

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 1 of 1930.

AN ORDINANCE

Relating to Mining.

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act* 1909 and the *Seat of Government (Administration) Act* 1910, as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Mining Ordinance* 1930. Short title.
2. This Ordinance shall commence on a date to be fixed by the Commission by notice in the *Gazette*. Commencement.
3. The Acts of the State of New South Wales specified in the First Schedule to this Ordinance shall cease to apply to the Territory. State Acts to cease to apply.
4. This Ordinance is divided into Parts, as follows:— Parts.
 - Part I.—Preliminary.
 - Part II.—Miners' Rights.
 - Part III.—Leases.
 - Part IV.—Miscellaneous.
5. In this Ordinance, unless the contrary intention appears— Definitions.
 - “Adjoining” as applicable to claims or leases, means that the lands comprised in the claims or leases have a common boundary, or are only separated by a road or stream;
 - “claim” means a portion of Crown land lawfully taken possession of for the purpose of mining or any number of such portions lawfully amalgamated by the holders, but does not include the land comprised in a mining lease or lease for mining purposes;
 - “Crown lands” means lands vested in the Commission and includes—
 - (a) lands reserved, dedicated, appropriated or resumed for public purposes; and
 - (b) lands under any river or creek, but does not include lands alienated in free simple or in process of alienation in fee simple from the Crown, or lawfully contracted to be granted in fee simple by the Crown;

- “earth” means rock, stone, gravel, clay, sand, soil or mineral ;
- “gold” means gold or earth containing gold, or having gold mixed in the substance thereof, or set apart for the purpose of extracting gold therefrom ;
- “mine” includes any place, pit, shaft, drive, level or other excavation, drift, gutter, lead, vein, lode, or reef, whereon wherein or whereby any operation for or in connection with mining purposes is carried on ;
- “minerals” means silver, copper, tin, iron, antimony, cinnabar, galena, mineral pigments, mercury, lead, wolfram, coal, shale, scheelite, chromite, turquoise, diamond, ruby, sapphire, emerald, zircon, apatite, and other phosphates, serpen, molybdenite, alunite and alum, barytes, asbestos, gypsum, mineral oils, monazite and any other substance from time to time declared by the Commission by notice in the *Gazette* to be a mineral ;
- “Mining purposes” includes cutting and constructing any tunnel, water-race, drain, dam or reservoir, or constructing any railing or tramway, or laying any pipes for the purpose of mining, erecting buildings and machinery to be used for any process whatsoever in connection with the extraction of gold or minerals, pumping or raising water to or from land mined or worked or intended to be worked for the extraction of gold or minerals therefrom, treatment of tailings on abandoned land, and any other work which the Commission by notice in the *Gazette* declares to be a mining purpose ;
- “mining surveyor” means a mining surveyor appointed or recognised by the Commission ;
- “public purpose” means any purpose in respect of which the Commission may exercise any of its powers ;
- “road” means road, street or lane which the public are entitled to use ;
- “tenement” means land lawfully occupied under a miner’s right ;
- “the Commission” means the Federal Capital Commission ;
- “the regulations” means the Regulations made under this Ordinance ;
- “this Ordinance” includes the regulations thereunder ;
- “to mine” means to disturb, remove, cart, carry, wash, sift, smelt, refine, crush or otherwise deal with any earth by any mode or method for the purpose of obtaining gold or minerals therefrom ;
- “to prospect” means to search for gold or any mineral ;

6.—(1.) The Commission may delegate any of its powers and functions under this Ordinance (except this power of delegation) in relation to any matters or class of matters, so that the delegated powers and functions may be exercised by the delegate with respect to the matters or class of matters specified in the instrument of delegation. Delegation by Commissions.

(2.) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power or function by the Commission.

7. Nothing in this Ordinance or done under or in pursuance of this Ordinance shall authorise or entitle any person to mine or to prospect in any portion of the Territory shown by hachure on the map in the Second Schedule to this Ordinance, or on any land alienated or in course of alienation from the Crown in fee simple. Application.

PART II.—MINERS' RIGHTS.

8.—(1.) The Commission may issue a miner's right to any person. Issue of miners' rights.

(2.) A miner's right shall be in accordance with the prescribed form and shall be in force for a period of six months from the date of issue.

(3.) The fee for the issue of a miner's right shall be Five shillings.

9.—(1.) The holder of any miner's right shall be entitled, upon application and payment of the prescribed fee, to a new miner's right dating from the expiration of the previous right. Renewal of miner's right.

(2.) Application may be made—

- (a) within one month before the date of the expiration of the existing right and upon payment by the applicant of a fee of Five shillings ; or
- (b) within seven days after the date of the expiration of the existing right upon production of the expired miner's right and payment by the applicant of a fee of Five shillings ; and
- (c) after seven days and within one month after the date of the expiration of the existing miner's right upon production of the expired right and payment by the applicant of a fee of Seven shillings and sixpence.

10. The holder of a miner's right may transfer it by endorsement under his hand, and by registration in the prescribed manner. Transfer.

11. The Commission, on proof to its satisfaction that a miner's right has been lost or destroyed, may issue a duplicate right upon payment of a fee of One shilling. Loss or destruction of miner's right.

Rights conferred
by a miner's
right.

