the holder thereof to hold the land therein specified, and to prospect and search therein for coal and oil, but subject to the right of any person under the prescribed conditions to mine such land for gold or minerals.

(6) Every prospector's licence, while in force, shall authorise and empower the holder thereof, and his agents, servants and workmen on his behalf to dig, bore, sink, and mine so far as may be necessary for prospecting purposes in and upon the land held by him under such licence and to take and remove therefrom, for testing purposes only, such quantity, as may be prescribed, of any mining product for which such licence authorises him to search.

Effect of miner's  
right.

**16** Subject to the provisions of this Act, every miner's right, while in force, shall authorise and empower the holder thereof—

- I. To enter upon, mark off, and take possession of a claim of the prescribed area on any unoccupied land :
- II. To mine and work such claim, and take and remove minerals therefrom, and dispose of the same as his own property :
- III. To cut, construct, and use races, dams, drains, wells, reservoirs, roads, tramways, and other works which may be required for mining purposes through and upon such claim :
- IV. To take or divert water from any spring, lake, pool, or stream within the boundaries of his claim which His Majesty can lawfully take and divert, and to use such water for mining purposes or domestic purposes in relation to his claim, subject to any conditions which may be prescribed :

*Mining.*

- v. To put up and to remove any building or structure on or from his miner's right claim : A.D. 1929.
- vi. For his personal use in connection with mining, and for the purpose of building for himself a place of residence or business—
- (a) To cut and remove timber, subject to the provisions of any Act relating to Crown lands and the regulations thereunder in force for the time being for the preservation of timber; and
- (b) To remove any rock, clay, or gravel, from his miner's right claim or from any unoccupied land; and
- viii. To cut and remove firewood for his domestic use from his miner's right claim or from any unoccupied land—
- in such manner and subject to such conditions as may be prescribed.

**17**—(1) A consolidated miner's right may be issued to any number of persons not exceeding ten, and shall, while in force, confer upon the holders thereof the same rights and powers as are conferred by a miner's right held by one person. Consolidated miner's right

(2) The holders of any such consolidated miner's right shall be entitled to take up, mine, and work a claim equal in area to as many single claims as there are persons in the party to whom the same is issued.

(3) If any of such persons as aforesaid is the holder of a miner's right he shall surrender the same before such consolidated miner's right is issued.

(4) The fee payable in respect of a consolidated miner's right shall be an amount equal to the sum of the fees that would be payable in respect of as many individual miner's rights as there are persons in the party.

(5) A consolidated miner's right may be surrendered and other miner's rights consolidated or otherwise issued in lieu thereof in such cases and on such conditions as may be prescribed.

**18**—(1) If any prospector's licence or miner's right is lost or accidentally destroyed, the warden, registrar, or other authorised person, upon being satisfied of such loss or destruction, may issue to the holder or holders thereof a duplicate of the document so lost or destroyed. Duplicates may be issued in certain cases.

(2) The fee payable for any such duplicate shall be One Shilling.

**19** The holder of a prospector's licence or miner's right, if and when required by a warden, bailiff, or inspector so to do, shall produce such document upon demand, or within such time as in the circumstances may be reasonable. Licences and rights to be produced on demand.

*Mining.*

A.D. 1929.

Claims to be  
deemed aban-  
doned in certain  
cases.

**20**—(1) Except as hereinafter provided any claim held under a prospector's licence or miner's right shall be deemed to have been abandoned upon the holder ceasing to hold such licence or right, as the case may be.

(2) Any person who, on the thirty-first day of December in any year, lawfully holds any claim under prospector's licence or miner's right, and who continues in possession thereof, or is exempted for the time being under this Act from occupation thereof, may at any time up to and including the eighth day of January next after the day aforesaid obtain a new prospector's licence or miner's right, as the case may be, and the same may be issued accordingly.

(3) Every such document so issued shall commence and take effect as from the first day of such month of January, and the provisions of Subsection (1) hereof shall not apply to such claim before the expiration of the period mentioned in Subsection (2) hereof.

(4) Any claim which is apparently unoccupied and upon which there is no plant or machinery, and which has been unworked for a longer period than is prescribed in that behalf, shall be deemed to be abandoned ground, and may without any adjudication of forfeiture be taken up or applied for as if it were unoccupied land, but subject nevertheless to any subsisting rights of any previous occupant of such ground.

Claims not to be  
held under both  
licences and  
rights.

**21**—(1) No person shall hold any claim under a prospector's licence and under a miner's right at the same time.

(2) If the holder of a prospector's licence, either alone or in conjunction with, or on behalf of, any other person, marks off the land comprised in his prospecting claim or any part thereof, and applies for a lease thereof, or if application for a lease thereof is made by any other person with the consent of such holder, the title to such land under such licence shall cease and terminate.

(3) If any such application as aforesaid is in respect of a portion only of such land, or if the holder of the licence marks off and takes possession of a portion of such land as a miner's right claim, the remainder of such land shall be deemed to be abandoned, but such holder may mark off such remainder or any part thereof as a new claim under his licence.

Fees for licences  
and rights.

**22** The fee payable upon the issue of a prospector's licence shall be Ten Shillings, and the fee payable upon the issue of every miner's right shall be Five Shillings for every person to whom the same is issued, unless in either case the same is issued after the thirtieth day of June when such fees shall be one-half of the amounts abovementioned respectively.

Holders of  
licences and  
rights may take  
up successive  
claims.

**23** The holder of a prospector's licence (not being a coal and oil licence) or miner's right may at any time in manner pre-

*Mining.*

scribed abandon any claim taken up by him thereunder, and may thereupon take up another claim as prescribed under the same licence or right.

A.D. 1929.

**24** The warden may grant to the holder of any claim exemption from conditions prescribed as to labour, occupation, or otherwise, for such periods and subject to such conditions as may be prescribed.

Exemptions in respect of claims.

PART V.

LEASES.

Division I.—*Granting of Leases: Rents Payable Therefor: Effect Thereof.*

**25**—(1) The Minister, with the consent of the Governor, may grant under this Act to any persons, not being individuals under the age of eighteen years, leases of any unoccupied land.

Power to Minister to grant leases of unoccupied lands.

(2) Such leases may be of the several kinds specified in the first column of the table set forth hereunder, and may comprise in each case respectively an area not exceeding the area specified in the second column of such table in respect of the kind of lease to be granted, namely—

First Column.	Second Column.	Third Column.
I. Mineral leases	Eighty acres	Five Shillings
II. Coal leases	Six hundred and forty acres	Two Shillings and Sixpence.
III. Oil leases	Six hundred and forty acres	One Shilling
IV. Stone leases	Three hundred and twenty acres.	Two Shillings and Sixpence

(3) Such leases shall be granted only upon application duly made as provided by this Act.

(4) Every such lease may be granted for any term not exceeding twenty-one years, and subject to the provisions of this Act may be renewed from time to time in manner hereinafter provided.

**26**—(1) Any of the abovementioned leases may be granted in manner aforesaid in respect of any—

Leases of other lands.

- I. Public reserve or land reserved or set apart for any public purpose :
- II. Private land :
- III. Land comprised in any residence area or business area :

*Mining.*

A.D. 1929.

iv. Land comprised in any coal lease, oil lease, or stone lease, if for the purpose of mining the same for some mining product other than that for which the lease already comprising such land was granted—

but the granting thereof shall be subject to the conditions and restrictions hereinafter imposed in respect thereof.

(2) Leases may be granted under this Act, subject to such conditions as may be prescribed, in respect of areas which comprise both unoccupied land and land of any one or more of the classes hereinbefore mentioned.

(3) No lease shall be granted under this Act in respect of the surface of any public reserve or of land set apart or dedicated for any public purpose unless the same is subject to the relevant provisions of this Act, as provided by Sections Five and Six.

(4) No rent or fees shall be payable by the owner of any land in respect of any mining product included in the original grant thereof from the Crown so long as such owner is the lessee thereof.

(5) Upon any transfer by such owner of a lease of such land to any other person rent shall be payable by the lessee as provided by this Act.

Power to grant consolidated leases in certain cases.

**27**—(1) In any case in which the Minister, after obtaining a report on the matter from an inspector, is satisfied that greater facilities for working—

- i. Adjoining sections of land in respect of which applications for leases have been made :
- ii. Adjoining leases the lessees whereof have applied to surrender the same in order that a consolidated lease may be granted in respect of the total area thereof : or
- iii. Any section applied for as aforesaid, and any lease adjoining such section the lessee whereof has applied to surrender the same in order that a consolidated lease of the total area of such section and lease may be granted—

will be secured by the issue of one lease in respect of all the areas affected by such applications, the Minister, with the consent of the Governor, may grant a consolidated lease in respect of the whole or any part of such areas.

(2) Consolidated leases may be granted for the like terms as other leases.

(3) In any case in which a consolidated lease has been surrendered or declared forfeited, a consolidated lease may be granted in manner aforesaid in respect of the whole or any part of the area comprised therein, to any person applying therefor.

Power to grant special leases in certain cases.

**28**—(1) In any case in which each House of Parliament, in the same session, has passed a resolution authorising the granting thereof to any person, the Minister, with the consent of the Governor, may grant to such person a special lease.



*Mining.*

A.D. 1929.

(2) Every such lease shall be of such kind and for such term, and shall comprise such area respectively, as may be specified in such resolution.

(3) Every such lease shall be subject to such special terms and conditions, if any, as may be set forth in such resolution, and shall be subject to the like terms and conditions as other leases of the like kind under this Act, except in so far as the same may be modified by such resolution.

(4) Any such resolution as aforesaid may impose a special rent in respect of the land comprised in such lease, and may require as a condition of such lease the payment by the lessee of a royalty at a specified rate, either in lieu of, or in addition to, the payment of rent.

**29**—(1) Subject to the provisions of this Act in respect of special leases, renewal leases, and reward leases respectively, there shall be payable in respect of every lease granted under this Act, according to its kind, an annual rent at the appropriate rate specified in the third column of the table set forth in Section Twenty-five for every acre comprised in such lease.

Rents payable in respect of leases.

(2) The rent in respect of every such lease shall be payable in advance, at the times and in manner hereinafter prescribed.

**30** In respect of every oil lease, in addition to the rent hereinbefore prescribed, the lessee shall pay, at the times and in manner prescribed, a royalty of Five Pounds for every One hundred Pounds of the gross value of all crude oil won from the land comprised in such lease, but no royalty shall be payable in respect of the first fifty thousand gallons of such oil.

Special provision in case of oil leases.

**31**—(1) Every mining lease while in force shall authorise and empower the holder thereof, and his agents, servants, and workmen on his behalf, upon and in respect of the land thereby demised—

Effect of lease. General.

- I. To work and mine the land thereby demised for such mining products as are therein specified, and to do all acts and things necessary for effectually carrying out such purpose :
- II. To cut, erect, and construct watercourses, drains, dams, reservoirs, roads, and tramways for mining purposes :
- III. To take and divert water from any spring, lake, pool, or stream within the boundaries of such land which His Majesty might lawfully take or divert, and to use the same for mining or domestic purposes in relation to such land, subject to any conditions which may be prescribed :
- IV. To erect plant, buildings, and machinery for mining purposes or for residential purposes, and to reside in such buildings :

*Mining.*

A.D. 1929.

v. To bore and sink for, pump, and raise water, and to use the same subject to the provisions of this Act for mining purposes :

vi. To take and remove all such mining products as aforesaid, and to dispose of the same as the property of such holder : and

vii. To hold, use, occupy, and enjoy the land thereby demised for the purposes aforesaid as against all other persons, except as by this Act is specially provided.

Mineral leases.

(2) A mineral lease shall authorise and empower the holder thereof to mine, take, remove, and dispose of any minerals, in and upon the land therein comprised, but not coal, stone, or oil.

Coal, oil, and stone leases.

(3) All coal leases, oil leases, and stone leases, shall be subject to the right of any person duly authorised as prescribed to mine the land therein comprised for minerals, subject to the prescribed conditions to safeguard the holder of such lease against loss, damage, or interference in his use and occupation of such land for the purposes of his lease.

Division II.—*Applications for Leases: Effect Thereof: Procedure Thereon.*

Applications for leases.

**32**—(1) Every person desiring to obtain a lease shall make application therefor to the Secretary, as hereinafter provided.

(2) Every such application shall be in the prescribed form, and shall contain the prescribed particulars.

(3) Every applicant shall—

I. Take possession of: and

II. In every case in which the regulations so require, mark out—

the land in respect of which his application is made, in such manner and at such time as may be prescribed: and

III. Lodge his application within the prescribed time.

(4) Any such application may be lodged with the Secretary, or with any registrar, and, if not lodged with the Secretary, shall be forwarded to him by such registrar forthwith.

(5) There shall be lodged with every such application—

I. A half-year's rent at the rate prescribed in respect of the kind of lease, and of the area, for which application is made:

II. The prescribed application fee: and

III. Where the regulations so require, the prescribed survey fee.

Transfer of application.

**33**—(1) An applicant may transfer his application at any time during the pendency thereof upon payment of the prescribed fee and subject to such conditions as may be prescribed.

*Mining.*

(2) From the time when any such transfer is recorded in the office of the Secretary, the transferee therein named shall take the place of, and be deemed to be, the applicant in respect of the subject-matter of such application. A.D. 1929.

**34**—(1) Save as otherwise specially provided in this Act, no person shall enter upon, occupy, or in any way interfere with any land in respect of which an application for a lease is pending. Effect of application while pending.

(2) The foregoing provisions of this section shall not apply to a person who is acting in exercise of an existing right originating prior to the application, or to a person who is acting under the authority of the Warden, which authority the Warden may grant in such cases as may be prescribed and on such conditions as he may think fit.

(3) The pendency of any such application shall be deemed to have commenced when possession of the land therein comprised has been duly taken as prescribed, and shall continue, so long as the applicant complies with the regulations, until the application is granted or refused, or has lapsed, or been withdrawn. Pendency.

(4) Every application shall lapse if not determined within a period of twelve months after the pendency thereof commenced, unless the Minister is satisfied that the failure to determine the same has not been caused by any default on the part of the applicant, or that there is good and sufficient reason for extending such period, in either of which cases he may extend such period for such time as he may think fit. Lapse.

(5) Any act or thing committed or done contrary to the provisions of Subsection (1) hereof shall constitute a trespass or encroachment as against the applicant, and all persons lawfully claiming through or under him, and any such person may take proceedings in respect thereof in the Warden's Court. Trespass.

(6) In any such proceedings as aforesaid, the plaintiff shall not be prejudiced by failure to comply with any regulation if the Court is satisfied that there has been substantial compliance with all material requirements of the regulations, and that the defendant has not been prejudiced or misled by such failure. Substantial compliance with regulations sufficient.

**35**—(1) Where an application for lease comprises or includes land held by the applicant as a claim under miner's right, the interest of the applicant in such claim shall not be affected unless such lease is granted. Effect of application on claims.

(2) If and when a lease is granted upon such application, the lessee's interest in such claim shall merge in such lease, and all licences and easements appurtenant to such claim shall become appurtenant to such lease.

