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1972, No. 8

**An Act to amend the Coal Mines Act 1925**

[21 September 1972]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Coal Mines Amendment Act 1972, and shall be read together with and deemed part of the Coal Mines Act 1925 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on a date to be fixed by the Governor-General by Order in Council.

**2. Interpretation**—(1) Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “boy”, the following definition:

“ ‘Chief Surveyor’ has the same meaning as in the Land Act 1948:”.

(2) The said section 2 is hereby further amended by omitting from the definition of the term “coal” the words “every other mineral used for fuel”, and substituting the words “peat; and includes every other substance worked or which is normally worked along with coal”.

(3) The said section 2 is hereby further amended by repealing the definitions of the terms “Commissioner of Crown Lands”, “mining district”, and “Warden”.

(4) The said section 2 is hereby further amended by inserting, after the definition of the term “Crown lands”, the following definition:

“ ‘District Land Registrar’ means the District Land Registrar of the land registration district within which any land to be dealt with under this Act is situated; and, if any such land is situated within more than one such district, means the District Land Registrar of each district:”.

(5) The said section 2 is hereby further amended by repealing the definition of the term “Under-Secretary of Mines”, and substituting the following definitions:

“ ‘Prescribed’ means—

“(a) Prescribed by this Act or by any regulations for the time being in force under this Act:

“(b) In respect of forms, prescribed by this Act or by any such regulations, or prescribed or provided by the Secretary in accordance with any such regulations:

“ ‘Secretary’ means the Secretary of Mines:”.

**3. Coal mining rights**—Section 3 of the principal Act is hereby amended by omitting the words “Warden, within a mining district, and the Commissioner of Crown Lands, within any portion of a land district outside a mining district,”, and substituting the word “Minister”.

**4. Coal mining rights under roads, etc.**—(1) Section 5 of the principal Act (as substituted by section 5 of the Coal Mines Amendment Act 1959) is hereby amended by omitting the words “Wardens and Commissioners of Crown Lands”, and substituting the words “the Minister”.

(2) The Coal Mines Amendment Act 1950 is hereby consequentially amended by repealing so much of the Schedule as relates to section 5 of the principal Act.

**5. Prior rights**—Section 6 of the principal Act is hereby amended by omitting the words “, with the consent of the Minister as hereinafter set out,”.

**6. Term of licence**—Section 8 of the principal Act is hereby amended by omitting the words “Warden or Commissioner may, with the consent of the Minister and”, and substituting the words “Minister may,”.

**7. Rent**—The principal Act is hereby further amended by repealing section 9, and substituting the following section:

“9. In respect of every coal prospecting licence there shall be payable by the licensee, at the prescribed times or at the times specified in the licence, such rent as may be prescribed.”

**8. Marking out and plans**—The principal Act is hereby further amended by inserting, after section 9, the following sections:

**“9A. Provisions relating to areas of 100 acres or less—**  
(1) This section shall apply only to applications for coal prospecting licences in respect of land with an area of 100 acres or less.

“(2) Before making an application for such a licence the applicant shall mark out the land in respect of which the licence is sought in the prescribed manner. Any such marking out need not be done by a registered surveyor.

“(3) The application shall be accompanied by a plan that has the land in respect of which a licence is sought clearly delineated and identified on it by reference to the area of the land and its legal description and ownership, and by reference to its location in relation to cadastral boundaries, survey monuments, topographical features, or existing coal mining rights, as the case may require.

**“9B. Provisions relating to areas of over 100 acres—**  
(1) This section shall apply only to applications for coal prospecting licences in respect of land with an area of over 100 acres.

“(2) Every application for such a licence shall be accompanied by a plan that has the land clearly delineated and identified on it by reference to the area of the land and its legal description and ownership, and by reference to its location in relation to cadastral boundaries, survey monuments, topographical features, or existing coal mining rights, as the case may require; but it shall not be necessary for the land to be marked out or surveyed.”

**9. Conditions attached to all licences—**(1) The principal Act is hereby further amended by repealing section 10, and substituting the following section:

“10. (1) Without limiting the provisions of section 24 of this Act, every coal prospecting licence shall be deemed to be subject to the following conditions:

“(a) That the licensee will vigorously and continuously carry out prospecting operations to the satisfaction of the Secretary;

“(b) That all coal discovered be promptly reported by the licensee to the Secretary or an Inspector;

“(c) That all holes, pits, and trenches, and other disturbances to the surface of the land, made while prospecting be filled in, unless otherwise directed by an Inspector; and

“(d) That all necessary steps are taken by the licensee to prevent fire damage to trees and to prevent damage to livestock by the presence of dogs, the discharge of firearms, or otherwise.

“(2) Every coal prospecting licence shall be held under such conditions relating to programme of work, methods of prospecting, and expenditure of money as may from time to time or in any particular case be approved by the Minister.”

(2) The Coal Mines Amendment Act 1950 is hereby consequentially amended by repealing so much of the Schedule as relates to section 10 of the principal Act.

**10. Restrictions on exchange of licence for lease—**Section 2 of the Coal Mines Amendment Act 1947 is hereby amended by omitting from subsection (3) the words “Warden or, as the case may require, the Commissioner”, and substituting the word “Minister”.

**11. Sale of coal raised**—The principal Act is hereby further amended by repealing section 12, and substituting the following section:

“12. If, in the course of bona fide prospecting operations, marketable coal is raised by the holder of a coal prospecting licence, whether granted before or after the commencement of this Act, the Minister may, subject to such conditions as he thinks fit to impose, authorise the sale or other disposal of such coal on payment by the licensee of such royalty as may be determined by the Minister.”

**12. Existing coal mining leases for terms of less than 66 years may be renewed**—Section 3 of the Coal Mines Amendment Act 1953 is hereby amended—

- (a) By omitting the words “Warden or the Commissioner, as the case may be,” and substituting the word “Minister”:
- (b) By adding the words “, and as if there were substituted, in the said section 15, for the words ‘Warden or Commissioner, as the case may be,’ the word ‘Minister’, and as if there were omitted from the said section 15 the words ‘, and with the approval of the Minister,’ ”.

**13. Royalties and annual rental**—The principal Act is hereby further amended by repealing section 16, and substituting the following section:

“16. (1) Every holder of a coal mining lease shall pay rent at such rate as may be prescribed.

“(2) All rent shall be paid 6-monthly in advance within 30 days after the 1st days of January and July:

“Provided that the first payment of rent shall be made within 7 days after the date on which the lease was granted; and the amount of that payment shall be such as will cover rent from that date to the 30th day of June, or the 31st day of December, as the case may require, next following.

“(3) Every holder of a coal mining lease shall, in respect of all marketable coal mined, pay royalties at such rate as may be determined by the Minister and is specified in the lease.

“(4) All royalties shall be paid 6-monthly within 30 days after the 1st days of January and July in every year.

“(5) The term ‘marketable coal’ shall not include coal which is unsaleable or which cannot be profitably utilised for any purpose:

“Provided that if any coal which has been temporarily unsaleable or unable to be profitably utilised is later sold or so utilised, royalties shall be payable on it and the amount thereof shall be calculated at the end of the 6-monthly period within which the date of such sale or utilisation falls.

“(6) If the royalties calculated in respect of any 6-monthly period exceed the rent for that period, the royalties payable for that period shall be reduced to the amount by which the calculated royalties exceed the rent.

“(7) If the royalties calculated in respect of any 6-monthly period do not exceed the rent for that period but exceed 50 percent of the rent, the royalties payable for that period shall be reduced to an amount equal to 50 percent of the rent.”

**14. Review of royalties**—The principal Act is hereby further amended by inserting, after section 16, the following section:

“16A. (1) Subject to the provisions of this section, if any coal mining lease is granted for a term exceeding 10 years, the Minister may, at 10-yearly intervals after the date on which the lease was granted, review the rate of royalty payable under the lease.

“(2) The rate of royalty payable from the date on which the period of 10 years expires shall be such as may be agreed upon by the Minister and the holder of the coal mining lease, or, in default of agreement, as may be fixed by arbitration in accordance with the provisions of the Arbitration Act 1908.

“(3) This section, for the purposes of any such arbitration, shall be deemed to be a submission within the meaning of the Arbitration Act 1908, and the reference shall be deemed to be to two arbitrators, one to be appointed by the Minister, and the other by the holder of the coal mining lease.