12. Except as against the Commission, the holder of a miner's right may, subject to the provisions of this Ordinance and the Regulations—

- (a) take possession of and exclusively occupy any Crown land for mining purposes and mine thereon ;
- (b) have and possess any gold or other minerals found in that land while so occupied ;
- (c) erect any building, structure or machinery upon land so occupied, and remove any such building, structure or machinery at any time during the occupation ;
- (d) exercise any rights of the nature of easements in connection with the land so occupied ;
- (e) occupy Crown lands and construct and use thereon races, dams, reservoirs, roads and tramways for mining purposes ;
- (f) take or divert water from any lake, pool, spring or stream, situated in, or flowing through, Crown lands not exempted from occupation under a miner's right, and use that water for mining or domestic purposes ;
- (g) while following the occupation of a miner or prospector, procure and remove for mining, smelting, building or other purposes, for his personal use only, any bark or live or dead timber, or any stone or gravel from any Crown lands not—
 - (i) exempted from occupation under a miner's right ;
 - (ii) within the operation of any law prohibiting the cutting or removal of that timber, bark, stone or gravel ; and
- (h) while following the occupation of a miner or prospector graze upon Crown lands not exempted from occupation under a miner's right, such horses or other animals as are necessary for his subsistence and for the carrying on of prospecting or mining.

(2.) The different classes of tenements of which the holder of a miner's right may take possession shall be as prescribed.

(3.) For the purposes of taking possession of more than one tenement of any specific class, the person so taking possession shall hold an additional miner's right for each additional tenement after the first of the same class.

Residence area.

13.—(1.) Except as against the Commission the holder of a miner's right may, subject to the exemptions provided in this Ordinance, take possession of and occupy Crown lands (in this Ordinance referred to as a "residence area") for the purpose of residing thereon.

(2.) The occupation of a residence area shall extend only to the surface and the prescribed depth below the surface, and an area greater than one-quarter of an acre shall not be so occupied except with the approval of the Commission.

(3.) Every such area shall be taken possession of in the prescribed manner.

(4.) A person shall not hold more than one such area at the same time.

(5.) The holder of a residence area may erect any building or structure upon the land so occupied, and may remove or dispose of it during occupation, or at any time within one month, or within such further time, not exceeding six months, as the Commission may order and direct, after ceasing to occupy the residence area.

14.—(1.) The Commission may, upon the application of the holder of a miner's right, grant to him an authority to prospect on any Crown lands whether exempted from occupation under this Ordinance or not. Authority to prospect.

(2.) The area to be held under the authority, the term, rent and the conditions as to labour and other matters shall be determined by the Commission.

(3.) The Commission may, upon the failure of the person authorized to comply with any of the conditions so determined, cancel the authority.

(4.) The authority shall entitle the holder to take possession of the area on payment in advance of the rent so determined, and the survey fee, if necessary, and to carry on prospecting operations during the term of the authority.

(5.) Upon discovery of gold or other minerals the holder of the authority shall, within fourteen days after the date of the discovery, report the discovery to the Commission.

(6.) The Commission may thereupon call upon the holder of the authority to apply for a lease of the land or such part thereof as the Commission deems advisable, or to continue prospecting operations.

(7.) If the holder of the authority fails to comply with any requirement made in pursuance of the last preceding sub-section, the Commission may cancel the authority.

15.—(1.) The following classes of Crown lands are, except where otherwise expressly provided, exempted from occupation under any miner's right, namely— Exempted Crown lands.

- (a) lands reserved, dedicated, appropriated or resumed for public purposes (except land reserved for a temporary common, or for mining or mining purposes);
- (b) lands granted or vested by the Commission for any estate or interest in trust for the purpose of a race-course, cricket ground, recreation reserve, park or permanent common, or for any other public purpose; and
- (c) lands the subject of a pending application for a lease under this Ordinance;

Provided that where any such lease or grant contains a reservation of all or any rights conferred by any law relating to mining, the land comprised in the lease or grant shall, to the extent so reserved, be open to occupation under a miner's right.

(2.) Crown lands lawfully and *bona fide* used for any public purpose or as a garden, cultivated field or orchard, or upon which any house, outhouse, shed or other building is erected and is actually used and occupied or any reservoir or artificial dam is lawfully standing, shall be exempt from occupation under a miner's right, except upon payment of compensation as determined by the Commission.

(3.) The Commission may fix at what depth from the surface the workings on any such land shall be carried on, and on failure to observe the order, the person in occupation of the land shall be deemed to be a trespasser.

(4.) The Commission may, by notice in the *Gazette*, exempt from occupation for mining or mining purposes, or for residence under any miner's right, any Crown lands and may revoke or amend any such notification.

Registration.

16.—(1.) Where any person takes possession under this part of a tenement (other than a prospecting area or residence area not exceeding one-quarter of an acre outside the boundaries of any town or village or such other tenement as is prescribed) he shall within twenty-eight days thereafter, register it in the prescribed manner.

(2.) Where any interest in a tenement required to be registered is transferred to, vests in absolutely or as security only, or devolves upon any person, that person shall within twenty-eight days thereafter, register it in the prescribed manner.

(3.) Upon every registration of a tenement the person requiring the registration shall produce his miner's right.

(4.) Any person who neglects to register a claim or share in a claim within the prescribed period, shall, if he works or mines in the claim, be guilty of an offence.

Penalty : Ten Pounds.

(5.) Notwithstanding anything contained in this section, if it is shown to the satisfaction of the Commission that the person whose duty it is to register was or would be prevented by sickness or any other like disability from effecting the registration, the Commission may extend the period to a further period not exceeding twenty-eight days from the expiration of the first-mentioned period.

Evidence of title.

17. Production in any court of a certificate of registration issued by the Commission, shall be evidence that the person named in the certificate was the holder of a miner's right at the date mentioned in the certificate, and that all the requirements of this Ordinance necessary to vest the title of the interest in that person had been complied with by him up to the date of the registration.