(3) Where any such application is found to overlap or include any mining tenement lawfully held under miner's right or prospector's licence by any person other than the applicant,

*Mining.*

- A.D. 1929. — the application, subject to such conditions as may be prescribed, may be granted in respect of the land applied for, exclusive of the land comprised in such mining tenement.
- Priority of applicants. **36**—(1) Where two or more applications, wholly or in part, comprise the same land, and all the applicants have complied with the requirements of this Act, the applicant who first marked out the land shall have priority.  
(2) Where such applications as aforesaid are based upon simultaneous marking-out, the priority shall be determined as may be prescribed.
- Record of applications. **37** The Secretary and every registrar receiving any application shall record the same forthwith in a book to be kept for that purpose, and every such record shall state the date and time of the lodging of the application and such other particulars as may be prescribed.
- Power to Secretary to refuse applications in certain cases. **38** The Secretary may refuse any application if it appears that—  
i. The applicant has failed in any material particular to comply with any requirement of this Act: or  
ii. The application is in the name of an unregistered company.
- Objections to applications. **39**—(1) Any person claiming any right to, or interest in, the land comprised in any application for lease or any part thereof may object to the granting of such application.  
(2) Every such objection shall be made within such time, and in such form and manner, and subject to such conditions, as may be prescribed.  
(3) Every such objection shall be heard and determined by the Warden, unless the same, or the application in respect of which it is made, be sooner withdrawn or abandoned.
- Power to allow amendment of application. **40**—(1) If upon the hearing of any objection it appears that the same materially affects a portion only of the land comprised in the application in respect of which such objection is made the warden may uphold such objection as to such portion and may allow the applicant, if the applicant so desires, to amend his application by excluding therefrom the portion of the land so affected, if, in the opinion of the Warden, the circumstances justify his so doing.  
(2) Subject to such conditions as may be prescribed, every application so amended shall be deemed to have been lodged as so amended at the date at which the application was originally lodged.

*Mining.*

**41**—(1) Where an objection is lodged against the granting of an application for a lease, and upon the hearing thereof such objection is upheld, or prior to such hearing the application is withdrawn, the objector, upon complying with the prescribed conditions, shall have a prior right to the exclusion of all other persons to mark out the land thereby affected and apply for a lease thereof or of any part thereof.

A.D. 1929.

Priority of  
successful  
objector.

(2) Where such objection is upheld in respect of portion only of the land comprised in such application such right shall extend only to such portion as aforesaid, but in all other cases the same shall apply to the whole of such land.

(3) Such right shall cease and determine unless the same shall be exercised before the expiration of fourteen days after the objection is upheld or after the withdrawal of the application, as the case may be.

(4) The marking out of any such land by any person other than the objector or some person acting on his behalf shall be of no effect as against an objector duly exercising his right under this section.

**42**—(1) The granting of any lease under this Act shall be in the absolute discretion of the Governor, although the applicant may have complied with all the requirements of this Act in relation thereto.

Granting of  
leases discretion-  
ary.

(2) Failure to comply with the requirements of the regulations shall not necessarily debar an applicant from obtaining a lease if the Minister is satisfied that all material requirements have been fulfilled, and that no person has been prejudiced or misled by such failure.

**43**—(1) Where consideration of an application for a lease is, or is likely to be, delayed, the Secretary, on the request of the applicant, and upon being satisfied that all the requirements of this Act have been fulfilled by the applicant, may issue a permit authorising the applicant to work and mine the land comprised in such application for such period as may be prescribed pending the grant or refusal of a lease in respect thereof.

Permit to mine  
land under  
application.

(2) The applicant shall pay rent in respect of such land for the period during which such permit remains in force at the same rate as would be payable in respect of a lease granted upon such application, and such rent shall be payable at such times and in such manner as may be prescribed.

(3) The Secretary, by writing under his hand at any time, may revoke any permit issued under this section.

(4) Upon the grant or refusal of the application any permit granted in respect thereof under this section shall cease to have effect.

*Mining.*

A.D. 1929.

Obligations of applicants pending issue of leases.

**44**—(1) Every applicant to whom a permit is granted as provided by Section Forty-three, shall be subject in all respects, while such permit remains in force, to the same obligations as if a lease had been granted and issued to him upon his application.

(2) Every applicant to whom the Governor has consented to grant a lease shall be subject in all respects to all the obligations imposed by such lease from the commencement thereof, as provided by this Act, notwithstanding that the issue of such lease is delayed for any reason whatsoever.

Division III.—*Form and Execution of Leases: Contents, Date, and Commencement Thereof: Payment of Rent.*

Form and execution of lease.

**45**—(1) Every lease under this Act shall be by deed in such one of the prescribed forms as is appropriate to the kind of lease granted in each case.

(2) Every such deed shall be prepared in duplicate, and one such duplicate shall be executed by the Minister and issued to the lessee, and the other shall be executed by the lessee and filed in the office of the Secretary.

(3) One such duplicate as aforesaid shall be sent or delivered as prescribed to the lessee for execution.

(4) If the lessee fails to execute and return such duplicate to the Secretary as prescribed, the Minister may cancel the lease, and all interest of the lessee therein shall cease.

Covenants and conditions of leases.

**46**—(1) Every lease granted and issued under this Act shall contain and be subject to such of the covenants and conditions following as are appropriate to the kind of lease so granted, namely :—

- I. A covenant to pay the rent and royalty (if any) thereby reserved at the times and in manner prescribed :
- II. A covenant to use the land demised in good faith for the purposes only for which it is demised, and in accordance with the regulations :
- III. If the lease is an oil lease, a covenant to erect on the land demised, within twelve months from the commencement of the lease, a boring plant constructed for, and capable of boring to a depth of not less than one thousand feet :
- IV. A covenant (hereinafter in this Act referred to as the "expenditure covenant") to expend in relation to the land demised a sum of Two Pounds for every acre thereof in each period of twelve months comprised in the term granted by the lease (or, if the lease is an oil lease, in each such period after the first) in—
  - (a) Wages to persons employed thereon :
  - (b) The purchase, erection, and maintenance of mining machinery and other mining requisites :

*Mining.*

- (c) The erection, construction, and maintenance of works for mining: or
- (d) Otherwise in carrying on mining operations on the land demised or in connection therewith, whether preliminary or developmental:
- v. A proviso that, subject to the regulations, any work done by the lessee himself or by any tributor, in—
- (a) Carrying on mining operations:
- (b) The construction, erection, or maintenance of machinery or works for mining:
- (c) Preparations indispensable to the commencement of mining operations: or
- (d) Constructing, making, or maintaining any tramway or road as a means of access to the land demised—

A.D. 1929.

whether the same is done on or in connection with the land demised or on or in connection with any special site, race, dam, or easement held by the lessee for the purpose of facilitating mining operations on or in connection with the land demised shall be deemed an expenditure of money within the meaning of Paragraph iv. hereof to the extent of the value thereof:

- vi. A condition of forfeiture of the lease on any breach by the lessee of any of the foregoing covenants:
- vii. A proviso that, except as provided by this Act, the lessee shall not mine under any roads or reserves embraced in his lease at a less depth than fifty feet from the surface nor under any railway at a less depth than one hundred feet from the surface.

(2) A lease may contain such other covenants and conditions as the Minister may think fit, but shall not be forfeited for any breach thereof.

(3) Any of such covenants or conditions may be expressed in any such lease in such abbreviated form as may be prescribed, and shall have, when so expressed, the same force and effect in all respects as may be assigned by the regulations to such abbreviated form in each case respectively.

**47—**(1) Every lease granted and issued under this Act shall be dated as of the day on which it is executed by the Minister.

Date and commencement of lease and payment of rent.

(2) Upon the execution of a lease by the Minister the lessee and his assigns shall be subject to, and bound by, all the covenants and conditions therein contained or implied as from the commencement of the term of such lease, whether the same has been executed by the lessee or not.

(3) Except as hereinafter provided, the term granted by a lease shall commence from the first day of the month in which notification of the Governor's consent to the granting of such lease is sent to the applicant as prescribed.

Commencement,

*Mining.*

A.D. 1929.

Renewed leases.  
Consolidated  
leases.Surrendered  
leases.Where permit  
granted.

Rent.

(4) A lease granted as a renewal of a prior lease shall commence from the day following the date on which the prior lease expired

(5) A consolidated lease granted in lieu of leases surrendered for the purposes of consolidation shall commence from the first day of the month in which the application to surrender such leases is received by the Minister.

(6) A lease granted in lieu of a lease surrendered as provided by this Act for the purpose of obtaining a new lease shall commence from the date on which the Governor consents to the surrender of the prior lease.

(7) In any case in which the Secretary for Mines has granted to the applicant the permit mentioned in Section Forty-three, the lease granted to such applicant in respect of the same land shall commence from the first day of the month in which such permit was first granted.

(8) Rent shall be payable in advance by the lessee in every case from the date of the commencement of the term of the lease.

(9) The first payment of rent shall be calculated from the commencement of the term of such lease up to the first day of July then next ensuing, unless the lease commences in the month of June, in which case the same shall be calculated up to the first day of July in the following year.

(10) The subsequent payments of rent after the first shall be payable respectively on the first day of July in each year of the term granted by the lease, and shall severally be in respect of a full year, but in the case of a lease expiring on a day other than the thirtieth day of June, a proportionate part only of the year's rent, calculated up to the date of such expiry, shall be payable on the first day of July immediately preceding such expiry.

(11) Upon the Governor consenting to grant a lease the amount deposited as rent by the applicant therefor shall be applied in or towards payment of the rent, and if the amount so deposited exceeds the amount of the first payment calculated as aforesaid, the balance thereof shall be retained and credited in respect of the next succeeding payment.

(12) If the amount of such deposit as aforesaid is less than such first payment, the Secretary for Mines, or some other officer appointed by the Minister for that purpose, shall, upon such consent as aforesaid being given, demand from the applicant the balance of such payment, and, if the applicant fails to pay such balance within one month after the same shall have been demanded, his application may be cancelled by notice in the Gazette under the hand of the Minister.

(13) For the purposes of the computation of the rent payable in respect of a lease, if the area comprised therein is not an exact multiple of one acre, the fractional part of an acre shall be regarded as an acre.



*Mining.*Division IV.—*Amalgamation, Transfer, and Surrender of Leases.*

A.D. 1929.

**48**—(1) Where, in the case of contiguous areas of land held under the same kind of lease by the same lessee, the Minister is satisfied that the proper working of the land comprised therein will be facilitated by the concentration of such work on one or more of such areas to the exclusion of the others, the Minister may grant to such lessee a certificate of amalgamation of the leases in respect of such leases, provided that the areas thereby affected shall not exceed in the whole the area prescribed for a consolidated lease of the same kind.

Amalgamation  
of leases.

(2) Before granting any such certificate the Minister shall satisfy himself—

- I. That the lessee has complied with all the covenants and conditions of all such leases as aforesaid up to the time of his application for such certificate: or
- II. That there are special circumstances which, in the opinion of the Minister, justify him in dispensing with such compliance in respect of any of such covenants or conditions other than the covenant for payment of rent.

(3) Every such certificate shall be recorded in the office of the Secretary, and shall be issued by the Secretary to such lessee upon payment of the prescribed fee.

(4) Every such certificate shall remain in force for twelve months from the granting thereof unless sooner cancelled.

(5) The effect of any such certificate, while in force, shall be as follows:—

- I. The lessee shall be deemed to have complied with all the covenants and conditions of all such leases as aforesaid up to the date of such certificate, and no proceedings for the forfeiture of any such lease shall be taken in respect of any alleged noncompliance prior to that date:
- II. In lieu of expending upon or in relation to the land demised by each of such leases respectively the annual sum covenanted to be so expended the lessee may expend an amount equal to the aggregate of such sums upon or in relation to the land demised by any one or more of such leases, and the expenditure by him of such amount during the currency of the certificate shall be deemed to be a sufficient compliance in respect of one year with each and every of his said expenditure covenants.

(6) Successive certificates may be granted from time to time under this section upon the lessee satisfying the Minister that the amount mentioned in Subsection (5) hereof has been expended as therein provided.

*Mining.*

A.D. 1929.

(7) If in any case, by reason of the surrender or transfer of any of the leases affected by any such certificate, the contiguity of the remainder of such leases retained by such lessee as aforesaid is broken, such certificate shall cease to have effect, and shall be cancelled forthwith, but in all other cases of surrender or transfer such certificate shall cease to apply to the lease so surrendered or transferred only, and shall remain in force during its currency as to the remainder of such leases.

Transfer of leases.

**49**—(1) A lessee, upon payment of such fee and subject to such conditions as may be prescribed, may transfer his lease to any person capable of holding a lease under this Act.

(2) Every such transfer shall be in the prescribed form, and shall be executed, lodged, and recorded in the prescribed manner.

(3) The Minister may refuse to recognise any transfer if the lessee's duplicate of the lease thereby transferred is not lodged therewith for endorsement as prescribed.

(4) Upon the recording of any such transfer the transferee therein named shall take the place of, and shall be deemed to be, the lessee in respect of the lease so transferred, and shall be subject in all respects to the obligations imposed by such lease upon the lessee.

Surrender of leases.

**50**—(1) A lessee, with the consent of the Governor, and subject to the prescribed conditions, may surrender his lease at any time during the currency thereof.

(2) Every such surrender shall be by deed in such form as may be prescribed.

(3) Application for consent to the surrender of a lease may be conditional upon a new lease being granted in respect of the whole or any portion of the land demised by such lease.

(4) Upon receiving notification of the Governor's consent to such surrender, the applicant shall lodge with the Secretary the lease and surrender thereof, together with his application, if any, for such new lease as aforesaid.

(5) Consent shall not be given to the surrender of a lease unless all moneys payable thereunder up to the time of the application for such consent have been paid, and reasons for such application satisfactory to the Minister are submitted therewith.

Division V.—*Renewal of Leases.*

Lessee entitled in certain cases to renewal of lease.

**51**—(1) Upon the expiration of the term granted by any mining lease, whether granted under this or any former Act, and whether an original lease or renewal lease, the lessee shall be entitled, subject to the provisions of this Act, and to compliance with the prescribed conditions, to a renewal of such lease.

(2) Application for renewal shall be made not more than three months before nor one month after the expiration of the lease or

*Mining.*

within such further time, not exceeding thirty days, as the Minister, in his discretion in any special case, may allow. A.D. 1929.

(3) The applicant shall satisfy the Minister that all the covenants and conditions of the prior lease on the part of the lessee to be observed and performed have been observed and performed up to the expiry thereof, or that any failure therein has been waived or excused under the provisions of this Act.

(4) The rent and royalty, if any, payable in respect of any such renewal of a lease shall be at such rate not exceeding five times the rate of the rent, or twice the rate of royalty reserved in respect of the original lease respectively, as the Minister, with the consent of the Governor, may determine.

(5) If the prior lease was granted at a peppercorn rent the renewal thereof may be at the same rent or at such rate of rent not exceeding five times the rate ordinarily payable in respect of an original lease of the same kind as the Minister, with the consent of the Governor, may determine.

(6) Before determining the rent to be paid by a lessee in respect of any such renewal, the Minister shall obtain a report from the warden setting forth the amount of rent which, in the opinion of the warden, should be paid in respect thereof, and the Minister shall consider, but shall not be bound by, such report.

(7) The lessee shall forward to the Secretary upon the demand his first payment of rent as provided by Section Forty-seven.