“(4) Notwithstanding the provisions of subsection (2) of this section, the parties may agree on the rate of royalty, either before or after the matter is submitted to arbitration, and, if the agreement is made after the date of any award of arbitration, the award shall be deemed to be cancelled.”

**15. Marking out and surveys**—The principal Act is hereby further amended by inserting, after section 16A (as inserted by section 14 of this Act), the following sections:

“16B. **Plan of land to accompany application**—(1) Before making an application for a coal mining lease the appli-

cant shall mark out in the prescribed manner the land in respect of which a lease is sought. Any such marking out need not be done by a registered surveyor.

“(2) The application shall be accompanied by a plan that has the land in respect of which a lease is sought clearly delineated and identified on it by reference to the area of the land and its legal description and ownership.

“(3) The plan shall also show details of the ground marks used in marking out the land and sufficient information relating to cadastral boundaries, survey monuments, topographical features, or existing coal mining rights, as the case may require, to enable the area to be located on the ground and its position fixed in relation to existing surveys and land titles.

“(4) A coal mining lease shall not be granted until the Chief Surveyor has certified the plan as being satisfactory for the purpose of identifying the land.

“16c. **Surveys**—(1) Except as otherwise provided in section 16D of this Act, a coal mining lease shall not be granted until the applicant has caused the land in respect of which the lease is sought to be surveyed, and the Secretary has received a survey plan of the land certified by the Chief Surveyor.

“(2) Every survey made for the purposes of subsection (1) of this section shall be made by a registered surveyor in accordance with such regulations relating to surveys as are for the time being in force under the Surveyors Act 1966.

“(3) Every survey plan made for the purposes of subsection (1) of this section shall be lodged with the Chief Surveyor for certification. As soon as practicable after the receipt of such a plan, the Chief Surveyor shall cause it to be approved as to survey and forward a copy of it, certified by him, to the Secretary.

“(4) If a survey of land is to be made after the application for a coal mining lease in respect of the land has been lodged, the Minister may in his discretion, if it appears that no valid objection to the grant of the lease exists, advise the applicant whether or not it is likely that a lease will be granted.

“16D. **Survey not required in certain cases**—(1) A survey of land in respect of which a coal mining lease is sought need not be made if—

“(a) The land comprises the whole or a defined part of



the land in a certificate of title under the Land Transfer Act 1952; or

- “(b) The land is, in the opinion of the Chief Surveyor, already adequately defined on plans approved as to survey by the Chief Surveyor and the applicant refers to those plans in his application; or
- “(c) The land has already been surveyed and the applicant arranges for a survey plan to be approved as to survey by the Chief Surveyor and forwarded to the Secretary before the grant of the lease; or
- “(d) After consultation with the Surveyor-General and having regard to the nature of the application and the extent and location of the land, the Secretary considers that the plan submitted with the application adequately defines the boundaries of the land.

“(2) Notwithstanding anything in subsection (1) of this section, the Secretary may, at the cost of the applicant, arrange for a registered surveyor to inspect any land to which an application relates and to report to the Secretary as to whether the boundaries marked out by the application are coterminous with those shown on any survey or other plan.

“16E. **Survey may be required**—Notwithstanding anything in section 16c or section 16d of this Act, the Minister may at any time require the land in respect of which any coal mining lease is in force to be surveyed in accordance with subsection (2) of the said section 16c.”

**16. Minister may grant relief**—Section 17 of the principal Act is hereby amended by omitting from subsection (1) the words “, on the recommendation of the Warden or Commissioner, as the case may be,”.

**17. Extension of section 17**—Section 7 of the Finance Act 1932 (No. 2) is hereby amended by omitting the words “, on the recommendation of the Warden or Commissioner of Crown Lands, as the case may be,”.

**18. Reservations and exceptions in leases**—(1) Section 18 of the principal Act (as revived by section 9 (2) of the Coal Mines Amendment Act 1950) is hereby amended by omitting

from paragraph (e) of subsection (1) the words “The Warden or Commissioner, as the case may be, may with the consent of the Minister, and subject to such conditions as he may”, and substituting the words “The Minister may, subject to such conditions as he thinks fit to”.

(2) The said section 18 (as so revived) is hereby further amended by repealing paragraphs (h) and (i).

(3) The said section 18 (as so revived) is hereby further amended by omitting from subsection (4) the words “Warden or Commissioner granting the same”, and substituting the word “Minister”.

**19. Repealing provisions relating to penalty for breach of conditions**—(1) Section 2 of the Coal Mines Amendment Act 1937 is hereby repealed.

(2) The Quarries Act 1944 is hereby consequentially amended by repealing so much of the Schedule (as added by section 3 (2) of the Quarries Amendment Act 1951) as relates to section 2 of the Coal Mines Amendment Act 1937.

**20. Tramway licences**—The principal Act is hereby further amended by repealing section 19, and substituting the following section:

“19. Subject to the provisions of this Act, the Minister may, subject to such conditions as he thinks fit to impose, grant a tramway licence in respect of any land entitling the holder to construct, work, and maintain tramways on the land for the purpose of conveying coal from a coal mine.”

**21. Rental and conditions of licence**—(1) Section 20 of the principal Act is hereby amended by omitting from subsection (2) the words “, with the approval of the Minister, be fixed by the Warden or Commissioner”, and substituting the words “be prescribed”.

(2) The said section 20 is hereby further amended by repealing subsection (3).

(3) The Coal Mines Amendment Act 1950 is hereby amended by repealing so much of the Schedule as relates to subsection (3) of section 20 of the principal Act.

**22. Plan of land to accompany application**—The principal Act is hereby further amended by inserting, after section 20, the following section:

“20A. (1) Before making an application for the grant of a tramway licence, the applicant shall mark out in the prescribed manner the land in respect of which the licence is sought. Any such marking out need not be done by a registered surveyor.

“(2) The application shall be accompanied by a plan that has the land in respect of which the licence is sought clearly delineated and identified on it by reference to the area of the land and its legal description and ownership, and by reference to its location in relation to cadastral boundaries, survey monuments, topographical features, or existing coal mining rights, as the case may require.

“(3) A tramway licence shall not be granted until the Chief Surveyor has certified the plan as being satisfactory for the purpose of identifying the land.”

**23. Area and term for grant of coal mining rights**—Section 31 of the Coal Act 1948 is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Subject to section 8 of the principal Act, a coal mining right shall be granted in respect of such area of land and for such term as the Minister from time to time or in any particular case determines.”

**24. Marking out**—Section 32 of the Coal Act 1948 is hereby repealed.

**25. Applications for coal mining rights**—(1) Section 21 of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) The application shall be in the prescribed form and shall be forwarded to or lodged with the Secretary:”.

(2) The said section 21 is hereby further amended by omitting from paragraph (b) the words “filing the application the applicant shall”, and substituting the words “forwarding or lodging the application, the applicant shall forward or”.

(3) Paragraph (c) of the said section 21 is hereby further amended by—

(a) Omitting the word “filed”, and substituting the words “forwarded or lodged”:

(b) Omitting the words “making and filing”, and substituting the words “forwarding or lodging”.

(4) The said section 21 is hereby further amended by repealing paragraphs (d) and (e), and substituting the following paragraphs:

“(d) The question of what is a reasonable time shall be determined by the Minister after having regard to the opportunities that the applicant had to make the application and the distance of the land marked out from the nearest place where the application could be posted:

“(e) If it appears to the Minister that any land has been marked out by two or more applicants at the same time, the applicant to have the prior right to the grant of a coal mining right shall be determined in such manner as the Minister thinks fit:”.

(5) The said section 21 is hereby further amended by omitting from paragraph (f) the words “, by leave of the Warden or Commissioner,”.

(6) The said section 21 is hereby further amended by repealing paragraphs (h) to (k).

(7) The said section 21 is hereby further amended by adding the following subsection:

“(2) If any application is made by any person (other than a solicitor) acting as agent for the applicant, a written authority in the prescribed form to act as agent, signed by the applicant, shall be attached to the application.”

(8) Section 3 of the Coal Mines Amendment Act 1927 is hereby consequentially repealed.