Division of interest in claim.

18.—(1.) The owner of any registered claim may, subject to the Regulations, divide his interest therein into shares, and allot any of those shares to any person.

(2.) The owner of any two or more adjoining claims may, with the consent of the Commission and subject to such conditions as the Commission determines and in the prescribed manner, amalgamate the claims before or after registration.

(3.) The amalgamated claims so formed shall be registered and may be divided into shares or dealt with as an ordinary claim.

(4.) The owner of any registered claim or share in a claim may, subject to the Regulations, assign, encumber or create any interest in the claim or share.

19. The holding of a miner's right in respect of a claim shall be deemed a holding on behalf of the owners of the claim, or of any shareholders in the claim, or of any interest therein, and it shall not be necessary for separate miner's rights to be held by the owner of the shares or interests.

Rights held on behalf of owners.

PART III.—LEASES.

20.—(1.) The Commission may grant a mining lease of any Crown lands.

(2.) A mining lease may be of the surface and sub-jacent soil or of the soil below a certain depth from the surface only.

(3.) A mining lease may be—

- (a) a gold mining lease authorizing mining on the land for gold and for purposes connected with gold mining ; or
- (b) a mineral lease authorizing mining on the land for the minerals therein specified and for purposes connected with that mining.

21.—(1.) The Commission may grant a lease of any Crown lands for mining purposes.

Lease for mining purposes

(2.) A lease for mining purposes shall be of the surface only and to a limited depth below the surface.

(3.) A lessee under a lease for mining purposes may use the land for mining purposes, but shall not mine on the land or remove any gold or minerals won therefrom.

22.—(1.) The Commission shall not grant a lease of any claim lawfully occupied under a miner's right unless the holder of the right consents to the lease, in which case a claim shall be deemed to be abandoned and the title thereto shall be absolutely extinguished, whether the application for the lease is granted or refused.

Land occupied under miner's right.

(2.) Crown lands occupied as a residence area or for a dam, reservoir or race, or for machinery shall only be leased from such depth below the surface as the Commission deems sufficient to secure the surface and any buildings, works and improvements thereon from damage occasioned by mining operations.

Applications for lease.

23.—(1.) An application for a lease shall be made in the prescribed form and manner, and shall be subject to the prescribed conditions as to marking out the land applied for, taking possession thereof and otherwise, and shall, except in the case of a special lease or a lease for mining purposes, be accompanied by payment of six months rent in advance at the prescribed rate.

(2.) If more than one application is made for a lease of the same land, the Commission shall first consider and deal with the application of the person who has first taken possession, and so on according to priority of possession.

(3.) For the purposes of this section, “possession” means the act of erecting a datum post, provided that the mode of taking possession prescribed by the Regulations is forthwith complied with.

(4.) If the Commission is of opinion that possession has been taken simultaneously by two or more applicants over the same area, the question of priority may be decided by ballot.

(5.) If any application for a lease is refused or abandoned, any other application for a lease of the same land may be considered and dealt with, regard being had, where necessary, to the rule of priority provided in this section.

Power of Commission to grant or refuse lease.

24.—(1.) The Commission may, in its absolute discretion, grant or refuse any application for a lease.

(2.) The refusal of any application for a lease shall take effect from the date of the notification of the refusal in the *Gazette*.

Applicant may mine upon land.

25. When any application for a lease has been duly made, the applicant may, by virtue of his application, until the lease is granted or refused—

(a) occupy the land applied for, and mine upon and in the land :

Provided that nothing in this paragraph shall affect the right, title, or interest of any other person in or to the land, or in or to any gold or mineral obtained or that may be obtained therefrom ;

(b) proceed in such court as is prescribed for trespass against any person entering upon, occupying, or interfering with the land, not having a lawful title thereto originating prior to the application ;

(c) proceed in such court as is prescribed against any person claiming to have an interest in the land under a miner’s right, for the purpose of having the claim declared invalid ; and

(d) apply to such court as is prescribed for an injunction under this Ordinance against any person claiming to be legally or equitably interested in the land :

Provided that the rights specified in this section shall not accrue to any applicant for a mining lease of any street, road or highway, or any Crown land reserved or dedicated for and in actual use for any public purpose.

26.—(1.) In any such proceedings for trespass the complainant may claim damages for the trespass, and for the recovery of any gold or mineral taken by the defendant from the land, or the value thereof; but he shall not be entitled to succeed unless he proves to the satisfaction of the court that he has complied with the regulations relating to the lodging of the application and payment of rent, so far as those regulations were at the time of the trespass capable of being complied with. Proceedings for trespass.

(2.) If the court decides in favour of the complainant, the court shall, unless the application for the lease has been already determined, order the defendant to lodge with the court any sum awarded as damages and any gold or mineral to which the court adjudges the complainant is entitled, or the value thereof.

(3.) If the application is granted the court shall order the sum and the gold or mineral, or the value thereof, to be delivered or paid to the complainant; but if the application is refused, the court shall order delivery or payment to the person entitled thereto.

27.—(1.) An application for a lease shall be pending from the taking possession of the land for that purpose in the prescribed manner. Land exempt from occupation during pendency of application.

(2.) During the pendency of any such application the land shall be exempt from occupation as a tenement.

(3.) Any such application shall subsist for the benefit of the applicant or, in the event of his death, of his legal representatives, who shall be deemed to hold the land under promise of a lease until default occurs in making or prosecuting the application, or the Commission refuses the application or voids the lease before issue, and notice thereof is published in the *Gazette*.