**52** Until the expiration of the time within which an application for renewal of a lease may be made, the land comprised therein shall be protected as if such application were pending, whether or not any such application has been made. Protection of land.

Division VI.—*Exemptions.*

**53**—(1) The warden may grant to any lessee a certificate of exemption from his expenditure covenant as hereinafter provided. Power to grant exemptions.

(2) The granting of any such certificate shall be in the discretion of the warden, unless the application therefor is made under the provisions of Subsection (5) hereof; and every such exemption shall be subject in all cases to such conditions as may be prescribed.

(3) Every such certificate shall be in the form prescribed, and shall be granted on payment of the prescribed fee.

(4) Every such certificate shall state—

- I. The amount of money from the expenditure of which such lessee is thereby relieved :
- II. The period in respect of which the exemption thereby granted is to have effect :
- III. The amount, if any, which such lessee is required to expend under his expenditure covenant during such

*Mining.*

A.D. 1929.

period, after making allowance for the amount from the expenditure of which he is relieved: and

iv. The conditions, if any, upon which the same is granted.

(5) If the lessee applying for any such certificate satisfies the warden that—

i. Within the period of five years immediately preceding his application he has expended, in the manner required by his expenditure covenant, a sum in excess of the amount required by such covenant in respect of such period: and

ii. The application is made upon reasonable grounds— for every two years' expenditure under such covenant that is covered by such excess, the lessee shall be entitled to exemption to the extent of one year's expenditure thereunder, but the exemption to which a lessee shall be entitled under this subsection during the term of his lease shall not exceed in any case an aggregate of three years' expenditure under his covenant.

(6) Every certificate granted under this section shall be recorded in the office of the registrar and in the office of the Secretary forthwith.

Effect of exemption.

**54**—(1) Upon the granting of a certificate of exemption as hereinbefore provided, the lessee to whom the same is granted shall be relieved, in respect of the amount specified therein, from the expenditure required by his expenditure covenant under the lease in respect of which such certificate is granted.

(2) If exemption is granted to the extent of one-fourth of a year's expenditure under such covenant, any non-compliance with such covenant prior to the date of the certificate shall be deemed to be excused, and no proceedings for forfeiture of the lease shall be taken in respect thereof.

Division VIII.—*Forfeiture of Leases.*

Forfeiture for non-payment of rent or royalty.

**55**—(1) In any case in which a lease is liable to forfeiture for breach of the lessee's covenant to pay rent or royalty, the Governor, upon the application of the Minister, may declare such lease forfeited.

(2) The Minister shall cause a notification of every such declaration by the Governor to be published in the Gazette.

(3) The production of a copy of the Gazette containing any such notice as aforesaid shall be *primâ facie* evidence in all courts that a breach of such covenant has been committed by such lessee, and that such estate and interest have been lawfully determined.

(4) The Governor, for any cause which he may deem sufficient, may cancel any such forfeiture and reinstate the lessee as of his former estate by subsequent notice published as aforesaid.

(5) The Governor, upon such cancellation and reinstatement as aforesaid, may impose upon the lessee such conditions as he may think fit.

*Mining.*

**56**—(1) Where a lease is liable to forfeiture for breach of any covenant or condition thereof other than the covenant mentioned in Section Fifty-five, any person may apply to a warden for the forfeiture thereof as hereinafter provided. A.D. 1929.  
Forfeiture on other grounds.

(2) Every such application shall be made in the prescribed form, and shall be lodged in the office of the registrar, together with such fee as may be prescribed.

(3) With every such application as aforesaid, the applicant shall lodge an application for a lease of the land comprised in the lease for the forfeiture of which he applies, together with the prescribed fee therefor and a year's rent, at the rate payable under such lease, and shall deposit as security for the lessee's costs—

I. A sum of Ten Pounds, if there is on such land as aforesaid machinery to the value of not less than Two hundred Pounds: or

II. A sum of Five Pounds in any other case—

and if at, or before, the hearing of any such application with which such smaller sum has been deposited it appears to the warden that such larger sum should be deposited, the warden may require the applicant to deposit a further sum of Five Pounds as security for such costs.

**57**—(1) Every application for forfeiture shall be heard and determined by the Warden's Court. Hearing of applications.

(2) If the Warden's Court finds that the lessee has committed a breach of any of the covenants or conditions of his lease in respect of which the application for forfeiture is made, the Court may—

I. Declare the lease forfeited:

II. Impose upon the lessee a fine not exceeding Five hundred Pounds in lieu of forfeiture: or

III. Impose no penalty on the lessee: and

IV. If the lease is forfeited, make an order and recommendation as hereinafter provided for the disposal of the land comprised in such lease—

as the Court in its discretion may think just.

(3) No lease shall be declared forfeited for non-compliance by the lessee with the expenditure covenant if such lessee satisfies the warden that such non-compliance has been occasioned by a strike.

(4) If the applicant shall fail to proceed with his application, the warden may award to the lessee such sum for costs as he may think fit, and may direct in what manner the deposit lodged by the applicant shall be applied.

**58**—(1) Every fine imposed by the Warden's Court in lieu of forfeiture shall be paid by the lessee within such time as the Court may direct, and in the absence of any such direction shall be paid forthwith. Forfeiture for non-payment of fine.

*Mining.*

A.D. 1929.

(2) If the lessee shall fail to pay such fine as hereinbefore provided, the Court may declare forfeited the lease in relation to which such fine was imposed, but upon any such declaration such lessee shall cease to be liable to the payment of such fine.

Notification of forfeiture.

**59** The Secretary shall cause a notification of every declaration of forfeiture by the Warden's Court to be published in the Gazette as soon as conveniently may be after the same is made.

Disposal of forfeited land.

**60**—(1) In any case in which a lease is declared forfeited by the Warden's Court, the applicant for such forfeiture shall have a preferential right to a lease of the land comprised in the forfeited lease.

(2) Every such right shall be subject to—

i. Compliance by the applicant with the prescribed conditions :

ii. The Governor's discretionary power to refuse any application for lease : and

iii. The provisions hereinafter set forth.

(3) In any case in which it considers that the circumstances so require, the Warden's Court, on declaring a lease forfeited, may make an order that the preferential right conferred on the lessee by Subsection (1) hereof shall be postponed, and may recommend to the Minister that public tenders be called for the right to apply for a lease of such land, or that such right be sold by public auction.

(4) Upon receipt of any such recommendation the Minister may cause such right to be advertised for public tender or public auction, as he may think best.

(5) If within one month after such recommendation is made by the Warden's Court no such tender is accepted or sale effected, as the case may be, by the Minister, the Secretary shall cause a notification of the fact to be sent, by registered post, to such applicant as aforesaid, and thereupon such applicant may exercise the right conferred upon him by Subsection (1) hereof.

(6) If the Minister accepts any such tender or effects any such sale, the preferential right of such applicant as aforesaid shall be extinguished, and thereupon all moneys lodged by him as rent shall be refunded, and he shall be entitled to be repaid all fees paid by him in respect of his application for such lease, other than fees included in any costs awarded to him thereon.

(7) Every such preferential right as aforesaid shall be exercised by the applicant, in accordance with the provisions of this Act, within twenty-one days—

i. After the notification of the forfeiture is gazetted : or

ii. If an order has been made postponing his right, after notification is posted to him, as provided by Subsection

(5) hereof—

and if not so exercised, the same shall be extinguished.

*Mining.*

(8) The land comprised in any such forfeited lease shall not be available for occupation or selection for mining purposes otherwise than as provided by this section during any period in which such right as aforesaid is, or may become, exercisable by such applicant as aforesaid. A.D. 1929.

**61**—(1) Within the time prescribed by Subsection (7) of Section Sixty, the applicant shall take possession as may be prescribed of the land comprised in the forfeited lease, and shall notify the Secretary thereof forthwith. Conditions of application.

(2) Within the time aforesaid, or such further time not exceeding seven days as the Minister for special cause may allow, the applicant shall enter into and lodge with the Secretary a bond for an amount equal to a year's expenditure, in accordance with the expenditure covenant required to be included in the lease for which he applies.

(3) Every such bond shall be entered into with a surety or sureties approved by the Secretary, unless the Secretary otherwise directs, and shall be conditioned upon the applicant satisfying the Secretary as hereinafter provided that he has expended upon or in relation to the land comprised in the application the amount named in such bond within twelve months after the date of such bond.

(4) During such period of twelve months as aforesaid the applicant shall have the right to work and mine the land comprised in his application, in the same manner and subject to the same conditions and obligations as if the lease for which he has applied had been granted and issued.

(5) Not later than thirty days after the expiration of such period of twelve months, or within such further time, not exceeding thirty days, as the Secretary for special cause may allow, the applicant shall satisfy the Secretary that he has expended during such period upon or in relation to the land therein mentioned the sum named in such bond as aforesaid.

(6) Upon compliance by the applicant with the provisions of Subsection (5) hereof, and payment of the prescribed rent, the applicant shall be entitled to the lease of the land for which he has applied.

(7) If the applicant fails to comply with the provisions of Subsection (5) hereof, his bond shall be forfeited, and the Minister may direct the Secretary to take proceedings for the enforcement thereof.

(8) If the applicant fails to proceed with his application as provided by this section, all moneys lodged by him therewith shall be forfeited and paid into the Consolidated Revenue.

*Mining.*

A.D. 1929.

Division VIII.—*Termination of Leases and Matters  
Consequent Thereon.*Cesser of interest  
on termination  
of lease.

**62**—(1) Upon the expiration or other sooner determination, whether by surrender, forfeiture, or otherwise, of any mining lease, whenever granted, all the estate and interest therein, and in the land demised thereby, of the lessee and of all persons claiming under him, shall cease and determine absolutely.

(2) Forfeiture of a lease shall take effect from the publication of the notification thereof in the Gazette, as provided by this Act.

(3) The provisions of this section shall not be construed to derogate from any right which such lessee may have, or may acquire, as in this Act provided, to the grant of a new lease in lieu of such terminated lease, or to a renewal thereof, as the case may be.

Disposal of  
lessee's property.

**63**—(1) Where the interest of a lessee in any lease has been determined as aforesaid, and the lessee has left on the land demised by such lease any buildings, machinery, or mining products the property of such lessee, all or any of such property may be removed from such land by or on behalf of the lessee or any person lawfully claiming under him at any time within six months after the determination of such lease, unless the Minister shall otherwise direct, as hereinafter provided.

(2) The entry of such lessee or person within the time aforesaid, into and upon such land as aforesaid, to the extent to which the same is reasonably necessary to give effect to the provisions of this section shall be allowed by all persons having any claim or interest therein, subject to any restrictions that may be imposed by the Minister thereon.

(3) In any case in which the Minister is satisfied that the continuance of such right of removal for such period of six months would interfere unduly with the working or mining of such land by any person entitled thereto, the Minister may give notice to such lessee, in manner prescribed, to remove all or any of such property within such time, not being less than three months, as the Minister may think reasonable, and thereupon the same shall be removed accordingly, and in any such case no permit shall be granted under Subsection (4) hereof.

(4) If any of such property consists of quartz, tailings, or other mining products, the profitable disposal of which will be effected most advantageously by the treatment thereof on the spot, the Minister, on the application of the person entitled thereto, may grant a permit in the prescribed form authorising the occupation by the applicant of so much of the said land as the Minister may consider necessary for the purpose aforesaid upon such conditions as the Minister may impose.

(5) Every such permit shall be issued by the Secretary upon payment of the prescribed fee, and of such rent in respect of the land to be so occupied as the Minister, in each case, may consider reasonable.



*Mining.*

(6) Any such permit may be issued for such term, not exceeding two years, as the Minister, in each case, may determine, but in any case in which the Minister is satisfied that the circumstances so require the Minister may grant a renewal thereof for any period not exceeding one year upon such conditions as the Minister may impose. A.D. 1929.

(7) If the person entitled to any such property as aforesaid shall fail to remove the same within the time therefor limited by, or in pursuance of, the provisions of this section, the same shall become the absolute property of His Majesty immediately upon the expiration of such time.

(8) If the Minister is satisfied that any person to whom a permit has been issued under this section has failed to comply with the conditions imposed on him in respect thereof, the Minister may revoke such permit, and upon such revocation such permit shall cease to have effect.

(9) Upon the expiration or revocation of a permit, or (in case of a renewal) of the renewal thereof, all such property as aforesaid remaining on the land in respect of which the same was issued, shall vest in and belong to His Majesty absolutely.

(10) The provisions of this section shall not apply to any property which, within the time limited by or under this section, as the case may be, has been sold in good faith to any person entitled to occupy and mine the land upon which such property is left, or to a lessee to whom a new lease of such land has been granted.

## PART VI.

## LICENCES FOR WATER-RIGHTS AND MINING EASEMENTS.

**64**—(1) The Minister, with the consent of the Governor, may grant to the holders of leases or claims, other than prospecting claims, licences as hereinafter provided in respect of any waters which His Majesty may lawfully take or divert, or in respect of any unoccupied land, as the case may require. Power to grant licences.

(2) Such licences may be of the several kinds following, namely:—

- I. Water licences :
- II. Easement licences.

(3) Every licence so granted shall be appurtenant to the land comprised in a lease or claim held by the person to whom it is granted, and the rights thereby conferred shall be exercisable only in relation to the land to which it is so appurtenant, either alone or in conjunction with other land held as prescribed under this Act.

**65** Subject to the express provisions of this Act, and to the restrictions and conditions thereby imposed, any of the licences aforesaid may be granted in manner aforesaid in respect of any other waters or land than those aforesaid. Licences in respect of private property.

*Mining.*

- A.D. 1929.
- 66**—(1) Every such licence as aforesaid may be granted for any term not exceeding twenty-one years.
- Licences generally. (2) The rent payable in respect of any such licence shall be at such annual rate as may be prescribed in respect of the kind of licence granted.
- Term. (3) The quantity of water and the area of land respectively in respect of which any such licence may be granted shall be such as may be prescribed either generally or as to particular cases or classes of cases respectively.
- Rent. (4) Every such licence shall contain such covenants and conditions as may be prescribed in respect of the kind of licence granted, and shall be liable to forfeiture for the breach of any such covenant or condition.
- Quantity or area. (5) The exercise of the rights and powers conferred by any such licence shall be subject to such conditions as may be prescribed in respect of the kind of licence granted.
- Conditions. (6) Every such licence shall be liable to forfeiture if and when the holder thereof ceases to hold the lease or claim to which the same is appurtenant, unless the same is made appurtenant in such manner and upon such conditions as may be prescribed, to some other land held by him.
- User. (7) Upon the forfeiture of the land to which any such licence is appurtenant such licence shall be forfeited, unless the Minister, in such manner and upon such conditions as may be prescribed, otherwise directs.
- Liability to forfeiture in certain cases.
- Forfeiture.
- 67** The provisions of Divisions II. to VIII. inclusive of Part V. relating to leases, so far as the same are capable of application thereto, and where not inconsistent with this Part, shall apply to all licences under this Part in the same manner and to the same extent as if such provisions, with any necessary variation in terms, were re-enacted in this Part in relation to licences.
- Application of provisions relating to leases.
- 68**—(1) A water licence, while in force, shall authorise and empower the holder thereof, and his servants and workmen on his behalf—
- Water licences.
- I. To take and divert water in the quantity, at the place, and from the source specified and defined in such licence respectively for use by and on behalf of such holder for mining purposes (or for the domestic purposes of any persons engaged therein) upon or in relation to land occupied by such holder under this Act :
  - II. To cut, construct, maintain, extend, improve, repair, and use all such races, drains, channels, and dams as may be required by him for such purpose as aforesaid in, through, over, along, and upon any land which such holder is authorised, as prescribed, to enter and occupy : and

*Mining.*

III. Subject to such conditions and the payment of fees as may be prescribed to alter or move the course or position of any such waterwork as aforesaid. A.D. 1929.