**26. Notice of applications, etc.—**(1) The principal Act is hereby further amended by repealing section 22, and substituting the following sections:

“**22. Notice of applications—**(1) Either before or immediately after forwarding or lodging an application for a coal mining right, the applicant shall serve such notice of the application as may be prescribed, on the owner and occupier of the land to which it relates, on all other persons having an interest in the land, so far as they can be ascertained, and on such other persons as may be prescribed.

“(2) Within 7 days after forwarding or lodging an application for a coal mining right, the applicant shall give public

notice of the application by causing a notice of the application in the prescribed form to be published in a newspaper circulating in the place or district in which the land to which the application relates is situated.

“(3) Within 7 days after public notice of an application has been given under subsection (2) of this section, the applicant shall forward to the Secretary an extract, from the newspaper in which the notice appeared, containing the notice, the name of the newspaper, and the date of issue of the newspaper.

“(4) As soon as practicable after receiving an application for a coal mining right, the Secretary shall cause such notice of the application as may be prescribed to be exhibited for not less than 21 days—

“(a) In the office of the Magistrate’s Court nearest to the land to which the application relates; and

“(b) In the office of the Inspector of Coal Mines nearest to the land to which the application relates.

“22A. **Applications to be disposed of within specified time—**

(1) Subject to subsections (2) and (3) of this section, every application for a coal mining right shall be finally disposed of by being granted or refused within 12 months after the date on which the application was made.

“(2) The Minister may extend the period during which an application for a coal mining right may be dealt with if he considers that an extension is justified because of special circumstances.

“(3) If an objection is made to an application for a coal mining right, or if any objection on a question of law is made in respect of such an application, the period from the date of service of the notice of objection on the Secretary to the date on which the objection is determined, or the period from the date of filing the notice of objection to the date on which the objection is finally determined, as the case may be, shall not be included in the computation of any period of time for the purposes of subsection (1) of this section.”

(2) Section 4 of the Coal Mines Amendment Act 1953 is hereby consequentially repealed.

**27. Objections—**The principal Act is hereby further amended by repealing section 23, and substituting the following sections:

**“23. Objections to applications on questions of law—**

(1) Within 21 days after the date on which public notice has been given of any application for a coal mining right, any person may object to the application on any question of law by lodging a written notice of objection in the prescribed form, stating the grounds of the objection, with the Registrar of the Magistrate’s Court nearest to the land to which the application relates or, with the consent of the applicant, with the Registrar of any other Magistrate’s Court.

“(2) A copy of the notice of objection shall be served on the applicant and on the Secretary either before or immediately after it is lodged with the Registrar.

“(3) The Registrar of the Court shall give notice of the time and place fixed for the hearing of the objection to the objector and the applicant.

“(4) The objector and the applicant, either personally or by their counsel, shall be entitled to be present and to be heard at the hearing of the objection.

“(5) On hearing the objection, the Court shall allow the objection in whole or in part or decline it.

“(6) The Registrar of the Court shall transmit to the Minister a memorandum of the Court’s decision.

“(7) Subject to section 28E of this Act, on receipt of the memorandum of the Court’s decision, the Minister shall act in accordance with the Court’s decision in making any decision in respect of the application.

**“23A. Objections to applications for coal mining rights—**

(1) Any person may object to any application for a coal mining right on any ground not involving a question of law by serving on the Secretary, within 21 days after the date on which public notice of the application for the right was given, a notice of objection in the prescribed form, stating the grounds of the objection and stating whether the objector desires the objection to be referred to a Magistrate under section 23c of this Act.

“(2) A copy of the notice of objection shall be served on the applicant either before or immediately after the notice of objection is served on the Secretary.

“(3) The applicant may, within 14 days after receiving a notice of objection, serve on the Secretary a written answer to the objection. Any such answer may state whether or not the applicant desires the objection to be referred to a Magistrate under section 23c of this Act.

**“23B. Minister to determine objection—**(1) On the expiry of a period of 14 days after receiving any notice of objection under section 23A of this Act, the Secretary shall forthwith forward it, and any answer to it, to the Minister who shall, subject to section 23C of this Act, after considering the objection and any answer to it, allow the objection in whole or in part or decline it.

“(2) No appeal shall lie from any determination of the Minister under this section.

**“23C. Investigation of objection by Magistrate—**(1) On receiving any notice of objection or answer thereto which states that the objector or the applicant desires the objection to be referred to a Magistrate, the Minister shall, and in any other case the Minister in his discretion may, forward the notice of objection and any answer to it, together with all other papers and documents relating to the objection and to the application objected to, to a Magistrate exercising jurisdiction in the Magistrate’s Court nearest to the land to which the application relates or, with the consent of the objector and the applicant, to a Magistrate exercising jurisdiction in any other Magistrate’s Court.

“(2) On receiving a notice of objection, the Magistrate shall conduct an investigation at such time and place as he may appoint, and not less than 7 days’ notice of the time and place so appointed shall be given to the objector and the applicant.

“(3) The objector and the applicant, either personally or by their counsel, shall be entitled to be present and to be heard at the investigation.

“(4) For the purposes of conducting the investigation the Magistrate shall have all the powers of a Magistrate’s Court exercising civil jurisdiction.

“(5) On completing the investigation, the Magistrate shall forward a written report (which may contain a recommendation that the objection be allowed in whole or in part or be declined) to the Minister. A copy of the report shall at the same time be forwarded to the objector and the applicant.

“(6) No costs or expenses shall be awarded against any objector whose objection is based wholly and bona fide on public grounds.

“(7) On receiving the Magistrate’s report, the Minister shall, after having regard to any recommendation contained

in the report, allow the objection in whole or in part or decline it.

“(8) No appeal shall lie from—

“(a) Any report or recommendation of a Magistrate under this section; or

“(b) Any determination of the Minister under this section.

“23D. **Rights not to be granted until time for objections has expired, etc.**—(1) The Minister shall not grant any application for a coal mining right until the time allowed for objections to the application and any answer thereto under section 23 or section 23A of this Act has expired.

“(2) If any objection to an application for a mining privilege under section 23A of this Act is allowed in whole or in part, the application shall not be granted or shall be granted subject to such conditions as the Minister considers will best satisfy the objections raised, as the case may require.”

**28. Grant of rights**—(1) The principal Act is hereby amended by repealing section 24, and substituting the following section:

“24. (1) Subject to the provisions of this Act, the Minister may in his discretion grant any coal mining right subject to such conditions as he thinks fit to impose.

“(2) Before granting a coal mining right the Minister may require the applicant to lodge with the Secretary such monetary deposit or bond as may be prescribed.

“(3) A coal mining right may be granted in respect of all the land to which any application relates or in respect of such part of the land as the Minister thinks fit.”

(2) Section 5 of the Coal Mines Amendment Act 1953 is hereby consequentially repealed.

**29. Signing of leases and licences**—Section 25 of the principal Act is hereby repealed.

**30. Powers exercisable by holders of rights**—(1) Section 26 of the principal Act is hereby repealed.

(2) The following enactments are hereby consequentially repealed:

(a) Section 3 of the Coal Mines Amendment Act 1937:

(b) Section 2 of the Coal Mines Amendment Act 1961.



**31. Conditional consent of Minister to assignment, etc.—**

(1) Section 27 of the principal Act (as substituted by section 3 of the Coal Mines Amendment Act 1961) is hereby repealed.

(2) Section 3 of the Coal Mines Amendment Act 1961 is hereby consequentially repealed.

**32. Surrender and forfeiture—**The principal Act is hereby further amended by repealing section 28, and substituting the following sections:

“28. **Surrender of coal mining rights—**(1) The holder of any coal mining right may, in the prescribed manner and on payment of the prescribed fee, surrender the right or any part of it.

“(2) The surrender of a coal mining right under subsection (1) of this section shall not affect the liability of its holder—

“(a) To pay any rent, fees, royalties, penalties, or other money, payable on or before the date of surrender:

“(b) To perform any obligation required to be performed on or before that date:

“(c) For any act done or default made on or before that date.

“(3) On the surrender of a coal mining right under this section, any rent paid or payable shall be apportioned up to the date of surrender; and the person surrendering the right shall be entitled to a refund of the rent paid by him before the date of surrender in respect of any period after that date.