28. If at the time of lodging an application for a lease, the land applied for has not been surveyed by a mining surveyor, or the marks of a previous survey have been removed or obliterated, the applicant shall deliver to the Commission a written application for a survey of the land accompanied by the prescribed survey fee. Application for survey.

29.—(1.) Any person may object to the issue of any lease by lodging with the Commission and serving upon the applicant within the prescribed time, a written notice of his objection. Objections.

(2.) The notice may be served either personally or by registered letter addressed to the last-known address of the applicant, or if the applicant's address cannot be ascertained, by posting the notice on the datum post on the land in respect of which the application for the lease is made.

(3.) The person so objecting shall, at the time of lodging his objection, deposit with the Commission the sum of Five pounds as security for any costs which may be awarded against him in relation to the objection.

Hearing of objection.

30.—(1.) Where a notice of objection has been so lodged, the Commission shall appoint a place and time for the hearing of the application and objection, and shall give not less than three clear days' notice thereof to the applicant and to the objector respectively.

(2.) Where an objection has been lodged by several persons jointly, notice to one of them shall be sufficient.

(3.) On the day so appointed, the Commission shall inquire into the particulars stated by the applicant and objector respectively, and may, if necessary, adjourn the inquiry for any time not exceeding one month, or to any other place on such conditions as to costs as it thinks fit.

(4.) Notice of any such adjournment shall be given to the applicant and to each objector.

(5.) At the conclusion of the inquiry, the Commission shall announce whether the application will or will not be granted.

Area of lease.

31.—(1.) Except in respect of special leases, the maximum area which may be included in any one mining lease shall be—

(a) in an opal mining lease—one hundred and fifty feet square ;

(b) in a gold mining lease—twenty-five acres ;

(c) in a lease to mine for coal, shale, mineral oils, petroleum or natural gas—six hundred and forty acres ; and

(d) in a lease to mine for any other mineral—eighty acres.

(2.) The area and dimensions of a lease for mining purposes shall be such as the Commission determines.

Mineral lease to be open for mining for other minerals.

32.—(1.) Every lease to mine for mineral oils, petroleum or natural gas may contain a condition empowering the Commission to grant authority to any person to prospect for any other mineral in or upon the land included in the lease, but no such authority shall be granted in respect of any part of the land upon which the lessee is actually carrying on prospecting or mining operations or within three hundred yards thereof.

(2.) In the event of the discovery by the authorized person of any mineral (other than mineral oils, petroleum or natural gas), the Commission may cancel the lease of so much of the area included in the authority as is necessary to enable mining operations for the other mineral to be carried on.

(3.) The cancellation shall take effect upon the expiration of one month after the date of service of notice upon the lessee, and for a period of one month after the date of cancellation the authorized person shall have the exclusive right to apply for a lease of the cancelled area.

Rentals.

33. The annual rent to be paid to the Commission for a mining lease shall be determined by the Commission.

34.—(1.) The lessee of a mining lease shall pay to the Commission Royalty. a royalty of one per centum of the value of all gold and minerals, other than coal or shale, won from the leased land after the commencement of the lease :

Provided that the lessee shall not be required to pay a royalty in any one year if the gross output does not exceed five hundred pounds in value during that year.

(2.) The lessee of a mining lease shall pay to the Commission the sum of sixpence per ton on all shale or coal won from the leased land after the commencement of the lease.

(3.) Royalty shall be payable at the times and in the manner prescribed.

35.—(1.) A lease granted under this Part may be for any term Term of lease. not exceeding twenty years.

(2.) Any such lease may be renewed for a further term not exceeding twenty years.

(3.) Application for the renewal of a lease shall be made during the last five years of the term of the lease.

(4.) The renewal of the lease shall be at the rent and royalty, and subject to such other covenants and conditions as are prescribed by the laws in force at the time of the renewal, and to such further covenants and conditions, as the Commission thinks fit to impose.

36. Every lease under this Ordinance shall, according to the nature thereof, contain such covenants, conditions, reservations and exceptions as to labour and otherwise as are prescribed, or as the Commission determines. Covenants, conditions, &c.

37.—(1.) When any application for a lease is granted, it shall be the duty of the applicant or the person named by him, or his legal representatives on death or bankruptcy, to execute the lease when called upon, and the execution of a lease by the legal representatives shall be as binding upon all persons as if the lease had been duly executed by the applicant or that person. Applicant or legal representative to execute lease.

(2.) If the applicant or person, or his legal representatives neglect or refuse to execute the lease or to pay the prescribed fee in respect of the lease within the prescribed period after being notified in writing as prescribed, that the lease is ready for execution, the lease may be voided by the Commission and thereupon all monies deposited with the application shall be forfeited to the Commission and paid into the Seat of Government Fund established under the *Seat of Government (Administration) Act 1924-1929*.

(3.) The voidance shall take effect from the date of publication thereof in the *Gazette*.

(4.) Where the application is made by two or more persons, and one or more of those persons fails or fail to execute the lease within the prescribed period, the Commission may, if it thinks, issue the lease to such of the applicants as have executed it, and in that case the lease shall be valid and effectual in favour of those applicants,

(5.) When executed by the Commission a lease shall be deemed to take effect as from the date of application therefor.

Registration.

38.—(1.) Every lease under this Ordinance shall be registered with the Commission, and thereafter every transfer, sub-lease or change of ownership of and every tribute agreement affecting the land comprised in the lease, or any portion thereof, shall be registered with the Commission.