(2) A water licence may include an easement for any of the purposes aforesaid over land, therein specified, necessary for the conveyance of any water thereby authorised to be taken or diverted to the land to which such licence is appurtenant or for storage of any such water.

**69** An easement licence, while in force, shall confer upon the holder thereof and his servants and workmen on his behalf such of the powers hereunder mentioned in relation to the land specified therein, namely— Easement licences.

- I. To erect, construct, and maintain such buildings, workers' homes, erections, wires, poles, roads, and tramways:
- II. To sink, excavate, construct, and maintain such pits, channels, races, and dams:
- III. To deposit tailings, sludge, debris, and waste material: and
- IV. To place, erect, construct, and maintain machinery and plant, and to carry on works, operations, processes, and undertakings—

respectively, as may be specified in or indicated by the licence granted and as such holder may require for the more advantageous execution or performance of any work for mining purposes in relation to the land to which such easement is appurtenant.

## PART VII.

MINING ON LANDS OTHER THAN CROWN LAND  
AND ON RESERVES, &c.Division I.—*Private land.*

**70**—(1) Upon being satisfied that any person capable of holding a lease has reasonable ground for believing that any mineral, coal, or oil may be found upon private land, the warden may issue to such person a permit in the prescribed form authorising him to enter such land, or such part thereof, as may be specified in such permit, and prospect therein and thereon for any one or more of such mining products. Permit to enter and prospect, &c., on private land.

(2) Before issuing any such permit the warden shall require such person to deposit with him such sum of money or other security as the warden may think necessary as security for the payment by such person to the owner and occupier, or either of them, of compensation for any damage which may be done by such person to such land in the exercise of the powers conferred by such permit.

*Mining.*

A.D. 1929.

(3) There shall be paid, upon the issue of every such permit a fee of Five Shillings.

(4) The area or portion of any private land in respect of which any such permit is granted shall not include any such land as is specified in Subsection (1) of Section Seventy-five, except with the consent of the owner and occupier thereof.

(5) Any such permit may be renewed from time to time by the warden, but the aggregate period in respect of which any such permit and the renewals thereof may be granted shall not exceed six months.

(6) During the twelve months immediately after the passing of this Act, no permit shall be issued under this section in respect of any land which the owner thereof, or any person with the owner's consent, is lawfully occupying and using for mining purposes and which such owner or person still continues so to occupy and use.

(7) Unless within such period of twelve months such owner or person as aforesaid shall apply for and obtain a lease of such land, under and as provided by this Act, the protection provided by Subsection (6) hereof shall cease upon the expiration of such period.

Entry, search,  
and possession.

**71**—(1) Any person under the authority of such permit as aforesaid, or with the consent of the owner and occupier of the land to be affected, may—

- I. Enter upon such land and prospect therein and thereon during such period and for such mining product as may be specified in such permit, or agreed upon between such parties, as the case may be :
- II. Mark off, and take possession of, the whole or any portion of such land in manner prescribed : and
- III. Apply, as prescribed, for a lease in respect thereof.

(2) The powers conferred by such permit upon the holder thereof shall not be exercised unless or until he has given to the owner and occupier of the land thereby affected such notice as may be prescribed.

(3) The exercise by any person of the powers conferred by this section shall not constitute a trespass unless such person in the exercise of such powers shall cause any wanton or unnecessary and unreasonable damage to such land, or to any property of the owner or occupier thereof.

(4) The powers conferred by this section may be exercised, subject to the prescribed conditions, by the occupier of any such land as aforesaid, or by the owner thereof, with the consent of the occupier, if any, without further or other authority than this subsection, but any occupier so exercising the same shall be subject to the same liability for damage as if this subsection had not been passed.

*Mining.*

(5) If any such person as aforesaid desires to apply only for a lease authorising him to mine beneath, and not upon, the surface of any such land it shall not be necessary for him to mark out the land for which he applies. A.D. 1929.

(6) An applicant whose application does not comprise any part of the surface of such land shall give notice of his application in the prescribed form and manner, specifying the position of the land affected, and the pendency of any such application shall date from the giving of such notice.

**72**—(1) If any person suffers damage by reason of anything done in pursuance of the provisions of Section Seventy-one, he may make a claim to the warden for payment of compensation in respect thereof. Payment for damage.

(2) If the damage is admitted by the person causing the same, the warden, upon the application of both parties concerned, or of either party, with the consent of the other, may fix the amount to be paid as compensation by an order in writing under his hand, and without proceedings or formality, and the amount so ordered to be paid shall be a debt due to the person to whom it is so payable, and payment thereof shall be enforceable in the Warden's Court.

(3) In all cases to which the provisions of Subsection (2) hereof do not apply, or whenever the warden so directs, the amount to be paid as compensation for any such damage shall be determined upon a plaint filed in the Warden's Court by any party concerned.

(4) Where compensation is determined by the Warden or the Warden's Court, the warden may apply any money or other security deposited with him, as provided by Section Seventy, or any part thereof, in or towards payment of such compensation.

(5) Every claim for compensation under the provisions of this section shall be made within three months after—

- I. The acts or operations causing the damage cease :
- II. The permit under the authority of which the damage was caused, or the last renewal thereof, expired : or
- III. The person causing the damage ceases to occupy the land affected—

whichever is the latest.

(6) If within the time aforesaid no such claim is made, or after payment thereof of any compensation determined as aforesaid, the warden may hand over to the person entitled thereto the money or security held by him in respect thereof or the balance, if any, remaining in his hands, as the case may be.

**73**—(1) Every applicant for a lease or licence in respect of private land shall make or secure to— Conditions precedent to granting of leases.

- I. The owner, unless the applicant is the owner : and
  - II. The occupier, unless the applicant is the occupier—
- payment of compensation as hereinafter provided.

*Mining.*

A.D. 1929.

(2) Such compensation shall be paid in cash to the person entitled thereto, unless such person, by writing under his hand, otherwise agrees, or unless a warden otherwise orders.

(3) No lease or licence in respect of any such land shall be granted until the applicant has satisfied the Minister that he has complied with the provisions of this section and with such special conditions, if any, as may be prescribed in respect of such leases or licences, or any particular class or kind thereof.

(4) No lease in respect of any such land shall be granted where the application does not comprise any part of the surface thereof, unless the applicant is the holder of other land so situated and held under such circumstances as to enable the applicant efficiently and properly to mine and work the land comprised in such application, or in relation to which such application is made.

Determination of  
compensation.

**74**—(1) Such compensation as aforesaid shall be in respect of the estimated damage which may be caused to the land comprised in the lease or licence to be granted through the exercise of the powers and authorities conferred by such lease or licence, or of any other powers and authorities granted or exercised in relation to such lease or licence under the provisions of this Act.

(2) The amount of such compensation may be determined by agreement, in writing, between the applicant and the person or persons entitled thereto, or, in the absence of such agreement in the case of any of such persons, by the warden or the Warden's Court, as hereinafter provided.

(3) Upon the request, or with the consent, of all the parties concerned, the warden may determine such amount without proceedings or formality, and every such determination shall be binding and conclusive.

(4) In all other cases such amount shall be determined upon the application of any party concerned by plaint in the Warden's Court as hereinafter provided.

(5) The compensation payable as aforesaid shall be in respect of all or any of the matters following, namely:—

- I. The loss of the use, occupation, and possession of such part of the surface of the land as is occupied, or to be occupied, under the authority of this Act:
- II. The actual and prospective damage to such surface, or to any buildings or other property of the owner thereof through or by reason of mining operations upon or in relation to such land:
- III. The severance of any part of the land of the owner from any other part thereof under the authority of this Act:
- IV. The loss or damage arising from the use of any right-of-way or easement granted or used over any such land in relation to the land comprised in the lease or licence: and

*Mining.*

v. All other damage consequent upon, or directly flowing from, any of the matters aforesaid—  
but shall not include any allowance in respect of any minerals in or upon any such land. A.D. 1929.

(6) In determining the amount of any such compensation, any amount previously paid to the owner or occupier of the land, or their respective predecessors in title, in respect of any of the matters aforesaid, shall be taken into consideration, and, to the extent to which the warden or Warden's Court, as the case may be, thinks just, may be set off against the compensation that would be payable if no such prior payment had been made.

**75** —(1) No lease of any private land shall include or apply to any part of the surface thereof which—

- i. Is used as a garden or orchard :
- ii. Is in use as a cultivated field or is under crop at the time application is made for such lease : or
- iii. Has upon it any dwelling or other substantial building, or any natural or artificial lake, or any dam, reservoir, or artificial pond, or is within one hundred yards on the surface from any of the things herein enumerated—

Special conditions as to the granting of leases.

without the consent of the owner and occupier thereof.

(2) Any such lease may be granted in respect of the land mentioned in Subsection (1) hereof from and below such depth, not being less than fifty feet below the surface of the lowest portion of such land, as the Minister in each case may determine.

(3) The question whether any land is within the exemption provided by Subsection (1) hereof shall be determined by the Minister, after such inquiry, as he may deem sufficient, and his decision shall be final.

**76** —(1) Water licences and easement licences may be granted as hereinbefore provided in respect of private land, subject to such conditions and restrictions as may be prescribed either generally or in relation to any class of cases, or any particular kind of licence.

Licences in respect of private land.

(2) A licence in respect of private land shall not include any such portion of such land as is specified in Subsection (1) of Section Seventy-five, except with the consent, in writing, of the owner and occupier thereof, or unless the Warden's Court, on application as prescribed, is satisfied that the purpose for which such licence is required cannot reasonably be effected without including such portion as aforesaid.

(3) Where an application for lease comprises a portion of the surface of any private land, and access thereto is required over some other portion of such land, the applicant shall lodge with his application for lease an application for an easement licence for a right-of-way over such other portion.

*Mining.*

A.D. 1929.

Owner entitled  
to royalty in  
certain cases.

(4) In default of agreement by the parties concerned as to the area, course, or direction of any easement over private land, the warden, with their consent, may determine the same summarily; and in any other case the same shall be determined by the Warden's Court.

**77**—(1) Where a lease is granted under this Act in respect of land granted by the Crown prior to the fourteenth day of November, one thousand eight hundred and ninety-three, entitling the holder to any mining product other than gold or silver, the owner of such land shall be entitled, subject to the deduction hereinafter provided, to be paid a royalty at such rate as may be agreed between the lessee and the owner or as may be determined as hereinafter provided in respect of any mining product, excepting gold and silver, won from such land by the lessee or any person acting for him or under his authority.

(2) If any dispute shall arise as to the rate of royalty payable in respect of any such mining product as aforesaid, the same shall be determined by the warden, and shall be at such rate not being less than Three Pence for every ton of coal or shale or for every gallon of oil, and Two Pounds for every One hundred Pounds in value of any other mining product, and not exceeding twice those amounts respectively as the warden may think just.

(3) The rate of royalty mentioned in Subsection (2) of this section may, at the end of the period of seven years from the fixing thereof and at the end of every subsequent period of seven years, be revised by the warden, upon the application of either the lessee or the owner, but in no case shall the rate be fixed at less or more than the appropriate maximum and minimum rates specified in that subsection.

(4) Where a lease is granted as aforesaid in respect of land, the holder of which has the right, under the original grant thereof, to all minerals, inclusive of gold and silver, the owner of such land shall be entitled, subject as aforesaid, to be paid a royalty in respect of gold and silver at the rate to which he is entitled in respect of other minerals as hereinbefore provided.

(5) Such royalty shall be paid by the lessee to the Secretary, and, except as regards coal, shale, or oil, shall be based on the market value at the time of sale of the mining product in respect of which it is payable, such value to be the value, at the mine, of the mining product as prepared for market.

(6) The Secretary shall deduct from all such royalty received by him one-twentieth part of the sum so received, and shall pay the balance thereof to the owner of the land in relation to which the same was paid.

(7) In the case of land alienated by the Crown between the fourteenth day of November, one thousand eight hundred and ninety-three and the first day of January, one thousand nine hun-



*Mining.*

dred and twelve, the like royalty as is prescribed by Subsection (1) hereof shall be payable in respect of all mining products other than gold or silver won or obtained upon or within a depth of fifty feet from the surface of such land. A.D. 1929.

Division II.—*Roads, Railways, and Public Reserves.*

**78**—(1) No lease shall be granted in respect of any land included in any public reserve or over which any public road or railway runs unless the consent of the person or public body controlling the same to the granting of such lease is lodged with the Secretary before the application for such lease is considered. Conditions precedent to granting of leases.

(2) Except as hereinafter provided no lease in respect of any such land as aforesaid shall authorise the holder thereof to mine upon the surface of such land or at a depth of less than fifty feet below such surface, or such greater depth as may be prescribed in respect of the like cases.

(3) The person or body having the control and management of any street or road may consent, in writing, to the granting of a lease in respect of any portion of the land comprised in such street or road, or of a lease authorising the holder to mine at a depth below the surface thereof which is less than is prescribed in respect of the like cases.

(4) Before giving any such consent, such person or body shall decide whether the land thereby affected can be mined without injury to such road or street, and thereupon may grant such consent upon such terms and conditions as such person or body may think necessary, or may refuse the same, as the case may require.

**79**—(1) No easement or other licence shall be granted in respect of any land included in any public reserve or over which any public road or railway runs, except with the consent of the person or public body controlling the same (unless in the opinion of the Minister such consent is unreasonably withheld), and subject to such conditions as may be prescribed. Conditions affecting licences.

(2) If any such person or body as aforesaid, upon the report of an engineer or road inspector employed by him or them, is of opinion that any race, tramway, culvert, sluice-box, or other mining work constructed or carried out under the authority of any lease or licence in or upon any such land as aforesaid, constitutes an obstruction or danger to the traffic on any public way, or is causing or likely to cause injury thereto, such person or body, by notice in writing to the holder of such lease or licence, may require him to remove any such work within such time, not being less than fourteen days, as may be specified in such notice.

(3) If such owner fails to remove any such work as required by such notice, the Warden's Court, on complaint by any person concerned, may order the removal thereof, and may impose upon such holder a penalty not exceeding Five Pounds for every day during which such failure has continued.

*Mining.*

A.D. 1929.

(4) If on the hearing of any plaint under the provisions of this section it is proved to the satisfaction of the Warden's Court that the matter in dispute can be remedied by some alteration or modification of the work in question, the Court may direct that upon such alteration or modification being effected by such holder within a time to be specified in the order, and to the satisfaction of the warden or of some person to be nominated by the Court for that purpose, the order for removal shall cease to have effect, subject to such terms, if any, as the Court may impose.

## PART VIII.

## TRIBUTE AGREEMENTS.

Conditions  
relating to  
tributes.

**80**—(1) No mine, or any part thereof, shall be let on tribute, except as hereinafter provided, and no tribute shall be let for a shorter period than three months.