“(4) Every refund made under subsection (3) of this section shall be paid from the Consolidated Revenue Account, out of money appropriated by Parliament for the purpose.

“(5) If a right is being surrendered in part only, the form of surrender shall be accompanied by a plan that has the land in respect of which part of the right is being surrendered clearly delineated and indentified on it by reference to the area of the land and its legal description and ownership, and by reference to its location in relation to cadastral boundaries, survey monuments, topographical features, or other rights, as the case may require.

“(6) The Secretary shall not accept the surrender of part of a right (other than a coal prospecting licence) until the

Chief Surveyor has certified the plan accompanying the surrender as being satisfactory for the purpose of identifying the land.

“(7) The surrender of only part of a right shall, on acceptance, be endorsed on the right by the Secretary; and thereafter the rent payable in respect of the right shall be reduced by the same proportion that the area surrendered bears to the total area before surrender.

“(8) The Secretary shall, on acceptance, lodge every surrender of a right, whether in whole or in part, with the District Land Registrar.

“(9) Notwithstanding anything to the contrary in this Act, every right, title, and interest held under a coal mining right that has been surrendered under this section shall absolutely cease and determine in respect of the total area of land to which the privilege related or to that part of it surrendered, as the case may be, on the date on which the Secretary accepts the surrender.

“28A. **Notice to holder of coal mining right to comply with conditions**—If the Minister, on receipt of a report from the Secretary, has reason to believe that any holder of a coal mining right is without reasonable cause contravening or failing to comply with any of the provisions of this Act or of any regulations for the time being in force under this Act, or with any of the conditions attached to the right, the Minister may cause to be served on the holder a notice—

“(a) Specifying the alleged breach or non-compliance;

“(b) Requiring the holder, within 30 days after service of the notice, to remedy the breach or non-compliance or show reasonable cause for its occurrence or show that it has not in fact occurred; and

“(c) Stating that failure to comply with the requirements of the notice may result in forfeiture of the right.

“28B. **Forfeiture of coal mining right**—(1) Subject to subsection (3) of section 29r of this Act, if the Minister is satisfied that the holder of any coal mining right—

“(a) Has failed to comply with the requirements of a notice served under section 28A of this Act; or

“(b) Has failed without reasonable cause to pay any rent or royalty within 30 days after the date on which it was due; or

“(c) Has abandoned the land to which the right relates; or

“(d) Is not exercising the rights conferred by the right—the Minister may, not sooner than 5 weeks after the service of a notice under subsection (2) of this section, by notice published in the *Gazette*, declare the right to be forfeited.

“(2) Before declaring any coal mining right to be forfeited under subsection (1) of this section, the Minister shall cause to be served on the holder of the right, and on every holder under the right of a right, title, or interest the particulars of which are endorsed on the filed copy of the right held by the District Land Registrar, a notice stating—

“(a) The grounds on which the right is liable to be forfeited; and

“(b) That the right will be forfeited unless, within 30 days after service of the notice, good cause is shown why it should not be forfeited.

“(3) As soon as practicable after a coal mining right has been declared to be forfeited, the Secretary shall—

“(a) Serve a copy of the *Gazette* notice on—

“(i) Every person who has been served with a notice in respect of the forfeiture under subsection (2) of this section; and

“(ii) Any Minister of the Crown or public body charged with the administration of the land to which the right related; and

“(b) Lodge a copy of the *Gazette* notice with the District Land Registrar.

“(4) Notwithstanding anything to the contrary in this Act, but subject to section 28c of this Act, every right, title, and interest held under a coal mining right that has been forfeited under this section shall absolutely cease and determine on the date of publication in the *Gazette* of the declaration of forfeiture.

“28c. **Appeal against forfeiture**—(1) The holder of any coal mining right that has been declared to be forfeited under section 28B of this Act, and every other person who has been served with a notice in respect of the forfeiture under subsection (2) of that section, may, not later than 1 month after the date of publication in the *Gazette* of the notice declaring the privilege to be forfeited, appeal against the forfeiture to the Supreme Court.

“(2) Every such appeal shall be heard and determined by the Administrative Division of the Court.

“(3) If any such appeal results in a reversal of the decision to declare the right to be forfeited, the Minister shall, on receiving notification of the Court’s decision, cause a notice to be published in the *Gazette* showing the particulars of the Court’s decision.

“(4) As soon as practicable after such a notice has been gazetted, the Secretary shall—

“(a) Serve a copy of the *Gazette* notice on every person and public body who or which was served with a notice in respect of the forfeiture under paragraph (a) of subsection (3) of section 28B of this Act; and

“(b) Lodge a copy of the *Gazette* notice with the District Land Registrar.

**“28D. Forfeiture of coal mining right obtained fraudulently—**(1) If the Minister has cause to believe that any coal mining right has been fraudulently obtained, he shall apply to the Magistrate’s Court nearest to the land to which the right relates or, with the consent of the holder of the right, to any other Magistrate’s Court for a declaration by the Court that the right was so obtained.

“(2) On receiving such an application, the Registrar of the Court shall give notice of the time and place fixed for the hearing of the application to the Minister and to the holder of the right concerned. The Minister and the holder of the right, either personally or by their counsel, shall be entitled to be present and to be heard at the hearing of the application.

“(3) On hearing the application, the Court shall proceed to determine whether or not the right was fraudulently obtained, and whether or not the provisions of subsection (3) of section 29r of this Act are applicable.

“(4) The Registrar of the Court shall transmit to the Minister and to the holder of the right a memorandum of the Court’s decision.

“(5) If the Court determines that the right has been fraudulently obtained and that the provisions of subsection (3) of section 29r of this Act are not applicable, the Minister shall forthwith, by notice in the *Gazette*, declare the right to be forfeited.

“(6) As soon as practicable after the Minister has declared any right to be forfeited under subsection (5) of this section, the Secretary shall—

“(a) Serve a copy of the *Gazette* notice on—

“(i) The person who held the right immediately before its forfeiture and on every person who held under the right a right, title, or interest the particulars of which are endorsed on the filed copy of the right held by the District Land Registrar; and

“(ii) Any Minister of the Crown or public body charged with the administration of the land to which the right related; and

“(b) Lodge a copy of the *Gazette* notice with the District Land Registrar.

“(7) Notwithstanding anything to the contrary in this Act, but subject to section 28E of this Act, every right, title, and interest held under a coal mining right that has been forfeited under this section shall absolutely cease and determine on the date of publication in the *Gazette* of the declaration of forfeiture.

“28E. Appeals to Supreme Court—(1) Any person aggrieved by the decision of a Magistrate’s Court under section 23 or section 28D of this Act, may appeal against the decision to the Supreme Court; and the provisions of sections 72 to 78 of the Magistrates’ Courts Act 1947 shall, with the necessary modifications, apply accordingly.

“(2) If the Minister has declared a coal mining right to be forfeited under section 28D of this Act as a result of the decision of a Magistrate’s Court under that section, and an appeal against the decision of the Magistrate’s Court results in the finding, by the Court appealed to, that the coal mining right was not obtained fraudulently or that the provisions of subsection (3) of section 29I of this Act are applicable, as the case may be, the Minister shall cause a notice to be published in the *Gazette* showing the particulars of the decision of the Court appealed to.

“(3) As soon as practicable after such a notice has been gazetted, the Secretary shall—

“(a) Serve a copy of the *Gazette* notice on every person and public body who or which was served with a notice in respect of the forfeiture under paragraph (a) of subsection (6) of section 28D of this Act; and

“(b) Lodge a copy of the *Gazette* notice with the District Land Registrar.”

**33. Rents, royalties, etc.**—The principal Act is hereby further amended by repealing section 29, and substituting the following section:

“29. (1) All money payable under this Act by applicants for or holders of coal mining rights shall be deemed to be payable to the Crown, shall be paid to the Secretary or such person as may be designated by the Secretary, and may be recovered from the person liable to pay it as a debt due to the Crown.

“(2) All money received by the Secretary under subsection (1) of this section shall be paid into the Consolidated Revenue Account as mining revenue.