(2.) Any person claiming interest in any lease under this Ordinance may, prior to the registration of any transfer or sub-lease thereof, lodge with the Commission a caveat in the prescribed form, and accompanied by the prescribed fee, against the registration.

(3.) Upon receipt of the caveat, the Commission shall stay the registration for fourteen days unless the caveat is sooner withdrawn, but shall then register the transfer, sub-lease or change of ownership unless the person objecting has obtained and served upon him an order of some competent Court forbidding the registration.

(4.) A lease under this Ordinance or any dealing therewith shall not be registered under the *Real Property Ordinance 1925-1927*.

**Exemption
from labour
conditions.**

39.—(1.) If any holder of a lease under this Ordinance employs on the leased land labour in excess of that required by the provisions of his lease, he shall, upon application to the Commission and upon satisfying the Commission that, after the commencement of this Ordinance and during any expired period of his lease (not being less than six months) the excess labour so employed has been equal to the labour prescribed in his lease for six months, be entitled, in respect of the excess labour, to exemption from the employment of labour for one month, provided that the exemption shall not be for any longer cumulative term than six months at any one time.

(2.) Upon receipt of any such application the Commission shall hold an inquiry, of which notice shall be given as prescribed, and upon being satisfied that the lessee is entitled to the exemption shall issue a certificate in accordance with the prescribed form and that certificate shall be registered in the office of the Commission.

**Commission
may authorise
amalgamation.**

40.—(1.) The Commission may, upon application in the prescribed manner by the owners of two or more adjoining gold mining leases or of two or more adjoining mineral leases, and on being satisfied that the lands comprised in the lease can be more effectively worked as one mine, authorise the amalgamation of the lease upon payment of a fee of One pound for each lease so amalgamated.

(2.) Where the lands comprised in the lease are divided from each other by a road or stream, mining operations shall not be carried on under the road or stream until and unless a lease has been granted.

(3.) The Commission may, after inquiry, cancel any such amalgamation of leases.

(4.) When leases have been amalgamated in pursuance of this section, the labour required to be performed on or in connection therewith shall be the aggregate of the labour required for the respective leases before amalgamation.

(5.) The Commission may, after inquiry, reduce the number of men to be employed and the capital to be expended on any amalgamated lease, should it be shown that the circumstances warrant that reduction.

41.—(1.) Any person may give notice in writing by complaint to the Commission in accordance with the prescribed form, of non-compliance with the labour conditions by the lessee of any lease granted under this Ordinance, and may at the same time apply for a lease of the land comprised in the lease or any part thereof in the event of the lease being cancelled : Complaints as to non-compliance with labour conditions.

Provided that, for the purposes of any other provision of this Ordinance, an application under this section shall be deemed to have been made on the date of the cancellation of the lease.

(2.) The manner of lodging the complaint and the manner in which the complaint shall be dealt with, shall be as prescribed.

42.—(1.) Every holder of a lease under this Ordinance may at any time, with the consent of the Commission, surrender his lease wholly or in part. Lessee may surrender lease wholly or in part.

(2.) The Commission may on the acceptance of the surrender grant the holder a new lease of the whole or any part of the land comprised in the surrendered lease, upon such conditions not inconsistent with this Ordinance, as it deems advisable.

(3.) The surrender of a lease shall not entitle the lessee to the refund or the remission of any rent already paid or due.

43. If the holder of a lease under this Ordinance, his executors, administrators or assigns at any time during the term of the lease— Cancellation of lease.

- (a) fails to fulfil or contravenes the conditions and any covenants contained therein ; or
- (b) fails to use the land *bona fide* for the purposes for which it has been leased ; or
- (c) uses it for a purpose other than that for which it has been leased,

the Commission may cancel the lease, and the cancellation shall take effect when notified in the *Gazette*.

44.—(1.) The Commission may grant a special mining lease of Crown lands for mining, other than coal or shale mining, if the Commission is satisfied that by reason of the difficulties and costs attending the construction of mine works upon or of mining the land, it is necessary that the lease be granted. Special leases.

(2.) The Commission shall fix the form of and area to be comprised in any such lease, the rent and royalty to be paid and the labour and other conditions, reservations and exceptions to be contained in the lease, but in all other respects a special lease and the application therefor shall be subject to the provisions of this Ordinance in respect of ordinary leases under this Ordinance.

Reward areas. 45. The Commission may in respect of any prospector who makes a new discovery of gold or other mineral make concessions in respect of any claim or lease applied for or held by that person in respect of the area, rent, royalty, labour and other conditions applicable by this Ordinance to the application, claim or lease.

Subsidies. 46. The Commission may, subject to such conditions as are prescribed or as the Commission determines, upon application made by any miner showing substantial expenditure previously incurred, reasonable prospects of gold or other minerals being won as the result of further work, and the work on which the subsidy will be expended, grant to the miner such subsidy as is prescribed.

PART IV.—MISCELLANEOUS.

Suspension of pastoral lease. 47.—(1.) The Commission may suspend the operation of any lease for pastoral purposes on Crown land so far as may be necessary for—

- (a) the accommodation of the horses, cattle and sheep required for the subsistence and convenience of any persons holding tenements, leases or other holdings under this Ordinance ;
- (b) the supply of water to those persons ; and
- (c) otherwise for the carrying on of mining operations by those persons.

(2.) The Commission shall return or remit to the lessee such portion of the rent of the land as is reasonable and just, and shall pay compensation for any improvements upon the land to be assessed, unless otherwise agreed upon, by the Commission.