(2) Every tribute agreement shall define the land affected thereby as may be prescribed, and shall contain the prescribed particulars.

(3) Within twenty-eight days after the execution by him of any tribute agreement, or within such further time as the warden in any case may allow, the holder of the lease shall lodge with the warden the original, or a true copy of such agreement, verified by statutory declaration, together with the prescribed fee.

(4) If the warden is satisfied that such agreement complies with the requirements of this Act, the same shall be recorded in the warden's office.

(5) Such holder shall furnish the warden with all information and particulars as the warden may require, and in default of his so doing, the agreement shall not be recorded as aforesaid.

(6) No such agreement shall be recorded unless the same provides that before payment of any tribute the tributer may retain such maximum weekly sum as may be prescribed for each tributer employed on the mine, or portion thereof which is subject thereto.

(7) Where the warden refuses to record a tribute agreement, the holder of the lease may appeal to the Minister as may be prescribed, and the Minister, after such inquiry as he may think necessary, may direct the warden to record the agreement.

Disputes as to  
tributes.

**81**—(1) With the consent, in writing, of the parties to the agreement, any dispute arising thereunder may be determined summarily by an inspector or the warden, and any such determination shall be final and conclusive.

(2) Except as aforesaid, every such dispute shall be determined by the Warden's Court as hereinafter provided.

*Mining.*

**82**—(1) The holder of any lease subject to any such agreement as aforesaid may cancel such agreement for the breach by the tributers of any of the conditions thereof.

A.D. 1929.

Cancellation of  
tribute.

(2) If the tributers dispute such cancellation they may proceed in the Warden's Court, within seven days after the notification to them of such cancellation, for an order forbidding the same, and such Court may make such order thereon as the circumstances may require.

## PART IX.

## GENERAL PROVISIONS RELATING TO MINING.

**83** No lease shall be granted in respect of the land forming any part of the bed of a river unless such lease comprises, in manner prescribed, the full width of the bed of such river.

Mining in river  
beds.

**84**—(1) In any case where, in order to mine the land comprised in any mining tenement up to any boundary thereof, it is necessary to encroach upon, or make use of, any adjoining land, the holder of such mining tenement, in default of agreement with the owner and occupier of such adjoining land—

Mining on  
boundaries.

- i. If such adjoining land is not held under this Act, may proceed as hereinbefore provided to acquire a mining tenement or easement licence in respect of so much thereof as may be required for such purposes as aforesaid: or
- ii. If the same is held under this Act, may apply to a warden for an order directing in what manner and upon what conditions he may encroach upon such land.

(2) With the consent, in writing, of the parties concerned, the warden may determine any such matter summarily, and his decision thereon shall be final and conclusive.

(3) In the absence of such consent every dispute arising in relation to any such matter as aforesaid shall be determined by the Warden's Court as hereinafter provided.

**85**—(1) Upon being satisfied that there is reasonable ground to believe that any mining operations have resulted, or will result, in any encroachment or influx of water upon or into any land in the vicinity of the land on which such operations are being carried on, the warden, on the application of any person interested therein, may make an order authorising any person specified in such order and duly qualified for the particular purpose to enter upon such lastmentioned land, and any mine thereon or therein, and to make a survey or inspection thereof for the purpose of ascertaining whether any such encroachment or influx has occurred, or is likely to occur.

Encroachment.

*Mining.*

A.D. 1929.

(2) The warden may make any such order upon such terms and conditions, if any, as he may think necessary.

(3) Any such order may be made *ex parte*, but the warden in any case where he considers that the circumstances so require may direct that any person to be affected thereby shall be summoned to show cause why such order should not be made.

(4) Any person authorised by any such order may enter the land, mine, and workings thereby affected, and may make any inspection, survey, drawing, plan, or measurement that may be required for such purpose as aforesaid, and in so doing may make use of the engines, machinery, and appliances used in any such mine or workings.

(5) The owner and manager of every such mine shall facilitate such entry and inspection, and shall make available to every such person all such engines, machinery, and appliances as aforesaid as may be required for the purpose of giving effect to such order and the objects thereof.

(6) No person making any such entry or inspection shall divulge to any person any information of a confidential or private character acquired by him in the course thereof, except in so far as may be necessary for giving effect to such order, or with the consent, in writing, of the owner of such mine, or when required so to do as a witness in any legal proceedings.

(7) Any person contravening any of the provisions of this section shall be guilty of an offence against this Act.

Timber rights.

**86**—(1) The holder of every mining tenement, subject to any existing rights of any person thereto and to such conditions, if any, as may be prescribed, shall have the right to cut, remove, and use any timber on the land comprised in such tenement which he may require for mining purposes thereon, or for domestic purposes in relation to such mining.

(2) Where such timber is not available on such mining tenement, the holder shall have the right, subject as aforesaid, to take the same from any unoccupied land.

(3) The applicant for, or holder of, any lease may mark out and take possession of an area upon the land comprised in such lease, and not exceeding one-half the total area thereof, as a timber reserve for the purposes of such lease.

(4) Subject to compliance with the prescribed conditions, and to the provisions hereinafter contained, and subject also to the prior rights of any person in respect thereof, the holder of such lease as aforesaid shall have an exclusive right to cut, remove, and use on and from such area as aforesaid all such timber of every description as he may require for mining purposes upon or in relation to such lease, or for the domestic purposes of any persons employed therein.

*Mining.*

(5) The Minister, at any time, may authorise any person to enter upon the land comprised in such area, and to cut and remove therefrom any timber which may be required for the construction or repair of any public road or bridge, or any other work of a public nature. A.D. 1929.

(6) If the Minister is satisfied that, from any cause, the holder of any mining tenement is unable to obtain upon the land comprised therein sufficient timber of a suitable nature for such purposes as aforesaid, he may authorise such holder, subject to such conditions as may be prescribed, to cut and remove such timber from any area of Crown land, other than a State forest, which may be available for that purpose.

(7) Such authority as aforesaid shall be given only with the concurrence of the Minister administering the Forestry Act, 1920, who may require the imposition in any particular case of such special conditions as he may think necessary for the purposes of that Act, but no fees or royalty shall be payable by such holder in respect of any timber so cut or removed as aforesaid. 11 Geo. V. No. 60.

**87**—(1) The holder of every mining tenement shall have the right, subject to the prior right of any person in relation thereto, and the prescribed conditions, to take, divert, and use any water within the boundaries of such tenement, or from any stream forming any such boundary for mining purposes upon such tenement, or for the domestic purposes of any person engaged therein. Water rights.

(2) No person shall take, divert, or use water for any such purpose as aforesaid from any point beyond the boundaries of his mining tenement unless he is the holder of a water licence granted under this Act, in relation to such mining tenement or to some other mining tenement held in conjunction therewith.

(3) Where any question arises as to priority of right to take water under this Act under or in relation to different mining tenements, the same shall be determined according to the priority of marking off such tenements respectively.

**88**—(1) Where the holder of any mine has erected or constructed any works, or installed any machinery or appliances, for the drainage of his mine, and the use by him of such works, machinery, or appliances has the effect of draining also any adjoining mine or part thereof, to the benefit of the holder thereof, such lastmentioned holder shall contribute to the cost of such drainage in proportion to such benefit as aforesaid. Drainage of mines.

(2) If any dispute shall arise as to the amount or proportion of such contribution as aforesaid, or as to the times at which, or the manner in which, the same shall be made, the same shall be settled by the Warden's Court, as hereinafter provided.

*Mining.*

A.D. 1929.

(3) In determining any such dispute the Warden's Court may take into consideration all or any of the matters following—

- I. Interest on any capital outlay for the purposes aforesaid, but in respect only of any period during which the benefit accrues :
- II. Maintenance, and wear and tear :
- III. Working expenses : and
- IV. Any other expenses proved to have been necessarily or reasonably incurred in relation to the premises.

(4) Where any water obtained by such drainage is used by the person procuring the same, the value thereof to him shall be deducted from the gross expenditure in determining the amount of contribution as aforesaid.

Tailings, &amp;c.

**89**—(1) Except as otherwise provided by this Act, no person shall deposit, stack, place, or permit to run or to be deposited, stacked, or placed on any Crown land, other than the mining tenement held by him, any tailings, sludge, waste matter, or debris from his mine unless he is the holder of an easement licence granted in respect of such land for that purpose.

(2) No person shall cause or permit any such matter as is mentioned in Subsection (1) hereof to be deposited or placed in any river or stream, or in any place where, in the opinion of an inspector, there is reason to believe the same, or any part thereof, may be washed or carried by flood waters or storms into any river or stream.

(3) Upon the report of an inspector that any heap, dump, or accumulation of any such matter as aforesaid is being, or is in danger of being, washed or carried into any river or stream, the Minister, after such inquiry as he may think necessary, by writing under his hand, may require the owner thereof or the person having the management and control thereof, to execute and carry out all such works, acts, and things as may be required to prevent the contravention or continued contravention of the provisions of Subsection (2) hereof.

(4) If any person shall fail to comply with any such requisition by the Minister as aforesaid within the time therein specified the Minister may cause any matter or thing, specified by such requisition, to be carried out or executed, and any expense incurred by him in relation to the same shall be a debt due to His Majesty from such person, and shall be recoverable in any court of competent jurisdiction.

Sludge channels  
and tailings areas.

**90**—(1) The Governor, by proclamation from time to time, upon being satisfied that in the interests of mining in any locality it is necessary or desirable so to do, may declare—

- I. Any specified watercourse or natural channel to be a sludge-channel : or

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*Mining.*

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## II. Any specified area of unoccupied land to be a tailings area— A.D. 1929.

and thereupon any such channel or area may be used, subject to any conditions that may be prescribed, by all persons carrying on mining operations under this Act for the deposit of tailings, mining refuse, or debris, and the provisions of Section Eighty-nine shall have no application thereto.

(2) Any watercourse or area proclaimed as aforesaid under any Act hereby repealed shall be deemed to have been proclaimed under this Act, and shall be subject to the provisions thereof.

(3) Before any such proclamation as aforesaid is made, as provided by Paragraph I. of Subsection (1) hereof, the Minister shall cause three months' notice thereof to be published twice at least in the Gazette and in a newspaper respectively, and a copy of such notice sent by registered post to the holder of every water-right in respect of the water-course, if any, thereby affected at the last known address of such holder.

(4) Any person may lodge with the Minister an objection in writing to the making of such proclamation, and every objection so lodged within the time specified in such notice shall be laid before the Governor before such proclamation is made.

(5) Every person having any interest in any land affected by the operation of any such proclamation who suffers any injury thereby shall be entitled to compensation, and in default of agreement between the Minister and any such person as to the amount of such compensation the same shall be determined by the Warden's Court.

(6) Every claim for compensation under this section shall be made within twelve months after the publication of the proclamation in respect of which it is made, but the court in determining the amount to be paid, may award such sum as it may think just in respect of any prospective injury to the property in relation to which the claim is made.

(7) If any such proclamation is revoked before the settlement of all claims for compensation in respect thereof, the Minister shall pay the costs of all parties to any proceedings for such compensation instituted before the publication of such revocation and withdrawn or abandoned by reason of such revocation.

(8) Upon any such revocation as aforesaid the Warden's Court, on the application of either party, may review any prior determination of compensation on such terms as it may think just.

(9) In any case in which he thinks it necessary so to do, the Minister may delay the payment of any sum awarded for compensation under this section until all such claims as aforesaid have been determined.

(10) All compensation and other moneys payable by the Minister under this section shall be defrayed out of moneys to be provided by Parliament for that purpose.

Mining.

A.D. 1929.  
Power to  
Governor to  
revoke leases,  
licences, &c.

91—(1) Upon being satisfied that—

- I. Any Crown land comprised in any mining tenement held under this Act : or
- II. Any water in respect of which a water licence under this Act is in force—

is required for any public purpose or for the use of the public the Governor may revoke any lease, licence, or other authority under which the same is held or taken, as the case may be.

(2) If any such tenement is a claim held under miner's right or prospecting licence, such right or licence shall not be revoked, but the holder thereof, if and when required by order-in-council, a copy whereof shall be served upon him, shall yield and deliver up possession of the land specified in such order to the Minister or any person authorised by him in that behalf.

(3) The holder of any such land, or person entitled to any such water, shall be entitled to compensation in respect of any such revocation or dispossession as aforesaid.

(4) In default of agreement between the Minister and any such person as aforesaid as to the amount of such compensation, the same shall be determined by the Warden's Court.

(5) Where portion only of any such mining tenement is required for such purpose as aforesaid, and such portion can be severed from the remaining portion thereof without undue interference with the mining operations carried on by the holder thereof, the Minister, with the consent of the Governor, may—

- I. Grant or issue, or cause to be issued, to such holder a new lease, licence, or other appropriate authority comprising such remaining portion as aforesaid, either alone or in conjunction with other available adjoining land :
- II. In the case of a claim cause such remaining portion to be resurveyed or defined, as may be prescribed, and permit the holder to occupy the same, either alone or in conjunction with other available adjoining land : and
- III. Include in any lease granted under the foregoing provisions hereof the right to mine at the prescribed depth below the surface of the whole or any portion of the land so required for any public purpose as aforesaid.

(6) The Minister, before the exercise of any of the powers conferred by Subsection (5) hereof, shall communicate to such holder as aforesaid, particulars of the manner in which it is proposed to exercise the same, and if such holder is dissatisfied therewith he may apply to the Warden's Court upon a claim for compensation for an order, as hereinafter provided.

(7) Upon the hearing of any such claim the court may make an order—

- I. Requiring such holder to accept the proposal made by the Minister either in its entirety or subject to such variation, as the court may think just : or



*Mining.*

ii. That such holder shall not be required to accept such A.D. 1929.  
proposal—

and may determine what amount of compensation, if any, shall be paid to such holder in respect of any loss or damage which he may suffer beyond the value of the rights, if any, acquired by him under such proposal.

## PART X.

## ENCOURAGEMENT OF MINING.

**92**—(1) The Minister, with the consent of the Governor, may Reward leases. grant a lease under this Act at a peppercorn rent to any person who satisfies the Minister that he has made a valuable discovery of any mining product.

(2) The granting of any such lease shall be subject to such conditions as may be prescribed, either generally or as to particular classes of leases.

(3) No such lease shall be granted unless the Minister is satisfied that there is reasonable ground to believe that the mining product claimed to have been discovered can be profitably mined at the place where the discovery is made, and that such place is at or over the prescribed distance from any land which is, or within the next preceding four years has been, held as a mining tenement for the purposes of mining for the same mining product.

**93**—(1) Where a resolution is passed for that purpose by Grants for valuable discoveries. both Houses of Parliament upon the Minister certifying that he is satisfied that—

- i. Within twenty years prior to his application an applicant for a reward under this section, or the person through whom such applicant claims to be entitled thereto, has made a valuable discovery of any mining product in or upon any land not previously held under this Act for the purpose of mining such product: and
- ii. That as the result of such discovery a mining town or settlement has been established which has comprised over any period of two years at one time an average population of not less than three hundred persons residing therein in good faith for mining or business purposes—

the Governor may grant to such applicant a reward of such amount as may be determined by such resolution.