“(3) Subject to subsection (5) of this section, the Minister shall, without further appropriation than this section, pay out of the Consolidated Revenue Account—

“(a) All rent and royalties that have accrued in respect of land in a National Park, to the appropriate National Park Board:

“(b) All rent and royalties that have accrued in respect of land in a public reserve, to the administering body of the reserve:

“Provided that, where the reserve is vested in the Crown and no administering body has been appointed to manage or control the reserve, the rent and royalties shall be credited to the Trust Account and applied, without further appropriation than this section, in purchasing, improving, or developing public domains, recreation reserves, or scenic reserves, as directed by the Minister of Lands:

“(c) All rent and royalties that have accrued in respect of an endowment, to the public body or local authority that has the administration of the revenue arising from the endowment.

“(4) Notwithstanding the provisions of paragraph (a) or paragraph (b) of subsection (3) of this section, the Minister, after consultation with the Minister of Lands, may pay such portion of any money payable under those paragraphs as he thinks fit to any local authority that is responsible for the maintenance of any work within the boundaries of or adjacent to the National Park or public reserve, as the case may be, in respect of which the money accrued.

“(5) Before the payment of any sum of money under this section, there shall be deducted an administration charge of such percentage as may be prescribed.”

**34. New sections inserted**—(1) The principal Act is hereby further amended by inserting, after section 29, the following heading and sections:

*“Recording and Transfer of Coal Mining Rights*

**“29A. Coal mining rights deemed to be chattel interests**—Every coal mining right shall be deemed to be a chattel interest and, subject to the provisions of this Act, may be sold, encumbered, transmitted, seized under writ of execution or warrant, or otherwise disposed of as fully as a chattel interest in land.

**“29B. Coal mining rights to be lodged with District Land Registrar**—(1) On the granting of a coal mining right, the Secretary shall forthwith lodge 4 copies of the right with the District Land Registrar.

“(2) Every copy of a right shall have attached to it or incorporated with it a plan delineating and identifying the land to which it relates.

“(3) On the receipt of copies of the right the District Land Registrar shall without fee—

“(a) Sign and seal on all copies a statement of the time and date of receipt;

“(b) Record and file one of the copies in his office, and endorse on all copies the record reference; and

“(c) Return the remaining copies to the Secretary.

“(4) On the return to him of the copies of the right, the Secretary shall forward one copy to the holder of the right and one to the Chief Surveyor.

“(5) On receipt of a copy of a right under subsection (4) of this section, the Chief Surveyor shall enter in his records the particulars of the right including the record reference endorsed on it by the District Land Registrar.

**“29c. Renewals of coal prospecting licences to be lodged with District Land Registrar**—(1) On the renewal of a coal prospecting licence under this Act, the Secretary shall lodge with the District Land Registrar 3 copies of the certificate of renewal.

“(2) On receipt of such copies the District Land Registrar shall without fee—

“(a) Sign and seal on all copies a statement of the time and date of receipt;

“(b) Attach one of the copies to the filed copy of the prospecting licence; and

“(c) Return the remaining copies to the Secretary.

“(3) On receipt of the endorsed copies the Secretary shall forward one copy to the holder of the prospecting licence to which it relates.

**“29D. Certain rights to be noted on certificates of title, etc.—**

(1) If any coal mining right (other than a coal prospecting licence) lodged with the District Land Registrar under section 29B of this Act, was granted in respect of any land that is subject to the Land Transfer Act 1952, the District Land Registrar shall without fee enter on every certificate of title, provisional register, or other instrument of title registered or lodged in his office affected by the right the particulars of the right, including the record reference.

“(2) The entry by the District Land Registrar on a certificate of title, provisional register, or other instrument of title registered or lodged in his office, of the particulars of a coal mining right shall operate only as a notice of the existence of the right, and shall not create a registered interest under the Land Transfer Act 1952.

**“29E. Certain rights to be noted on other rights affected—**

On receipt by the District Land Registrar under section 29B of this Act of a tramway licence or a wayleave or other easement, he shall without fee note its particulars, including the record reference, on every other coal mining right affected by it.

**“29F. Land Transfer Act 1952 not to limit or affect rights under coal mining right—**Nothing in the Land Transfer Act 1952 shall be construed to in any way limit or affect any right, title, or interest held under a coal mining right that has been recorded and filed by a District Land Registrar under section 29B of this Act, whether or not the existence of the right is noted on the certificate of title for the land to which the right relates.

**“29G. Coal mining rights not to be transferred or dealt with without Minister’s consent—**(1) No coal mining right shall be transferred, leased, mortgaged, pledged, or otherwise disposed of or dealt with without the written consent of the Minister.

“(2) The Minister may, in his discretion, refuse any application for his consent under this section or may grant the



application in whole or in part, and may give his consent either unconditionally or subject to such terms and conditions as he thinks fit to impose. Any terms or conditions so imposed shall be deemed to be attached to the right.

“(3) Before giving any consent under this section, the Minister may require the payment of all fees, rent, and royalties payable under the right in respect of which his consent is sought up to the date of the application for his consent.

“(4) Nothing in this section shall apply in respect of the issue by an incorporated body of debentures creating a charge on all or part of its property.

**“29H. Transfers of, and other dealings in connection with, coal mining rights to be lodged with District Land Registrar—**

(1) Every instrument of transfer of a coal mining right and every document evidencing a dealing with a coal mining right shall, with the necessary modifications, be in the form prescribed by the Land Transfer Act 1952, shall be in accordance with any regulations for the time being in force under that Act, and shall be lodged with the District Land Registrar together with the fee prescribed by any such regulations.

“(2) A transfer of, or other dealing in connection with, a coal mining right shall not have any force or effect until the instrument of transfer or document evidencing the dealing has been lodged with and accepted by the District Land Registrar.

“(3) The District Land Registrar shall not accept any instrument of transfer or other document under this section unless—

“(a) The Secretary has endorsed the instrument or document to the effect that the Minister has consented to the transfer or dealing to which the instrument or document relates;

“(b) The instrument or document has been duly stamped, if it is liable to stamp duty; and

“(c) The holder’s copy of the right being transferred or otherwise dealt with is produced to him.

“(4) On accepting an instrument of transfer or other document under this section, the District Land Registrar shall—

“(a) Note the time and date of acceptance on the instrument or document;

“(b) Record and file it in his office; and

“(c) Endorse his filed copy of the right being transferred or dealt with, and the copy of the right that was produced to him under subsection (3) of this section, with the particulars of the instrument of transfer or other document, including the record reference.

“(5) On completing the endorsement of the copy of the right that was produced to him under subsection (3) of this section, the District Land Registrar shall return it to the person who presented it or to any other person authorised by that person in writing to receive it.

“(6) Two or more rights may be comprised in the same instrument or other document for the purpose of transferring or otherwise dealing with them all in the same way and between the same parties.

“29i. **Effect of lodgment with District Land Registrar**—(1) Instruments of transfer and other documents lodged with the District Land Registrar under section 29H of this Act in respect of or affecting the same right, title, or interest shall, notwithstanding any express, implied, or constructive notice, be entitled in priority the one over the other according to the time and date of acceptance by the District Land Registrar, and not according to the date of each instrument or document itself.

“(2) Notwithstanding the existence in any other person of any right, title, or interest which but for this Act might be held to be paramount or to have priority, the holder of any right, title, or interest to or in a coal mining right shall, if the existence of his right, title, or interest appears on or has been noted on the coal mining right under this Act and it was not obtained by fraud, hold the same subject to such other rights, titles, or interests as may be so noted on the right, but absolutely free from all other rights, titles, or interests whatsoever.

“(3) If any person has in good faith and for valuable consideration had a coal mining right transferred to him and the instrument of transfer has been accepted by the District Land Registrar under section 29H of this Act, the coal mining right shall not be declared to be forfeited under section 28B or section 28D of this Act on any grounds existing before the date of such acceptance.

“29j. **Certified copies of rights and other documents to be evidence**—(1) The District Land Registrar shall, on payment of the fee prescribed by any regulations for the time being

in force under the Land Transfer Act 1952, furnish to any person applying for it a certified copy of any coal mining right, instrument of transfer, or other document, that has been lodged with and accepted by him under this Act.

“(2) Every such certified copy signed by the District Land Registrar and sealed with his seal shall be received in evidence for all purposes for which the original coal mining right, instrument of transfer, or other document might be put in evidence.