(3.) Upon any such suspension, the Commission by its officers and servants, may enter upon the land and do all such acts as may be deemed necessary for the proper regulation of the water supply.

Commission may allow pipe line, &c., to be constructed on Crown lands. 48.—(1.) The Commission may, subject to the Regulations, grant permission in writing to the holder of a claim or of a lease under this Ordinance, upon written application for the purpose, to lay or construct a line of pipes, sluice box or culvert under or upon any Crown lands (including lands reserved or dedicated for any public purpose) for the purpose of conveying any water, tailings, sludge, waste water or earth in connection with any mine.

(2.) Before granting any such permission as regards any road, the Commission shall cause the road to be inspected by some officer thereto authorised by the Commission.

(3.) Any works authorised by the Commission shall be so constructed as not substantially to injure any road or obstruct the traffic thereon, and if after construction it appears to the Commission that they do in fact cause that injury or obstruction, it may cancel the permission and order the person who obtained the permission or the owner or occupier for the time being to remove any such works or obstruction within seven days.

(4.) If any such order is disobeyed the line of pipes, sluice box or culvert in question shall be deemed a nuisance remediable in the same manner as any other obstruction or nuisance upon a highway, and every person so disobeying shall be guilty of an offence.

Penalty: Twenty pounds for every day during which the disobedience continues.

49.—(1.) The Commission may, subject to the Regulations, authorise any holder of a claim or lease under this Ordinance, to enter any Crown land held under any lease, claim or other holding under this Ordinance, for the purpose of constructing tunnels, roads, races, shafts, or channels, or of erecting standards carrying wires for the conveyance of electricity to or from any mine held or owned by the holder or lessee, provided that the works to be constructed shall be carried out in such a manner as to cause as little injury or inconvenience as possible to the holder of the land.

Authority to
construct
tunnels, &c., on
holding.

(2.) The Commission shall assess the compensation to be paid for any damage caused or likely to be caused by the construction of those works.

(3.) If the person to whom the authority is granted fails to observe the conditions under which the authority is granted, the Commission may at once cancel the authority.

(4.) If the person continues in occupation of or enters the land after being notified in writing of the cancellation, he shall be deemed a trespasser.

(5.) The rights and duties under any authority issued under this section may be assigned and transferred with the claim or lease in connection with which it was issued.

(6.) Every such authority shall be and remain in force for the period stated therein, notwithstanding that the claim or lease on which the authority operates has determined during that period.

(7.) The holder of any such authority may surrender it at any time.

50.—(1.) The registered owners, or a majority of the registered owners of any claim or lease held under this Ordinance, may apply to the Commission for authority to suspend mining operations for any period not exceeding the limits specified in this section on the occasion of each such suspension.

Suspension of
of labour
conditions.

(2.) Every such application shall contain the grounds thereof, and a copy thereof shall be posted on the claim or on the land leased, and also outside the office of the Commission, and shall be served upon the owners of any adjoining claims or leases, or posted on those claims or leases.

(3.) Any person may, before the hearing of the application, in the prescribed manner lodge an objection to the granting of the suspension applied for, and shall be entitled to be heard in support of the objection.

(4.) The Commission may grant the authority for any period not exceeding six months on being satisfied—

- (a) that the claim or lease is unworkable by reason of accident to machinery, subsidence, scarcity of water, sudden excess of water or any other cause whatsoever ;
- (b) that the owners of the claim or lease are unable by reason of sickness, accident, unavoidable absence or other sufficient cause to work the claim or lease ; or
- (c) that substantial expenditure has been incurred in mining operations on the claim or lease, and that the owner or lessee is temporarily unable to continue the operations and requires reasonable time within which to make necessary arrangements.

(5.) The Commission may, upon being further satisfied that the claim or lease cannot be profitably worked under then existing circumstances, owing to the low price of the product thereof or other adverse conditions, grant the authority for any period not exceeding six months in respect of any claim or lease.

(6.) All applications for suspension of labour conditions shall be made and dealt with as prescribed.

(7.) The Commission may when granting the suspension under this section, impose such conditions as it thinks fit for the protection from injury of adjoining mines by water or otherwise by reason of the suspension being granted.

Return to
be furnished by
holder of lease,
&c.

51.—(1.) Every holder of a lease or other title to mine subject to the payment of any sum by way of royalty to the Commission granted under this Ordinance, shall during the first twenty-eight days of the month of January in each year, furnish to the Commission a full and proper return verified by statutory declaration showing the quantity and value of gold or minerals, including coal and shale, won from the land held under lease or other title to mine during the preceding year ended the thirty-first day of December.

(2.) Every such return shall be in accordance with the prescribed form, and if the holder of the lease or other title to mine is a public company, the return shall be furnished by the manager or person acting in the management or by the secretary of the company.

(3.) Any such holder or any such manager, person or secretary who fails to furnish a return within the prescribed time or in accordance with the prescribed form, shall be guilty of an offence.

Penalty : Fifty pounds, and, in addition, Five pounds for every day after the expiration of the period of twenty-eight days during which he fails to furnish the return.

52.—(1.) If the Commission is not satisfied with any return furnished in accordance with the last preceding sub-section, it may require the person furnishing the return to furnish further particulars of the gold or minerals won or may, whether any return has been furnished or not, appoint any officer of the Commission or other person to make all necessary inquiries in relation to the gold or minerals. Further particulars and inquiries.