(2) Such reward shall be proportionate to the importance of the discovery and the results which have accrued therefrom, and shall not exceed One thousand Pounds for the first three hundred

*Mining.*

A.D. 1929.

persons comprised in such population as aforesaid, together with a further sum of One thousand Pounds for every additional three hundred persons comprised therein as hereinbefore provided; but not exceeding in any case the sum of Ten thousand Pounds.

(3) Application may be made under this section by or on behalf of the widow, children, parent, or personal representative of the person by whom any such discovery as aforesaid was made; and the Minister may allocate any reward granted to any such dependants or relatives of such person as he may think just.

(4) Every application under this section shall be made in the prescribed manner, and shall be subject to the prescribed conditions.

(5) All rewards payable under this section shall be paid out of moneys to be provided by Parliament from time to time for that purpose.

## PART XI.

## COURTS OF MINES.

Constitution of Court.

## 94—(1) All—

- I. Objections to applications for mining tenements:
- II. Applications for the forfeiture of claims:
- III. Matters which this Act provides shall be determined by the warden: and
- IV. Proceedings of an interlocutory nature—

shall be heard before the warden sitting alone.

## (2) Except as aforesaid, in every case where—

- I. The subject-matter of any proceedings under this Act or the mining tenement in dispute therein exceeds Fifty Pounds in value, and any party to such proceedings makes application in that behalf as prescribed: or
- II. The warden of his own motion or upon the application of either party so directs—

such proceedings shall be heard before the warden and two assessors chosen as prescribed.

(3) If any question shall arise as to whether such subject-matter or tenement exceeds such value as aforesaid, the same shall be settled by the warden after such inquiry as he may think sufficient.

(4) Where the warden sits with assessors, the decision of the warden and one assessor shall be the decision of the court, but if both assessors differ from the warden the warden's opinion shall prevail.

*Mining.*

**95**—(1) The sittings of a Warden's Court shall be held at such times and places as the warden from time to time may appoint. A.D. 1929.

(2) Such sittings in general shall be held at some convenient courthouse in the district, but the court, in its discretion, and either of its own motion or upon the application of any party to the proceedings, may take evidence, hear argument, or pronounce its decision, upon any land the subject-matter in dispute in such proceedings, or at any other convenient place.

(3) In any case where the warden of a district is unable from any cause to hold any court or otherwise to perform any of his duties, the warden of any other district, at his request or upon the direction of the Minister, may hold such court or perform such duties, and for that purpose shall have and may exercise all the powers and authority of such first-mentioned warden.

**96**—(1) Every Warden's Court shall have jurisdiction to hear and determine all objections, actions, suits, claims, disputes, questions, and proceedings arising under this Act in respect of— Jurisdiction o  
Courts.

- I. The area, dimensions, or boundaries of mining tenements :
- II. The forfeiture of mining tenements :
- III. The title to and ownership or possession of mining tenements or of mining products :
- IV. Water or water-rights :
- V. Trespass or encroachment upon, or injuries to, mining tenements :
- VI. Specific performance of contracts relating to mining tenements or mining :
- VII. Transfers and other dispositions of, charges upon, mining tenements :
- VIII. Trusts relating to mining tenements or mining :
- IX. Partnerships relating to mining tenements or mining, the existence, formation, and dissolution thereof, the taking of accounts connected therewith, the contributions of the partners as between themselves, and the determination of all questions arising between the partners :
- X. Contribution by and between persons holding joint or several interests in mining tenements towards rent or other expenses in relation to such tenements :
- XI. Encroachment or trespass upon, or injury to, land by reason of mining, whether held under the provisions of this Act or otherwise howsoever :
- XII. Encroachments upon, injuries to, and matters affecting roads, tramways, railroads, or fences constructed, held, or occupied under this Act :

*Mining.*

A.D. 1929.

- XIII. The improper or unauthorised removal of any mining product from any mining tenement :
- XIV. Tribute agreements and all matters in relation thereto :
- XV. Compensation as provided by this Act :
- XVI. The infringement of, or interference with, any right granted and held under this Act : and
- XVII. Any matter which, under the provisions of this Act, is to be determined by a Warden's Court.

(2) Every Warden's Court shall have jurisdiction throughout the State, but, except as may be otherwise prescribed, all proceedings under this Act in respect of, or in relation to, any mining tenement shall be brought in the Warden's Court for the district in which such mining tenement is situated.

Powers of Court,

**97** — (1) In all matters within its jurisdiction the Warden's Court shall have power to make orders for—

- i. The enforcement of contracts :
- ii. The awarding of damages or compensation :
- iii. The appointment of receivers :
- iv. The determination of objections to applications :
- v. The determination of the area, extent, dimensions, or boundaries of any mining tenement :
- vi. The declaration or enforcement of any trust relating to mining tenements or mining operations, and the product thereof :
- vii. The declaration of any partnership proved to exist between any persons, the taking of accounts relating thereto, the determination of contributions between the partners therein and the settlement of all questions arising in relation thereto :
- viii. The dissolution of mining partnerships, and the division of the property thereof between the parties entitled thereto either by sale, partition, or otherwise, as may be agreed between the parties or as the Court, in case of dispute, may think best :
- ix. The partition, sale, disposal, or division of any mining property, or the proceeds thereof, held by two or more persons having conflicting interests therein :
- x. The cessation or suspension by any party of any mining operations or works in connection therewith causing, or likely to cause, injury to any other party :
- xi. The abatement by any party of any nuisance injuriously affecting any other party—

and generally, for the determination and settlement of all objections, actions, suits, claims, questions, and disputes properly brought before it, and for the enforcement and carrying out of any order previously made, and for awarding or apportioning costs in any such proceedings.

*Mining.*

(2) The Warden's Court or the warden, as the case may require, A.D. 1929.  
at any stage of any proceedings pending therein, may order—

- i. The adding, joining, substitution, or striking out of any party in, to, or from the proceedings :
- ii. Any person having the possession, custody, or control of any mining product or other chattels to which such proceedings have any relation to deposit the same with any specified person at any specified time and place pending any further order thereon :
- iii. The valuation, sale, or other disposal of any such mining product or chattels by any person :
- iv. The appropriation and delivery of any such mining product or chattels or any portion or part thereof, or of the proceeds thereof, to any person in or towards the satisfaction of any order made against the owner thereof for the payment of any sum of money :
- v. The seizure of any such mining product or chattels by any bailiff or other specified person and the detention thereof pending any further order thereon :
- vi. The cessation or suspension of any mining operations or works, or the carrying on thereof under the direction or control of some person appointed by the court, for such period as may seem necessary :
- vii. That any person shall do, or refrain from doing, as the case may require, any such act or thing upon or in relation to any mining tenement or property the subject-matter of any proceedings as the court may think fit :
- viii. The measurement or survey of any land or mining tenement or part thereof, and the making of plans or drawings thereof by any person duly qualified for the particular purpose :
- ix. The inspection of any land, mine, or works by any specified person, and the taking of samples of any mining product :
- x. The taking of accounts by any specified person in relation to any mining partnership or to the respective shares or interests of any persons interested in any mining property or mining product : and
- xi. The payment to any person or into court of any sum of money, or the giving of security for the same, for or towards the expenses of carrying out or giving effect to any such order, or for the payment of costs—

and any such order may be made upon such terms or conditions as to costs, compensation, security, or otherwise, as the court may think fit.

(3) Subject to the provisions of this Act, the Warden's Court or the warden, as the case may require, shall have and may exercise in relation to any proceedings under this Act, and to the

*Mining.*

A.D. 1929.

60 Vict. No. 48.

enforcement of any orders made therein, the like powers and authority as are conferred upon courts held under the Local Courts Act, 1896, and the Commissioners thereof in relation to proceedings thereunder.

(4) Where any proceeding in the Warden's Court is struck out or dismissed for want of jurisdiction, the court shall have power to award costs.

(5) In all proper cases the powers conferred by this Act upon the Warden's Court may be exercised by the warden alone, notwithstanding that the proceedings in relation to which the same are exercised may have been, or may require at a later stage to be, heard before the warden and assessors, as provided by this Act.

(6) If any question shall arise as to what is a proper case within the meaning of Subsection (5) hereof, the same shall be determined by the warden, subject to the right of appeal, as hereinafter provided.

Summary  
determination by  
warden by  
consent.

**98**—(1) Upon the oral or written complaint of any person, the warden, with the consent of all parties concerned, may hear and determine any matter arising under this Act, forthwith or at any time and place which he may appoint without requiring any formal proceedings to be taken.

(2) Every order made by the warden in any such case as aforesaid shall have the same force and effect as if made upon formal proceedings in the Warden's Court, and every such order shall be final and conclusive, and not subject to appeal.

(3) The warden shall keep a record of every such matter as aforesaid and of his determination thereof.

Procedure in  
Warden's Court.

**99**—(1) All proceedings in the Warden's Court shall be in accordance with the rules set forth in the Second Schedule, or such rules as may be prescribed in lieu thereof, and with such additional rules as may be prescribed.

60 Vict. No. 48.

(2) In all matters in which no provision, or insufficient provision, is made by this Act the rules of practice for the time being in force under the Local Courts Act, 1896, so far as the same are applicable, shall apply to proceedings under this Act.

(3) At the request of any party to any proceedings under this Act the warden shall cause the evidence of all witnesses examined therein to be committed to writing as the same is taken.

(4) Such evidence shall be read over to the witness at the conclusion of his examination, and the record thereof signed by the warden and the witness.

(5) Any such request as aforesaid made after the hearing has commenced shall apply only to the evidence taken thereafter.

(6) All parties interested therein shall be entitled to obtain a copy of any evidence so recorded upon payment of the prescribed fee therefor.

*Mining.*

(7) Every order and decision of the Warden's Court shall be reduced to writing, and signed by the warden, and shall be recorded as prescribed. A.D. 1929.

(8) Upon payment of the prescribed fee, any person may obtain a copy of any such order or decision.

**100**—(1) Except as otherwise provided, the hearing of every Mode of trial.  
 plaint under this Act shall be in open court at the time and place appointed therefor, and all evidence shall be taken upon oath.

(2) Where the court, for any reason, cannot be held at the time appointed, the warden, or in his absence the clerk, may adjourn it to such time and place as the warden or clerk, as the case may be, may appoint.

(3) The court at any time, and from time to time, may adjourn the hearing of any matter in such manner and upon such terms as to costs or otherwise as it may think fit.

**101**—(1) The costs of all proceedings under this Act shall be Costs.  
 in the discretion of the warden, and the amount thereof may be determined by the warden or taxed, as he may direct.

(2) Where in any proceedings no order is made as to costs, the same shall follow the result of the proceedings.

**102**—(1) If any person in or during the course of any Contempt of  
court.  
 proceedings in the Warden's Court insults or threatens the warden or any officer of the court, or interrupts or obstructs the proceedings of the court, or in any other manner is guilty of any contempt in the face of the court, the warden may direct any officer of the court, or any police officer, to take such person into custody, and to detain him until the rising of the court or until further order.

(2) At any time before the rising of the court the warden may direct such person to be brought before the court, and may impose upon him a fine not exceeding Five Pounds or a sentence of imprisonment not exceeding seven days, or both such fine and imprisonment.

(3) In default of payment of any fine so imposed as aforesaid, the warden may order such person to be imprisoned for any period not exceeding seven days.

(4) At any time before or after the making of any order under this section the warden may accept an apology from the offender and may discharge the order, if any, previously made and release the offender.

**103**—(1) Every order made under this Act for the payment of Enforcement of  
orders.  
 money by any person may be enforced by execution in the prescribed manner upon any property of such person.

(2) Upon the oath of any party to the proceedings that any Execution.  
Summons.  
 person has disobeyed any order lawfully made in such proceedings (not being an order for the payment of money only), the warden may summon such person to show cause why he should not be punished for such disobedience.

*Mining.*

## A.D. 1929.

Fine for  
disobedience to  
an order.

(3) Upon the return of such summons the warden may impose on such person as aforesaid a penalty not exceeding Fifty Pounds, and a further daily penalty not exceeding Five Pounds, unless such person satisfies the warden that such disobedience was due to any cause beyond his control.

## Damages.

(4) If, upon the hearing of such summons as aforesaid, it appears that any party to the proceedings has suffered damage on account of the failure of such person to comply with such first-mentioned order, the warden may order that the whole or any part of any penalty imposed as aforesaid shall be paid to such party.

## Warrants.

(5) All penalties imposed under this section shall be recoverable by execution upon any property of the person ordered to pay the same, and warrants of execution may be issued by the warden or clerk for that purpose, as may be prescribed.

Recovery of  
possession.

**104**—(1) Where in any proceedings under this Act an order is made for the delivery to any person of possession of any land, mining tenement, mining product, or chattels, and the person required by such order to deliver up possession of the same refuses or neglects so to do, the warden or registrar, by warrant in the prescribed form, may authorise any bailiff of the court, or any police officer or other person named in such warrant, to eject such person from such land or mining tenement, or to seize and take such mining product or chattels, and to put the person therein specified in possession thereof.

(2) The costs and expenses of and incidental to such warrant and the proceedings thereon shall be recoverable as costs in the cause or matter in relation to which the same are incurred.

Informality and  
amendment.

**105**—(1) No misnomer or inaccurate description of any person or place in any process or document in any proceedings shall vitiate the same if the person or place is named or described so as to be commonly known.

(2) No proceedings shall be dismissed or vitiated by any informality, but the Warden's Court shall have power at any time to amend all defects and errors in any proceeding, whether there is anything in writing to amend or not.

(3) All such amendments may be made with or without costs, as the court may think fit.

(4) Upon due application in that behalf being made, the court shall allow all such amendments as may be necessary for determining in the existing proceedings the real question in controversy between the parties.

(5) Any such amendment may be allowed upon such terms or conditions as to adjournment or otherwise, as the court may think just.



*Mining.*

**106**—(1) The Warden's Court, upon the application of any party thereto, may grant a rehearing of any plaint tried before the court. A.D. 1929.  
—  
Rehearing.

(2) Every such application shall be made in the prescribed form and manner, and shall be made within the prescribed time.

(3) Any such application may be granted upon such terms and conditions as to costs, security, and otherwise, as the warden may think fit.

(4) A rehearing shall be subject to the rules applicable to an original hearing.

**107**—(1) At any stage of any proceedings under this Act the warden may reserve any question of law for the opinion thereon of the Supreme Court, as hereinafter provided. Reservation of  
questions of law.

(2) Every such question shall be submitted to the Supreme Court in the form of a special case, stated by the warden and transmitted by him to the Registrar of the Supreme Court.

(3) Such Registrar shall set down the case for consideration by a judge of the Supreme Court, and shall forthwith notify the warden of the time and place appointed therefor.

(4) The warden shall give notice thereof to the parties concerned, and every such party shall be entitled to be heard by the judge.

(5) The judge, at any stage of the matter, may—

i. Remit the case to the warden for amendment :

ii. Direct that the case be set down for argument before the Full Court : or

iii. Proceed to hear and determine the question submitted—and the Full Court or the judge, as the case may be, may give such direction or opinion as to the question submitted, as the court or judge may think proper.

(6) Every such direction or opinion of the court or the judge as the case may be, shall be transmitted by the Registrar of the Supreme Court to the warden, and the warden shall act in accordance therewith.