“29K. **Recorded documents to be open for search**—Any person may, for the purpose of inspection, without fee have access to any coal mining right or other document lodged with and recorded by the District Land Registrar under this Act, during the hours and on the days appointed by any regulations for the time being in force under the Land Transfer Act 1952.

“29L. **Revision of records**—(1) On the receipt by the District Land Registrar of—

- “(a) A surrender of all or part of a coal mining right under subsection (8) of section 28 of this Act;
- “(b) A copy of a *Gazette* notice under subsection (3) of section 28B or subsection (6) of section 28D of this Act, declaring a coal mining right to be forfeited; or
- “(c) A copy of a *Gazette* notice under subsection (4) of section 28C or subsection (3) of section 28E of this Act—

he shall without fee sign and seal on it a statement of the time and date of receipt, note the particulars on his record copy of the right affected, and attach the instrument of surrender, or the copy of the *Gazette* notice, as the case may be, to that record copy.

“(2) If a coal mining right has been surrendered in whole, or has been declared to be forfeited, or has expired, and notice of the existence of the right appears on a certificate of title, provisional register, or other instrument of title registered or lodged in the office of the District Land Registrar, the District Land Registrar shall note the certificate of title, provisional register, or other instrument of title to the effect that the right has been surrendered, or has been declared to be forfeited, or has expired, as the case may be:

“Provided that the District Land Registrar shall not so note any forfeiture of a right until the Secretary has advised

him in writing that no appeal has been made under section 28c or section 28E of this Act within the time allowed for appealing, or that such an appeal has been disallowed.”

(2) All—

(a) Documents evidencing the grant of a coal mining right that have been filed in the office of a Mining Registrar within the meaning of the Mining Act 1926 or of a Commissioner of Crown Lands; and

(b) Original instruments, duplicate original instruments, or certified copies of instruments, held in the office of a Mining Registrar or of a Commissioner of Crown Lands, being transfers or transmissions or leases or mortgages or encumbrances or other dispositions of or dealings with coal mining rights or any interest in a coal mining right or any part of a coal mining right—

shall, as soon as practicable after the commencement of this Act, be forwarded to the Secretary.

(3) Subject to subsections (4) to (8) of this section, on the receipt of any document or instrument under subsection (2) of this section that is, on the date of receipt, still in force, the Secretary shall deposit it with the District Land Registrar.

(4) Before the Secretary deposits any document with the District Land Registrar under subsection (3) of this section, the Chief Surveyor shall make such investigations as he thinks necessary for the purpose of determining whether or not in his opinion the description of the land to which the document relates and any diagram of the land endorsed on or attached to the document are reasonably sufficient to identify the land.

(5) If the Chief Surveyor is satisfied that the description and diagram as aforesaid are reasonably sufficient to identify the land, he shall endorse on or attach to the document, so as to be identifiable therewith, a certificate to that effect.

(6) If the Chief Surveyor is not so satisfied, he shall prepare and endorse on or attach to the document a description of the land or a diagram thereof, or both, reasonably sufficient in his opinion to identify the land, together with a certificate that the description and diagram are reasonably sufficient to identify the land.

(7) For the purposes of this section, the Chief Surveyor may, by notice in writing served on the holder of the coal mining right concerned, call upon him to produce for inspection by the Chief Surveyor any plan, search notes, or other

document in his possession or under his control evidencing or tending to evidence in any manner the description, boundaries, extent, or position of the land to which the right relates.

(8) The description and diagram of the land comprised in any document as certified by the Chief Surveyor under this section shall for the purposes of this Act and the Land Transfer Act 1952 be deemed to be the correct description of the land to which the right relates.

(9) The provisions of sections 29A, 29C, 29D, and 29F to 29L of the principal Act (as inserted by subsection (1) of this section) shall apply in respect of every document and instrument deposited with the District Land Registrar under subsection (3) of this section.

(10) The Secretary may, in accordance with the Archives Act 1957, dispose of every document and instrument received by him under subsection (2) of this section which is not required to be deposited with the District Land Registrar under subsection (3) of this section.

**35. Wayleaves and other easements—**(1) Section 30 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The Minister may, subject to such conditions as he thinks fit to impose, grant wayleaves either above or below ground for the passage of persons or material to or from a mine, and such other easements as may be prescribed.”

(2) The said section 30 is hereby further amended—

(a) By omitting from subsection (3) the words “Warden or Commissioner”, and substituting the word “Minister”:

(b) By omitting from subsection (4) (as revived by section 9 (2) of the Coal Mines Amendment Act 1950) the words “Warden or Commissioner”, and substituting the word “Minister”.

(3) The said section 30 is hereby further amended by repealing subsection (5).

**36. Plan of land to accompany application—**The principal Act is hereby further amended by inserting, after section 30, the following section:

“30A. (1) Before making an application for a wayleave or other easement, the applicant shall mark out in the prescribed manner the land in respect of which the right is sought. Any such marking out need not be done by a registered surveyor.

“(2) The application shall be accompanied by a plan that has the land in respect of which the right is sought clearly delineated and identified on it by reference to the area of the land and its legal description and ownership, and by reference to its location in relation to cadastral boundaries, survey monuments, topographical features, or existing coal mining rights, as the case may require.

“(3) A wayleave or other easement shall not be granted until the Chief Surveyor has certified the plan as being satisfactory for the purpose of identifying the land.”

**37. New sections inserted—**(1) The principal Act is hereby further amended by inserting, after section 32, the following sections:

“32A. **Conditions relating to prevention or reduction of injury to land—**(1) On granting a coal mining lease, or at any time thereafter, the Minister may impose on the lessee such conditions as the Minister thinks fit for the purpose of preventing, or reducing, or making good, injury to the surface of the land to which the lease relates or injury to anything on the surface of the land.

“(2) Without limiting the generality of the power conferred on the Minister by subsection (1) of this section, the Minister may, on granting a coal mining lease or at any time thereafter, impose on the lessee a condition that mining operations shall not be carried out within such distance of the surface of the land to which the lease relates as the Minister may specify.

“(3) The Minister may at any time cancel or vary any condition imposed by him under this section.

“32B. **Protection of surface of land, etc.—**(1) If an applicant for a coal mining lease proposes, if the lease is granted, to mine by means of an opencast coal quarry, the Minister shall, before granting the lease, forward copies of the application to—

“(a) The Commissioner of Crown Lands for the land district in which the land is situated for a report on the nature of the land; and

“(b) The Catchment Board of the catchment district, or the Catchment Commission of the catchment area,

as the case may require, in which the land is situated or, if the land is situated in the Waikato Valley within the meaning of the Waikato Valley Authority Act 1956, to the Waikato Valley Authority, or, if the land is not situated within a catchment district or catchment area or the Waikato Valley, to the Soil Conservation and Rivers Control Council, for a report as to whether or not, in the opinion of the Board, Commission, Authority, or Council, the grant of a coal mining lease would conflict with the purposes of the Soil Conservation and Rivers Control Act 1941.

“(2) If a Commissioner of Crown Lands, Catchment Board, Catchment Commission, the Waikato Valley Authority or the Soil Conservation and Rivers Control Council, receives a copy of an application under subsection (1) of this section, he or it shall forward a report to the Minister in accordance with that subsection within 1 month after receiving a copy of the application or within such longer period as the Minister may in any case allow; and if the report is not received by the Minister within that period the Minister may proceed to grant the lease.

“(3) After the consideration of any reports received by him under subsection (1) of this section and after giving the applicant an opportunity to comment on the reports, the Minister may, on granting a coal mining lease or at any time thereafter, specify in the lease such conditions as he thinks fit for the purpose of—

“(a) Preventing, so far as is reasonably practicable, the destruction of the surface of the land:

“(b) Providing, so far as is reasonably practicable, for the restoration of the surface of the land:

“(c) Preventing, so far as is reasonably practicable, any conflict with the purposes of the Soil Conservation and Rivers Control Act 1941.

“32c. **Entry on land**—(1) Subject to subsection (3) to (5) of this section, for the purposes of marking out any land and posting notices on any land in connection with an application for a coal mining right, any person or his appointee may—

“(a) Enter and re-enter from time to time during the daytime on any land, with such assistants as he thinks fit;

“(b) Affix and set up on the land pegs, marks, and poles, and from time to time change the position of, remove, inspect, and repair any peg, mark, or pole; and

“(c) Do all such other things as may be necessary for the purpose of marking out the land, and posting notices on the land.