(2.) The officer or person so appointed may make all such inquiries and may require the holder or his clerk, or the manager, secretary or clerk of any such company to produce for inspection at the office of the holder or company, any books, accounts, documents, writings, papers or instructions in his possession or in his control which the officer or person considers necessary to enable him to ascertain the quantity of gold or minerals won, and may make copies of any entries or matters contained in the books, accounts, documents, writings, papers or instructions, and upon completion of the inquiries, the officer or person shall report thereon to the Commission.

53. The Commission may, subject to the Regulations, upon the application of any person having the care and the management of any road or railway, or any person thereto authorised by the Commission, authorise by writing any mining surveyor to enter and inspect any land or mines comprised in any claim, lease, application for lease or authority under this Ordinance for the purpose of ascertaining whether the persons working the land or mines are encroaching on the road or railway, and whether the mining operations so carried on can be continued without causing injury or damage thereto or to any house, building or machinery abutting thereon or adjoining thereto. Encroachment on roads, &c.

54. The Commission may, upon the application of the owner or occupier of any land adjoining any land held as a claim, lease or under an authority or application, for lease under this Ordinance, whereon mining is being carried on, or upon the application of any person authorised by the owner or occupier, authorise by writing any mining surveyor to enter and inspect the land on which the mining is being so carried on for the purpose of ascertaining whether the persons so carrying on mining are encroaching upon any land of the owner or occupier, not contained in the claim, lease, authority or application for lease. Commission may authorise mining surveyor to inspect as to encroachment.

(2.) Any geological surveyor, or other person thereto authorised by the Commission, may enter any mine or works for the purpose of inspecting the mine or works and removing any sample of ore or deposit.

(3.) A person shall not obstruct or hinder a geological surveyor or person so authorized acting in pursuance of the last preceding sub-section.

Penalty : Fifty pounds.

(4.) The mining or geological surveyor authorised in pursuance of this section may enter and inspect and survey the land and mines described in the order.

(5.) The surveyor may make such plans and sections of the land entered and of any drives or other works thereon as are necessary for the purposes of this section.

(6.) Any geological surveyor may enter any private lands in the performance of his duties.

Surveyor to
make
declaration.

55. A mining or geological surveyor, or other person so authorised, shall not, except as a witness in a court of justice or to the Commission, without the consent in writing of the occupier or the lessee of land or mines to be entered, divulge or cause to be divulged to any person whomsoever, any information which he obtains upon or by the entry, save only as to whether the persons working the mines are encroaching as mentioned in the last preceding section.

Penalty : Fifty pounds.

Unauthorised
occupation of
crown lands.

56. Any person who on any lands—

(a) mines for gold or any other mineral ;

(b) occupies the land for mining purposes ; or

(c) employs any person for any of the purposes mentioned in the last preceding paragraphs,

shall, unless he proves that he was authorised by or under this Ordinance or any other law so to mine on or to occupy the land, or where he so employs any person, that that person was so authorised, be guilty of an offence.

Penalty : Ten pounds.

Obstruction of
officers.

57. Any person who assaults, obstructs or resists any officer, inspector or other person in the performance of his duty or in the exercise of his powers under this Ordinance, shall be guilty of an offence.

Penalty : Fifty pounds.

Forgery of
documents.

58. Any person who forges any miner's right or any lease, licence or any authority issued or purporting to be issued under this Ordinance, or fraudulently uses, utters or exhibits any such forged miner's right, lease, licence or authority, knowing it to be forged, shall be guilty of an offence.

Penalty : Imprisonment for twelve months.

False quantity
or value.

59. Any person who knowingly inserts any false quantity or value in any return directed by this Ordinance to be made or furnished, shall be guilty of an offence.

Penalty : Fifty pounds.

60.—(1.) Where compensation is by this Ordinance directed to be assessed by the Commission in respect of land entered or occupied, or proposed to be entered or occupied, under a miner's right, authority, lease or application for lease, or in respect of any land adjoining thereto, the assessment—

How
compensation
assessed.

- (a) shall be made in the manner prescribed, and after notice to the persons who appear to the Commission to be interested in the assessment ;
- (b) shall be of the loss caused or likely to be caused by damage to the surface of the land, and to any crops, buildings and improvements thereon by works carried on in pursuance of the right, authority, lease or application ;
- (c) shall not exceed in amount the market value for other than mining purposes of the land and the improvements thereon ; and
- (d) shall, subject to appeal to arbitration as provided in this Ordinance, be final.

(2.) The amount so assessed shall be paid by the holder of the right, authority or lease, or by the applicant to the Commission, and shall, from time to time on damage being caused as mentioned in the last preceding sub-section, be paid out by the Commission on the application of any person having interest in the land.

(3.) Upon the production of a document in writing signed by the holder or applicant and by the person having interest in the land agreeing to dispense with the assessment and payment, the Commission shall, in terms of the document, dispense with the making of the assessment absolutely or on conditions so as to carry out the terms of the agreement.

(4.) If, after the expiration of six months and before the expiration of twelve months, after the determination of the lease or authority, or after the refusal of the application for the lease, the whole or any part of an amount so paid to the Commission has not been paid out under the preceding provisions of this section, and has not been ordered to be so paid out, any person who has paid the amount to the Commission may apply to the Commission for the payment out to him of the amount or part, and the Commission may order the payment to be made.

(5.) After the expiration of the period of twelve months referred to in the last preceding sub-section, the Commission may pay the amount or any part thereof into the Seat of Government Fund established under the *Seat of Government (Administration) Act 1924-1929*.

61. In making any such assessment the Commission—

Procedure on
making
assessment.