**108**—(1) The Supreme Court, or a judge thereof, at any time may order the removal into the Supreme Court of any proceeding taken in a Warden's Court if the Supreme Court or judge is of opinion that for any reason it is desirable so to do. Removal of  
proceedings to  
Supreme Court.

(2) Upon the making of any such order the court or judge may impose upon any of the parties such conditions as to costs, security, or otherwise, as the court or judge may think fit, and may direct in what form and manner, and at what time and place, the proceedings shall be continued or carried on in the Supreme Court, and the mode of procedure to be adopted in connection therewith.

(3) The Registrar of the Supreme Court shall transmit a certified copy of such order to the warden of the court where such pro-

*Mining.*

A.D. 1929.

ceeding was taken, and such warden shall cause all documents and exhibits relating thereto to be transmitted to such Registrar forthwith.

(4) The Supreme Court or judge, as the case may be, may hear and determine such proceeding, and may make such order therein as the circumstances may require.

Removal of proceedings commenced in wrong court.

**109**—(1) In any case in which any proceeding is taken in any court other than the Warden's Court in which it should have been taken as provided by this Act, the court wherein the same is taken may stay such proceeding and may make an order removing the same into the appropriate Warden's Court.

(2) Any such order may be made upon such terms as to costs or otherwise as the court may think fit.

(3) The registrar or clerk of the court making such order shall transmit all documents filed in that court to the clerk of the appropriate Warden's Court, and thereupon the matter shall proceed therein at such time and place, and upon such terms as to costs, amendment, and otherwise, as the warden thereof may direct.

## PART XII.

## APPEALS.

Right of appeal.

**110**—(1) Except as otherwise in this Act provided, any party aggrieved by any final judgment, determination, or decision of the Warden's Court may appeal therefrom to the Supreme Court as hereinafter provided.

Mode of appealing.

(2) Every such appeal shall be commenced, by notice in the prescribed form, within twenty-one days after the judgment, determination, or decision was given.

Service.

(3) Such notice shall be served within the time aforesaid upon the warden and upon the respondent or his attorney, and shall set forth the grounds upon which the appeal is made.

Security.

(4) The appellant shall lodge with the warden, when serving such notice, a sum of Twenty Pounds as security for or towards the costs of the appeal.

Application thereof.

(5) Such sum shall be held by the warden until the determination, withdrawal, or abandonment of the appeal, and shall be applied by him in or towards payment of any costs to which the respondent may be entitled, and subject thereto the same or any balance thereof remaining in his hands shall be refunded to the appellant.

Stay of proceedings.

(6) Notice of appeal shall not operate as a stay of proceedings, but the warden, on the application of any party, may make such order for the stay of proceedings, suspension of mining operations, appointment of receivers, and giving of security as he may think necessary in the circumstances.

Lapse.

(7) Upon the withdrawal or abandonment of an appeal, an order staying proceedings shall lapse.

*Mining.*

**111**—(1) Where the grounds of appeal include any matter of fact, the Supreme Court may order, or the parties may agree, that the appeal shall be by way of rehearing before a judge of the court.

A.D. 1929.

Procedure on appeal.

(2) Except as aforesaid, every appeal shall be heard and determined upon the proceedings in the Warden's Court.

(3) Upon the hearing of an appeal the notes, depositions, minutes of evidence, exhibits, and other documents taken or filed in the Warden's Court, or copies thereof, certified by the warden, may be used by the court or any party.

(4) All such documents and things as aforesaid, if and when required, shall be transmitted by the warden to the Registrar of the Supreme Court for the purposes of the appeal.

(5) The appeal shall be set down for hearing and prosecuted in such manner and within such times respectively as may be prescribed.

(6) The Registrar of the Supreme Court shall notify the result of every appeal to the warden forthwith, and the warden shall cause the same to be recorded, and shall give effect, where necessary, to every order or direction made or given by the appeal court thereon.

**112**—(1) Upon the hearing of any appeal the Supreme Court shall have power—

Powers of appeal court.

- I. For any reason which it thinks sufficient, to allow an appellant, on such terms as to costs, postponement, or otherwise, as it may think fit, to rely upon a ground of appeal not set forth in the notice of appeal :
- II. To confirm the order, determination, or decision in respect of which the appeal is made and dismiss the appeal :
- III. To reverse, modify, or vary such order, determination, or decision, and to make such order in lieu thereof as it may think just :
- IV. To direct any issue to be tried in such manner and at such time and place as it may think fit :
- V. To remit any case to the Warden's Court to be reheard :
- VI. To make any order or give any direction consequential upon or necessitated by any such order as aforesaid which it may think necessary : and
- VII. To make such order as to the costs of the appeal, or of the proceedings in the Warden's Court, as it may think fit—

and to impose in respect of any such order such terms and conditions as it may think just.

(2) Where an appeal is heard by a single judge his decision on any question of fact arising therein shall be final and without appeal.

*Mining.*

A.D. 1929.

Withdrawal or  
abandonment of  
appeal.

**113** If the appellant withdraws, or fails to prosecute, his appeal as prescribed, the respondent may apply to a judge on summons for the dismissal thereof, and the judge may dismiss the same and may make an order for the payment by the appellant of the costs thereof.

Limitation of  
right of appeal.

**114** There shall be no right of appeal under this Part against any finding, report, recommendation, or decision of a warden in respect of any—

- I. Application for a mining tenement :
- II. Application for exemption :
- III. Application for forfeiture of a claim, except as may be prescribed :
- IV. Matter or proceeding, the value of the subject-matter of which ( to be determined in case of dispute as may be prescribed) does not exceed Two hundred Pounds, except by leave of the Supreme Court.
- V. Proceeding in which the parties have agreed as provided by this Act that the decision of the warden shall be final: or
- VI. Matter with respect to which it is provided that the determination of the warden shall be final.

Limitation of  
costs on appeal.

**115** If in any appeal under this Part it appears that the subject-matter of the appeal does not exceed Twenty Pounds in value the appellant shall not recover any costs of the appeal unless the judge certifies that the case was a fit case for appeal.

## PART XIII.

## CAVEATS.

Lodging of  
caveats.

**116**—(1) Any person claiming any interest in any mining tenement may file with the Secretary a caveat forbidding the registration of any transfer or other instrument affecting such tenement or interest.

(2) Every such caveat shall be in the prescribed form, and shall be accompanied by the prescribed fee.

(3) Every such caveat shall state the full name and address of the caveator, and shall be signed by him or his agent, and shall give an address within the State for the service of notices and proceedings in relation thereto.

(4) Upon receipt of any such caveat, the Secretary shall send by registered post to the holder of the mining tenement affected thereby notice of the filing thereof.

(5) Successive caveats shall not be filed by or on behalf of the same person in respect of the same subject-matter except by leave of the warden.

*Mining.*

**117**—(1) Except as hereinafter provided every caveat shall lapse and cease to have effect—

A.D. 1929.

- I. Upon the order of a warden for the removal thereof :
- II. Upon withdrawal thereof by caveator or his agent :
- III. Upon the expiration of fourteen days after notification that application has been made for the filing of a transfer or other instrument affecting the subject-matter of the caveat has been sent by the Secretary by registered post to the caveator at the address given in the caveat, unless within such fourteen days the warden otherwise orders :
- IV. Upon the expiration of three months from the filing thereof, unless within that period the caveator has taken proceedings in a court of competent jurisdiction to establish his claim to the subject-matter of the caveat and such court otherwise orders.

Duration and effect of caveats.

(2) Where the holder of any mining tenement or applicant for a lease has entered into an agreement with any person for the sale of his interest therein, and such agreement so provides, either party may file a caveat, together with a copy of such agreement, and such caveat shall remain in force for such term as may be specified in such agreement unless sooner withdrawn by consent of the parties, or removed by order of a court of competent jurisdiction.

(3) No transfer or other instrument affecting the subject-matter of a caveat shall be filed while such caveat remains in force, except upon the order of a court of competent jurisdiction.

## PART XIV.

## OFFENCES: PENALTIES: PROCEDURE.

**118**—(1) No person lawfully required by the Minister to furnish any return for the purposes of this Act shall make or furnish a return which he knows to be false.

Falsifying returns.

Penalty: One hundred Pounds.

(2) No person shall—

- I. Mine any gold or silver :
- II. Mine any mineral, coal, or oil in or upon any land granted by the Crown to any person since the fourteenth day of November, one thousand eight hundred and ninety-three :

Unlawful mining.

*Mining.*

A.D. 1929.

III. After the expiration of twelve months after the commencement of this Act, mine any mineral, coal, or oil in or upon any land granted by the Crown to any person before the fourteenth day of November, one thousand eight hundred and ninety-three:

IV. Prospect or mine any mining product upon any Crown land: or

V. Take or divert for mining purposes any water upon or from any Crown land—

except in pursuance of a lawful authority for that purpose, as provided by this Act.

Penalty: Fifty Pounds, together with a further daily penalty of One Pound.

(3) No person shall—

I. Take or remove from the mining tenement of any other person any mining product without the authority of such other person:

II. Assault, insult, obstruct, or resist—

(a) Any warden or other officer: or

(b) Any person duly authorised under this Act to perform any act—

in the performance of any duty under this Act, or in the performance of the act so authorised:

III. When lawfully evicted or removed under this Act from any mining tenement or land, re-enter the same or retake possession thereof: or

IV. Prevent, resist, or obstruct the taking or diverting of any water by any person acting in pursuance of an order of the Warden's Court.

Penalty: Fifty Pounds.

(4) No person shall—

I. Deface, remove, destroy, or damage any surveyor's peg or any post, peg, trench, notice, or mark used or maintained for marking any land as required by this Act:

II. Cause or permit any sludge, tailings, or other waste matter to accumulate on or flow from his mining tenement so as to endanger, injure, obstruct, or interfere with any public road, or with any mining tenement, mining operations, works, or machinery of any other person: or

III. Contravene any of the provisions of Section Eighty-five.

Penalty: Twenty Pounds.

(5) No person lawfully required under this Act—

I. To furnish any return or information to the Minister or the Secretary: or

Unlawful removal of minerals, &c.

Obstructing officers.

Wrongful re-entry.

Unlawful resistance.

Destroying marks.

Obstruction by tailings, &c.

Returns.

*Mining.*

ii. To make available for examination or inspection by any officer authorised in that behalf or by any person appointed for that purpose any book, paper, writing, document, or account relating to his mining tenement or mining operations—

A.D. 1929.

Production of books, &amp;c.

shall fail or refuse to comply with such requirement.

Penalty: Twenty Pounds.

(6) No person—

i. Found prospecting or mining on Crown land and not being the lessee or applicant for a lease thereof, or acting under the authority of such lessee or applicant: or

Unlawful prospecting.

ii. Lawfully required so to do under this Act—

shall fail or refuse to produce his miner's right or prospector's licence to any warden, bailiff, or inspector.

Production of licence, &amp;c.

Penalty: Five Pounds.

(7) No proceedings shall be taken under the provisions of Sub-section (6) hereof against any person who, within four days after such requirement as aforesaid, produces to the officer who so required it, or to the warden, a miner's right or licence which was a valid and subsisting authority for such person at the time of such requirement.

**119** Any police officer or any person authorised for that purpose by a warden may remove from any mining tenement any person found mining thereon or taking or removing any mining product therefrom without the authority, in either case, of the holder of such mining tenement or other lawful authority under this Act, and may use such force as is reasonably required for that purpose.

Removal of persons unlawfully mining, &amp;c.

**120**—(1) If the Minister or a warden has reasonable ground to believe that any mining product has been removed unlawfully from any land belonging to His Majesty, the Minister or such warden may authorise any person to seize and detain the same.

Seizure of mining products unlawfully taken.

(2) Any person authorised as aforesaid may seize and detain such mining product accordingly, and any police officer or Crown lands bailiff, who has reasonable ground to believe that any mining product has been removed as aforesaid, may seize and detain the same.

(3) Any mining product so seized shall be lodged with the warden, or as he may direct.

(4) Any person claiming any interest in any mining product so seized may apply to the warden within the prescribed time, and in the prescribed manner, for the return thereof, and the warden may make such order thereon as the case may require.

(5) All mining products so seized to which no such claim as aforesaid is made and substantiated shall be sold or otherwise dealt with in such manner as the Governor may direct.

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*Mining.*


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A.D. 1929.

Proceedings.

10 Geo. V. No  
55.

**121** All proceedings under this Part in respect of offences shall be taken, heard, and determined, and all penalties enforced and recovered in accordance with the provisions of the Juistices Procedure Act, 1919.

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**PART XV.**
**MISCELLANEOUS.**

Mixed leases.

**122**—(1) Where an application for a lease comprises more than one class of land the applicant shall comply with the prescribed conditions in respect of each class of land comprised therein.

(2) Where an application for a lease comprises any portion of the bed of a river which is bounded on one side by private land, no lease shall be granted, except upon compliance with the provisions of this section and in respect of the full width of the bed of such river.

Sales by auction.

**123** Every registrar may sell by auction any lands, goods, or chattels, or any interest therein, in pursuance of any warrant of execution or other lawful authority under this Act without being the holder of an auctioneer's licence.

(2) The power hereby conferred upon a registrar may be exercised in like manner by any person appointed by the Minister for that purpose.

Interests in  
mining property.

**124** The interest of any person in any mining tenement of whatever description or tenure shall pass to his personal representative, on death, or to his trustee or liquidator in case of bankruptcy, and shall be liable to seizure and sale under writ of *feri facias* or warrant of execution.

Agreements as to  
mining.

**125**—(1) No contract or agreement relating to any share or interest in any mining tenement shall be enforceable in law unless a note or memorandum thereof, in writing, is made and signed by the party to be charged or his agent authorised, in writing, for that purpose.

(2) Where persons contribute jointly to any mining venture, whether in money, by labour, or otherwise, so as to involve a common risk of loss, all discoveries made therein, and all mining products and profits obtained therefrom, shall belong to such persons in equal shares, except as may be otherwise agreed.



*Mining.*

(3) Where any person is employed by another at a wage commensurate, or which he has expressly agreed to accept as commensurate, to the work to be performed by him in any mining venture, all discoveries made therein, and all mining products and profits obtained therefrom shall belong to the employer, except as may be otherwise agreed.

A.D. 1929.

**126** The issue of a lease under this Act shall be conclusive evidence, except in case of fraud, of the due compliance with all conditions precedent to such issue.

Lease conclusive in absence of fraud.

**127** Upon proof to the satisfaction of the proper officer in each case that any lease, licence, or other authority issued under this Act, or under any Act hereby repealed, has been lost or destroyed, a duplicate thereof may be issued on such conditions as may be prescribed.

Lost documents may be replaced.

**128**—(1) Nothing in this Act shall prejudice, abridge, or take away any right of action which any person may have in respect of any act or omission of another unless such act or omission occurs in pursuance of any authority lawfully given under this Act.

Saving of civil remedies.

(2) The recovery of any penalty under this Act shall not affect any such right of action as aforesaid.

**129**—(1) Except where otherwise prescribed, all fees, rents, and other moneys payable under this Act shall be payable in advance.

Payment and application of moneys.

(2) Except as otherwise specially provided, all moneys received by the Secretary or any other officer under this Act shall be paid into and form part of the Consolidated Revenue.

**130**—(1) Except where otherwise prescribed, any notice, order, or other document required or authorised to be given or served under the provisions of this Act to or upon any person may be served—

Service of notices, &amp;c.