“(2) Subject to subsections (3) to (5) of this section, for the purposes of surveying any land in connection with a coal mining right, any registered surveyor may—

“(a) Enter and re-enter from time to time during the daytime on any land, with such assistants as he thinks fit;

“(b) Affix and set up on the land survey pegs, marks, and poles; and

“(c) Do all such other things as may be necessary for the purposes of the survey.

“(3) No person shall, for the purposes specified in subsection (1) or subsection (2) of this section, enter on—

“(a) Any State forest land, without the written consent of the Conservator of Forests; or

“(b) Any National Park or public reserve without the written consent of the Commissioner of Crown Lands—

and the Conservator of Forests or the Commissioner of Crown Lands, as the case may be, shall not unreasonably or arbitrarily withhold his consent.

“(4) Nothing in this section shall authorise any person to enter, without the consent in writing of the owner and occupier, any land that comes within one or more of the following classes:

“(a) Land for the time being under crop:

“(b) Land used as or situated within 100 feet of a yard, stockyard, garden, orchard, vineyard, plant nursery, farm plantation, shelter belt, or airstrip:

“(c) Land situated within a borough or town district and having an area of half an acre or less:

“(d) Land that is the site of or is situated within 100 feet of any building, cemetery, burial ground, water-works, race, or dam.

“(5) In carrying out any marking out or survey of any land, every person entering on the land under this section shall ensure that no damage is done that can possibly be avoided.



**“32D. Destroying marks, etc., or obstructing surveyor, etc., an offence—**Every person commits an offence against this Act who—

“(a) Without lawful authority removes, destroys, or alters the position of, any peg, survey peg, mark, or pole used for the purposes of any marking out or survey made or being made under section 32c of this Act; or

“(b) Wilfully damages or destroys or otherwise interferes with any peg, survey peg, mark, or pole so used; or

“(c) Wilfully obstructs, hinders, or interferes with any person lawfully engaged in marking out or surveying any land under section 32c of this Act.

**“32E. Existing marking out may be sufficient for new application—**If any land is already marked out for the purposes of an existing coal mining right, it shall be deemed to be marked out for the purposes of any new application by the holder of the existing right if the marks have been maintained to the satisfaction of an Inspector.

**“32F. Marking out not required on water—**Notwithstanding anything to the contrary in this Act, if any area in respect of which an application for a coal mining right is to be made is wholly or partly covered by the sea or the waters of any lake, pond, river, or stream, it shall not be necessary to mark out the area or part of the area so covered.

**“32G. Service of notices—**(1) Any notice under this Part of this Act may be served by delivering it personally to the person on whom it is to be served; or by leaving it, or sending it by post in a registered letter addressed to him, at his usual or last known place of abode or business in New Zealand; or, if his whereabouts are not known, or his last place of abode or business is not known, to the person issuing the notice, by publishing it at least twice in a newspaper circulating in the district in which the land affected by the notice is situated.

“(2) If a notice is sent by post in the manner prescribed by subsection (1) of this section, it shall be deemed to be served at the time at which the letter would have been delivered in the ordinary course of post; and in proving service of any such notice it shall be sufficient to prove that

it was properly directed and that it was duly put into the post office as a registered letter.

“(3) If a notice is published in a newspaper in accordance with subsection (1) of this section, it shall be deemed to be served at the time of the last publication of the notice.”

(2) Section 22B of the Quarries Act 1944 (as inserted by section 14 of the Quarries Amendment Act 1951) is hereby repealed.

(3) Section 14 of the Quarries Amendment Act 1951 is hereby consequentially repealed.

**38. Investigation of holders of certificates**—The principal Act is hereby further amended by repealing section 57, and substituting the following section:

“57. **Investigation of holders of certificates**—On receiving representations from an Inspector or any other person that the holder of a certificate of competency granted under this Act has been convicted of an offence against this Act, or is incompetent, or has been guilty of negligence or of misconduct in the performance of his duties under this Act, the Minister may direct that a formal investigation shall be held; and in any such case the provisions of sections 210 to 215 of the Mining Act 1971 shall, with the necessary modifications, apply accordingly.”

**39. Cancellation, etc., to be recorded**—Section 58 of the principal Act is hereby amended by repealing subsection (1).

**40. Sunday employment in mines**—(1) Section 72 of the principal Act is hereby repealed.

(2) Section 9 of the Coal Mines Amendment Act 1937 is hereby consequentially repealed.

**41. Appointment of check weighmen**—The principal Act is hereby further amended by repealing section 77, and substituting the following section:

“77. (1) Every person or group of persons who or which is employed in a mine and is paid according to the weight or other measure of the material extracted by him or them may, at his or their own expense, station a check weighman at the place where the weighing or measuring of the material takes place to take account of the weight or other measure of the material.

“(2) Every mine owner shall provide adequate facilities for every check weighman acting in accordance with subsection (1) of this section.

“(3) A check weighman shall not in any way impede or interrupt the working of the mine or interfere with the weighing or measuring of material; and his absence shall not be a reason for interrupting or delaying the weighing or measuring.

“(4) If any check weighman impedes or interrupts the working of a mine, or interferes with the weighing or measuring of material, or otherwise misconducts himself, the owner or manager of the mine may lodge a written objection with the Registrar of the Magistrate’s Court nearest to the mine.

“(5) On receipt of such an objection, the Registrar shall advise the parties of the time and place fixed for the hearing of the objection.

“(6) The owner or manager of the mine and the check weighman, either personally or by their counsel, shall be entitled to be present and to be heard at the hearing of the objection.

“(7) On hearing the objection, the Court shall, if it considers that the objection is justified, order that the check weighman relinquish his position.

“(8) On the making of such an order, which shall be final and binding, the check weighman shall be deemed to have relinquished his position.

“(9) The payment of a check weighman shall be a charge on the person or group of persons who or which appointed him, and may be recovered from such person or group of persons.”

**42. Tribute agreements—**(1) The principal Act is hereby further amended by inserting, after section 78, the following sections:

**“78A. Agreements for working coal mining leases on tribute—**(1) In this section and in section 78B of this Act—

“‘Lessee’ means the holder of a coal mining lease:

“‘Tribute agreement’ means an agreement between a lessee and another person whereby the other person has the right to mine the land to which the lease

relates or any part of it on terms requiring him to pay to the lessee a percentage or portion of the earnings or proceeds of the mine:

“‘Tributer’ means a person who enters into a tribute agreement with a lessee.

“(2) Every tribute agreement shall be in writing, shall be signed by or on behalf of the parties, and shall not be lodged with the District Land Registrar until the Minister has consented to it in writing; and the Minister may decline to consent or may give his consent unconditionally or subject to such terms and conditions (including variation or deletion of any of the terms of the agreement) as he thinks fit to impose.

“(3) The percentage or proportion of the earnings or proceeds of the mine to which the lessee and the tributer are each entitled shall be calculated on the gross value of coal obtained by the tributer under the tribute agreement.

“(4) Every tribute agreement shall, to the Minister’s satisfaction, describe the land to be mined and shall specify the period of time during which the agreement shall operate.

“(5) Every tribute agreement shall be signed in quadruplicate, and all copies shall forthwith be forwarded to the Secretary.

“(6) When the Minister has consented to a tribute agreement, the Secretary shall endorse the four copies of the agreement to that effect and shall—

“(a) Forward one copy to the lessee and another copy to the tributer; and

“(b) Lodge one copy with the District Land Registrar.

“(7) On the receipt of a copy of a tribute agreement the District Land Registrar shall without fee—

“(a) Sign and seal on it a statement of the time and date of receipt;

“(b) Record and file it in his office; and

“(c) Endorse his filed copy of the coal mining lease to which it relates with the particulars of the agreement, including the record reference.

“(8) No tribute agreement shall come into force until its particulars have been endorsed on the coal mining lease to which it relates under paragraph (c) of subsection (7) of this section.