- (a) may make the assessment at any time and place fixed by it ;
- (b) may make the assessment in the absence of any persons interested who appear to the Commission to have been duly notified ; and
- (c) may adjourn the hearing to any time and place, subject to such terms as to costs or otherwise as it thinks fit.

**Additional
assessment.**

62.—(1.) If, after the assessment has been made, it is proved to the Commission that the amount so paid to it in respect of certain land has been duly paid out, and that, since the payment out, further loss has been caused by damage as referred to in section fifty-six of this Ordinance to the land, or to other land, the Commission may, in accordance with the last two preceding sections, assess the loss and order it to be paid by the holder or applicant to any person having interest in the land so damaged.

(2.) If the payment is not so made, the claim, authority or lease may be cancelled.

**Appeal to
arbitration.**

63.—(1.) Any person dissatisfied with any assessment made by the Commission under the provisions of this Ordinance, where the amount so assessed exceeds Five pounds, may in the prescribed manner give notice that he requires the assessment to be determined by arbitration under this Ordinance.

(2.) The assessment shall thereupon be made and determined by arbitrators appointed as prescribed.

(3.) The arbitration shall be in the nature of an appeal from the assessment of the Commission, and the powers of the arbitrators and proceedings before them shall be as prescribed.

(4.) The determination of the arbitrators shall be final and shall be given effect to by the parties and by the Commission.

(5.) The appellant shall deposit with the Commission the sum of Five pounds to answer any costs which the arbitrators may order the Commission to pay.

Regulations.

64. The Commission may make regulations not inconsistent with this Ordinance prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary and convenient to be prescribed for giving effect to this Ordinance and in particular prescribing matters providing for and in relation to—

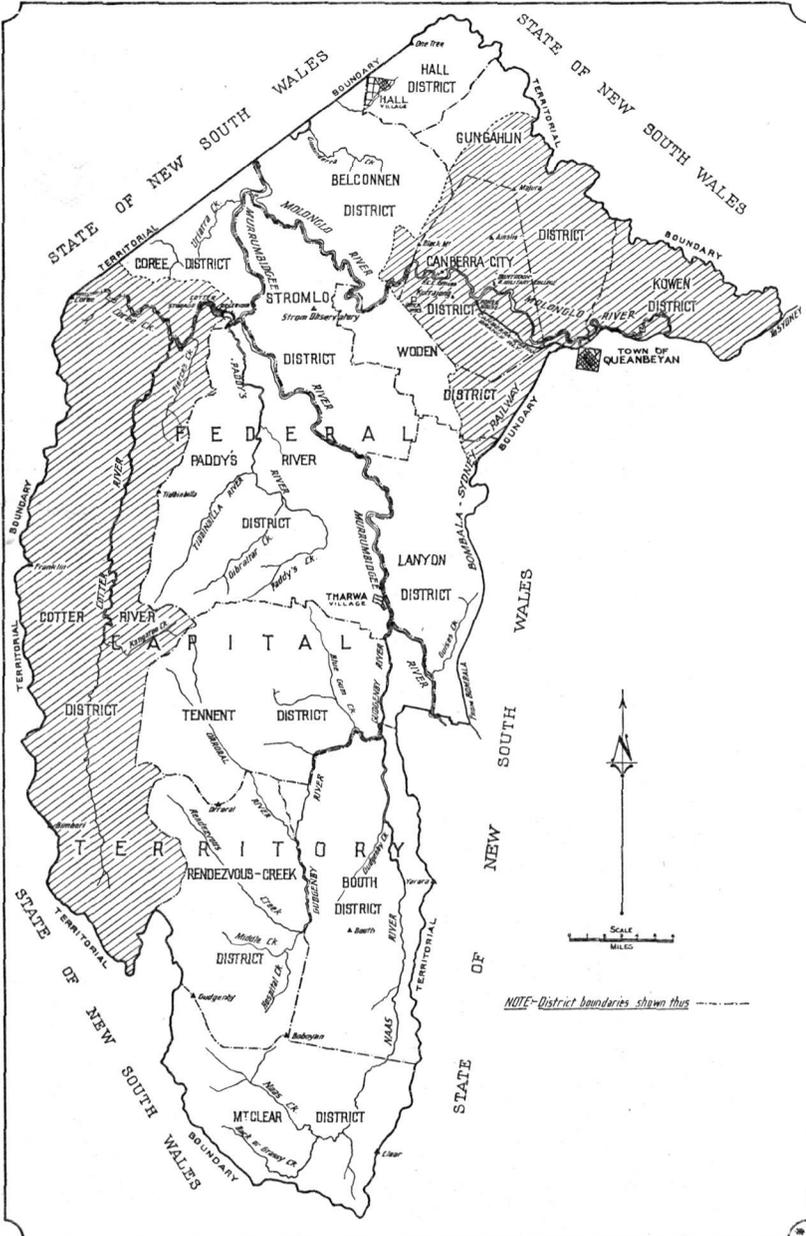
- (a) the fees payable in respect of matters arising under this Ordinance; and
- (b) the imposition of penalties for breaches of the Regulations.

THE SCHEDULES.

THE FIRST SCHEDULE.

Short Title of Act.	Number of Act.
<i>Mining Act, 1906</i>	No. 49, 1906
<i>Mining (Amendment) Act, 1907</i>	No. 18, 1907

THE SECOND SCHEDULE.



Dated this tenth day of February One thousand nine hundred and thirty.

STONEHAVEN
Governor-General.

By His Excellency's Command,
ARTHUR BLAKELEY

Minister of State for Home Affairs.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

By Authority: H. J. GREEN, Government Printer, Canberra.