- I. By delivering the same to such person or to his agent or solicitor : or
- II. By delivering the same to some person apparently over the age of sixteen years at his usual or last known place of abode or business in this State : or
- III. By post addressed to such person at his usual or last known place of abode or business in this State.

(2) Where a notice is required to be given to a person, and it is proved to the satisfaction of the warden that for any reason personal service is impracticable, the warden may direct substituted service thereof in such manner as he may think sufficient, and such notice shall be sufficient if served as the warden has directed.

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*Mining.*

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A.D. 1929.

(3) Any notice by this Act required to be given to the owner or occupier of any mining tenement or land may, if the owner or occupier is not known, be addressed to him by the description of the "owner" or "occupier" of the premises (naming them) in respect of which the notice is given, without further name or description.

Affidavits

**131** Any affidavit required or used for the purposes of this Act may be sworn before a justice of the peace.

Regulations.

**132**—(1) The Governor, from time to time, may make regulations, subject to the provisions of this Act, prescribing all or any matters which may be necessary or desirable for carrying out or giving effect to the provisions thereof.

(2) In particular, but without prejudice to the generality of the power conferred by this section, any such regulations may prescribe—

- i. The cases in which, the manner in which, and the form of authority under which mining may be carried on by any person on land already held or occupied by some other person as a mining tenement :
- ii. The extent to which and the conditions under which Crown land in the lawful occupation of any person under any other Act may be occupied or used for mining purposes :
- iii. The cases in which and the conditions under which the holder of any land under this Act shall allow any, and what, others persons—
  - (a) A right-of-way : or
  - (b) A right to allow any waste water to flow—  
over or upon such land :
- iv. The procedure to be followed and the conditions to be observed in relation to applications for, and the granting and issue of leases, licences, miner's rights, permits, and other authorities respectively under this Act, and the taking and holding possession of mining tenement with regard to any of the following matters—
  - (a) Marking out :
  - (b) The setting up, making, posting, or maintaining of pegs, posts, trenches, notices, or other boundary marks :
  - (c) The form and manner in which applications shall be made and presented :
  - (d) The form or shape of any mining tenement, and the determination of the boundaries by survey or otherwise, as may be required :
  - (e) The removal of marks and notices on cessation of interest :

*Mining.*

(f) Conditions of holding or working the several kinds of mining tenements, including provision for the surrender or forfeiture of any land held under licence, or any part thereof, and not used by the licensee: A.D. 1929.

(g) The cases in which and the extent to which developmental work may be regarded as prospecting—

and any other matter which may be required in relation thereto, with power where required to discriminate between different classes of cases:

- v. The cases where, and the manner in which, proceedings may be taken for the forfeiture of claims; the procedure therein; and the cases where and the manner in which an appeal shall lie in respect thereof:
- VI. The forms to be used for the purpose of this Act:
- VII. Rules of procedure in the Warden's Court, either in substitution for or in addition to all or any of the rules contained in the Second Schedule:
- VIII. The methods to be adopted and the precautions to be taken by the occupiers of mining tenements for the prevention of nuisances, and the observance of decency therein:
- IX. The duties of officers and of surveyors employed for the purposes of this Act:
- X. The cases in which surveys shall be required or may be dispensed with respectively:
- XI. The mode of determining priority between applicants for the same mining tenement:
- XII. The filing, recording, and keeping any documents, processes, orders, or records, and providing where necessary for copies thereof to be supplied to any persons requiring the same:
- XIII. The fees payable in respect of any matter under this Act: and
- XIV. A penalty, not exceeding Twenty Pounds, for the breach of any regulation made under this Act.

*Mining.*

A.D. 1929.

## THE FIRST SCHEDULE.

Regnal Year and Number.	Title of Act.
7 Geo. V. No. 62 ... ..	The Mining Act, 1917
9 Geo. V. No. 53 ... ..	The Mining Amendment Act, 1918
11 Geo. V. No. 54 ... ..	The Mining Act, 1920
12 Geo. V. No. 42 ... ..	The Mining Act, 1921
15 Geo. V. No. 46 ... ..	The Mining Act, 1924

## THE SECOND SCHEDULE.

## RULES OF COURT.

Commencement of proceedings.

1. Except as otherwise prescribed, every action or proceeding in the Warden's Court shall be commenced by plaint in the Form I. in the appendix hereto.

Plaint.

2.—(1) The plaint shall be signed by the plaintiff or his attorney, and shall set forth the names, addresses, and occupations of the parties so far as the same are known to the plaintiff, and shall give an address within the State for the service of notices and proceedings on the plaintiff.

(2) The plaint shall set forth briefly, but explicitly, the cause of action or complaint and the nature of the relief claimed by the plaintiff.

(3) Where the nature of the claim so requires, there shall be embodied in or attached to the plaint full and explicit particulars of the plaintiff's claim.

(4) Where a plaint comprises more than one ground of action or complaint, each ground shall be stated in a separate paragraph, and such paragraphs shall be numbered consecutively.

Filing plaint.

3. Every plaint shall be lodged in the warden's office, together with an original summons and a copy summons for each defendant.

Summons.

4.—(1) Every such summons shall be in the Form II. in the appendix hereto, and shall embody the substance of the plaint, and contain, or have attached to it, a copy of the particulars, if any.

(2) The warden or registrar shall sign the summons and cause a copy thereof to be served, as prescribed, on each defendant.

(3) The summons shall be served—

i. If the defendant resides within twenty-five miles from the place where the summons is returnable, at least fifteen days: and

ii. In any other case, at least twenty days—

before the return day thereof.

(4) The summons shall be served by a bailiff, or police officer, or by any person specially authorised on that behalf by the warden.

(5) Service of the summons shall be effected by delivering a copy thereof to the defendant personally or by leaving the same at his last known place of residence or business with some person apparently of or over the age of sixteen years, except where the defendant's attorney accepts service on his behalf.

*Mining.*

(6) Where service of a summons is not effected within the time prescribed, the warden or registrar, at any time within six months after the filing thereof, may alter the return date, and a copy summons so altered may be served on the defendant. A.D. 1929.

(7) If service cannot be effected as aforesaid, successive summonses may be issued on the original plaint at any time within twelve months after the filing thereof.

5.—(1) If the defendant desires to contest the plaintiff's claim or any part thereof, he shall file a notice of defence in Form III. in the appendix hereto within ten days after service of the summons. Defence.

(2) On the application of the defendant, the warden may order particulars, or further particulars, as the case may require, to be filed by the plaintiff, and may extend the time for filing the notice of defence so far as may be necessary in consequence thereof.

(3) The notice of defence shall set forth the grounds upon which the defendant relies, and all allegations of fact contained in the plaint, other than allegations as to values or amounts of damages, shall be deemed to be admitted unless specifically denied.

(4) The notice of defence shall be signed by the defendant or his attorney, and shall be lodged in the warden's office, together with a copy thereof for each plaintiff.

(5) Upon the filing of notice of defence, the registrar shall transmit a copy thereof to each plaintiff or his attorney.

6.—(1) The defendant in his notice of defence may claim any cross-relief in respect of the subject-matter of the plaint, or may plead therein in answer to any pecuniary claim any matter by way of set-off or counterclaim. Cross-relief.

(2) The Court may order that the plaintiff's claim, and the defendant's claim as aforesaid if any, shall be heard together, or may direct that any such claim of the defendant shall be heard separately.

7.—(1) Any party desiring to have any action or proceeding tried before the warden and assessors shall apply to the warden therefor at least five days' before the day appointed for the hearing. Assessors.

(2) The summons to assessors shall be in the Form V. in the appendix hereto.

8.—(1) Any party to the proceedings may obtain a summons requiring the attendance of one or more witnesses. Witness' summonses.

(2) Such summons shall be in Form IV. in the appendix, and may be signed by the warden or the registrar.

9. Every person served with a summons as a witness in the Warden's Court may require payment of expenses in accordance with the scale for the time being in force under the Rules of the Supreme Court. Expenses of witnesses.

10.—(1) The forms in the appendix hereto shall be the forms to be used in the matters to which they are appropriate respectively. Forms.

(2) In all other matters the forms prescribed under the Local Courts Act, 1896, with the necessary alteration of terms, shall be adopted. 60 Vict. No. 48.

(3) The warden, in any case where no appropriate form is prescribed as aforesaid, may determine in what form any document shall be accepted for the purposes of any proceeding in the Warden's Court.

11. Except as herein modified or as otherwise prescribed, the procedure shall be in accordance with the Rules under the Local Courts Act, 1896, so far as the same are applicable. General.

*Mining.*

A.D. 1929.

## APPENDIX TO RULES OF COURT.

## FORMS

## FORM I.

*Plaint.*

In the Warden's Court for [name of district].

Plaint No.

Between A.B. of  
in

, Plaintiff,

and

C.D. of  
in

, Defendant.

The plaintiff claims that the defendant [here state the grounds upon which the action or proceeding is based]

And the plaintiff claims that [here state nature of relief sought: And add].

The particulars of the plaintiff's claim are hereunto annexed [or, are as follows:—]

Dated this                      day of                      , 19

A.B., Plaintiff,

*or*

A.B., Plaintiff, by his Attorney, G.H.

To C.D., the Defendant.

## FORM II.

*Summons.*

In the Warden's Court for [name of district].

Plaint No.

Between A.B. of  
in

, Plaintiff,

and

C.D. of  
in

, Defendant.

You are hereby summoned to appear before the Warden's Court at                      , on                      , the                      day of                      , next at                      of the clock in the                      noon, to answer the plaintiff's claim for that you [here state grounds as set out in plaint] upon which the plaintiff claims [here state relief claimed; and if particulars are given, add:—]

The particulars of which claim are hereunto annexed [or are as follow:—]

If you intend to dispute the plaintiff's claim, you must file a notice of defence within ten days after service of this summons.

Dated this                      day of                      , 19

J.K., Warden

[or Registrar.]

To C.D., the abovenamed defendant.

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*Mining.*

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FORM III.

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A.D. 1929.

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*Notice of Defence.*

In the Warden's Court for [name of district].

Between A.B. of  
in

C.D. of  
in

and

Plaint No.  
 , Plaintiff,

, Defendant

Take notice that I intend, at the hearing of this cause, to rely on the following grounds of defence:—

[Here state grounds upon which the claim is disputed, and, if cross-relief is claimed, add:—]

And I claim that the plaintiff [here state grounds upon which cross-relief is claimed and nature of such relief.]

Dated this                                  day of                                  , 19

C.D., Defendant,  
*or*  
C.D., Defendant, by his Attorney, G.H.

To the Registrar of the Court,  
and to A.B., the abovenamed plaintiff.

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FORM IV.

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*Witness' Summons.*

In the Warden's Court for [name of district].

Between A.B. of  
in

C.D. of  
in

and

Plaint No.  
 , Plaintiff,

, Defendant.

To E.F., of

You are hereby required to attend before this Court on the                  day of                  , at                  of the clock in the noon, and at every adjournment of this case, to give evidence on behalf of the [plaintiff or defendant]. And you are hereby required to produce to the Court [here state the particular things required to be produced], and also all other books, papers, documents, plans, or things in your custody, possession, or power, relating to the subject-matter of this case.

If you neglect to comply with this summons you will be liable to a fine not exceeding Five Pounds.

Dated this                                  day of                                  , 19

C.D., Warden,  
*or*  
I.J., Registrar

To  
[Here state names and addresses of witnesses to be served.]

*Mining.*

A.D. 1929.

## FORM V.

*Summons to Assessors.*

In the Warden's Court for [name of district].

A.B. v. G.H.

You are hereby summoned to appear and serve as an assessor in this Court at \_\_\_\_\_ on \_\_\_\_\_, the \_\_\_\_\_ day \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_, in the \_\_\_\_\_ noon, upon the trial of the above cause, and in default of your attendance you will be liable to a fine not exceeding Five Pounds.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,  
C.D., Warden  
or  
I.J., Registrar.

To  
[Here state names and addresses of persons to be served.]

## FORM VI.

*Warrant of Execution on a Judgment or Order.*

In the Warden's Court for [name of district].

Between A.B. of \_\_\_\_\_, Plaintiff No \_\_\_\_\_  
in \_\_\_\_\_, Plaintiff,  
and \_\_\_\_\_  
C.D. of \_\_\_\_\_, Defendant.  
in \_\_\_\_\_

To \_\_\_\_\_, of \_\_\_\_\_, Bailiff of the Warden's Court  
Deputy-Bailiff's and others duly authorised \_\_\_\_\_ and to the  
to execute the processes of this Court.

Whereas, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the plaintiff obtained a judgment of this Court against the defendant for the sum of £ \_\_\_\_\_ for debt [or damages] and costs [or it was ordered by the Court that judgment should be entered for the defendant, or that judgment of nonsuit should be entered, and that the sum of £ \_\_\_\_\_ for costs be paid by the plaintiff to the defendant]; and whereas default has been made in the payment thereof: These are therefore to require and order you forthwith to levy on the lands, tenements, and hereditaments, goods, chattels, credits, and effects of the defendant [or plaintiff], wheresoever they may be found (except the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of Five Pounds), the sum of \_\_\_\_\_ pounds \_\_\_\_\_ shillings \_\_\_\_\_ pence, besides the costs of this execution, and also to seize and take any money or bank notes, and any cheques, bills of exchange, promissory notes, or securities for money of the defendant [or plaintiff], or such part or so much thereof as may be sufficient to satisfy this execution and the costs of making and executing the same, and forthwith to return the same to me, to be paid over to the plaintiff [or defendant], together with this warrant.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,

By the Court,  
C.D., Warden,  
or  
I.J., Registrar.



*Mining.*

	£	s.	d.	
Judgment .....	:	:		A.D. 1929.
Costs .....	:	:		
Execution .....	:	:		
Alias .....	:	:		
£				
:				
:				

FORM VII.

*Affidavit of Service.*

In the Warden's Court for [name of district].

Between A.B., Plaintiff, and G.H., Defendant.

I, O.P., of \_\_\_\_\_, in the State of \_\_\_\_\_, make oath and say that I did, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, duly serve the defendant, G.H. [or as the case may be] with a [state the nature of the document], a true copy whereof is hereto annexed, marked "A" at \_\_\_\_\_ by delivering the same personally to the said defendant [or as the case may be].

Sworn at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me \_\_\_\_\_

[Signature of Deponent.]

A Justice of the Peace.

[or as the case may be.]

[Indorse the copy of the document with the following certificate, to be signed by the person before whom the affidavit is sworn.] This is the paper writing marked "A" referred to in the annexed affidavit of O.P.

Sworn before me at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

FORM VIII.

*Order Fining Assessor for Non-Attendance.*

In the Warden's Court for [name of district].

A.B. v. G.H.

Whereas \_\_\_\_\_ of \_\_\_\_\_, was duly summoned to appear and serve this day as an assessor in this Court upon the trial of the above cause; and whereas he has neglected without sufficient cause shown to appear and serve as an assessor at this Court: It is hereby ordered that he shall forthwith pay to the Warden of this Court a fine of £ \_\_\_\_\_ for such neglect.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By the Court,

C.D., Warden,

[This form may be adapted for an order fining a witness for non-attendance or refusal to answer. &c.]