**“78B. Cancellation or forfeiture provisions not to operate without consent of Magistrate’s Court—(1) Notwithstanding**

anything to the contrary in any tribute agreement, no provision contained in the agreement relating to the cancellation of the agreement or the forfeiture of the tributer's rights under the agreement shall operate or be enforceable by a lessee or any successor in title to a lessee without the consent of the Magistrate's Court nearest to the land to which the agreement relates or, with the consent of the tributer, any other Magistrate's Court.

“(2) At least 10 days' notice in writing of an application for the Court's consent under subsection (1) of this section shall be given by the lessee to the tributer.

“(3) On the receipt of any application for the Court's consent the Registrar of the Court shall give notice of the time and place fixed for the hearing of the application to the applicant and the tributer.

“(4) The applicant and the tributer, either personally or by their counsel, shall be entitled to be present and to be heard at the hearing of the application.

“(5) On hearing the application, the Court may in its discretion grant or refuse the application on such terms as it thinks fit, or make such other order as it thinks just; and shall cause notification of its decision to be forwarded to the Secretary.

“78c. **Revision of records**—(1) On the expiry, cancellation, or forfeiture of a tribute agreement, the Secretary shall forthwith lodge with the District Land Registrar a notice to that effect.

“(2) On the receipt by the District Land Registrar of a notice under subsection (1) of this section, he shall without fee sign and seal on it a statement of the time and date of receipt, note the particulars on his record copies of the coal mining lease and tribute agreement affected, and attach the notice to the record copy of the tribute agreement.”

(2) The following enactments are hereby repealed:

(a) Section 7 of the Coal Mines Amendment Act 1941:

(b) Section 3 of the Coal Mines Amendment Act 1968.

(3) Section 11 of the Stamp and Cheque Duties Act 1971 is hereby amended by adding to paragraph (f) of subsection (1) the words “or the Coal Mines Act 1925”.

(4) The Quarries Act 1944 is hereby consequentially amended by inserting in the Schedule (as added by section 3 (2) of the Quarries Amendment Act 1951) under the item

relating to the principal Act, after the item relating to Part I, the following words:

“Sections 78A to 78C | Tribute agreements.”

(5) The Quarries Act 1944 is hereby further consequentially amended by repealing so much of the Schedule (as so added) as relates to section 7 of the Coal Mines Amendment Act 1941.

**43. Working of coal left for barriers**—Section 12 of the Coal Mines Amendment Act 1950 is hereby amended by omitting from paragraph (a) of subsection (3) the words “The Warden or a”, and substituting the word “A”.

**44. Periodical inspections of mines**—Section 129 of the principal Act is hereby amended by repealing the proviso to subsection (1A) (as inserted by section 18 (3) of the Coal Mines Amendment Act 1959), and substituting the following proviso:

“Provided that the owner and occupier of the land shall be entitled to compensation (according to their respective interests) for any damage done in the making of any such examination. In default of agreement, the amount of compensation shall be assessed and settled under section 222 of the Mining Act 1971, and the provisions of that section shall, with the necessary modifications, apply accordingly.”

**45. Workmen’s inspectors**—Section 130 of the principal Act is hereby amended by omitting from the proviso to subsection (1) the word “Warden”, and substituting the word “Secretary”.

**46. Officials’ inspectors**—Section 130A of the principal Act (as inserted by section 21 (1) of the Coal Mines Amendment Act 1959) is hereby amended by omitting from the proviso to subsection (1) the word “Warden”, and substituting the word “Secretary”.

**47. Removal of cause of danger, etc.**—Subsection (7) of section 133 of the principal Act is hereby amended—

(a) By omitting the words “Warden or Magistrate, as the case may be,” and substituting the words “Magistrate’s Court”:

- (b) By omitting the words “Warden or Magistrate” where they secondly occur, and substituting the word “Court”.

**48. Geological, etc., surveys—**(1) The principal Act is hereby further amended by inserting, after section 162, the following sections:

**“162A. Entry on land for geological, etc., surveys—**  
(1) Any person employed by the Crown and authorised either specially or generally in writing by the Minister may in the course of his employment, during the daytime,—

“(a) Enter and re-enter on any land, with such assistants as he thinks fit, for the purpose of making a geological, geophysical, or geochemical survey of the land for coal mining purposes;

“(b) Extract and remove any sample of coal or deposits from the land;

“(c) Affix to or set up on the land such pegs, marks, poles, or other equipment as may be required for the purposes of the survey; and

“(d) Do all such other things as he considers necessary for the purposes of the survey or for any inspection or alteration of it.

“(2) Before entering on any land under this section, the person authorised to do so shall, if practicable, give reasonable notice to the owner and occupier of the land of his intention to enter, and shall, if required by the owner or occupier, produce the authority under which he claims to enter or to have entered the land.

“(3) The owner and occupier of the land shall be entitled to compensation (according to their respective interests) for any damage caused by a survey made under this section. In default of agreement, the amount of compensation shall be assessed and settled under section 222 of the Mining Act 1971, and the provisions of that section shall, with the necessary modifications, apply accordingly.

**“162B. Penalty for destroying survey marks or obstructing authorised person—**Every person commits an offence against this Act who—

“(a) Without lawful authority removes, destroys, or alters the position of, any peg, mark, pole, or other

equipment used for the purposes of any survey made or being made under section 162A of this Act;

“(b) Wilfully damages or destroys or otherwise interferes with any peg, mark, pole, or other equipment so used; or

“(c) Wilfully obstructs, hinders, or interferes with any person lawfully engaged in connection with a survey that is being made under section 162A of this Act.”

(2) Section 4 of the Coal Mines Amendment Act 1941 is hereby repealed.

(3) The Quarries Act 1944 is hereby consequentially amended by inserting in the Schedule (as added by section 3 (2) of the Quarries Amendment Act 1951) under the item relating to the principal Act, after the item relating to section 162, the following words:

“Sections 162A and 162B | Geological, etc., surveys.”

(4) The Quarries Act 1944 is hereby further consequentially amended by repealing so much of the Schedule (as so added) as relates to section 4 of the Coal Mines Amendment Act 1941.

**49. New sections inserted—**(1) The principal Act is hereby further amended by inserting, after section 168, the following sections:

**“168A. Coal to remain property of the Crown—**(1) All alienations of land from the Crown made on or after the commencement of this Act, whether by way of sale, lease, or otherwise, shall be subject to the reservation in favour of the Crown of all coal existing in its natural condition on or under the surface of the land and of the power to grant coal mining rights over the land under Part I of this Act.

“(2) Every such alienation of land from the Crown shall also be subject to the right to prospect for, work, extract, and remove such coal, and to the reservation of a right of way over or under the surface of the land, in favour of the Crown and the holder of any coal prospecting licence or coal mining lease granted under this Act in respect of the land or any other adjacent Crown land.

“(3) In respect of land to which subsection (2) of this section applies, there shall be paid to the owner, grantee, lessee, or licensee, or other person entitled to the land



alienated, compensation for all damage done to improvements belonging to him caused by the exercise of any right conferred by that subsection, by the person exercising the right. Every claim for compensation under this subsection shall, in default of agreement, be assessed and settled under section 222 of the Mining Act 1971, and the provisions of that section shall, with the necessary modifications, apply accordingly.

“(4) Nothing in subsection (2) of this section shall, without the written consent of the owner and occupier, confer any right of way or other right in respect of any land that comes within one or more of the following classes:

“(a) Land for the time being under crop:

“(b) Land used as or situated within 100 feet of a yard, stockyard, garden, orchard, vineyard, plant nursery, farm plantation, shelter belt, or airstrip:

“(c) Land situated within a borough or town district and having an area of half an acre or less:

“(d) Land that is the site of or is situated within 100 feet of any building, cemetery, burial ground, water-works, race, or dam.

“(5) For the purposes of this section, the term ‘right of way’ means the right for the person in whose favour the right of way exists and his agents, employees, licensees, and invitees at all times to pass and repass, with or without horses or vehicles, and to transport coal, machinery, and equipment.

“168B. **Determination of class of land**—(1) If any dispute arises as to whether or not any land is a class of land referred to in subsection (4) of section 168A, or subsection (4) of section 32c, of this Act, any party to the dispute may apply to the Registrar of the Magistrate’s Court nearest to the land or, with the consent of every other party to the dispute, any other Magistrate’s Court, for the Court to determine whether or not the land is a class of land so referred to.

“(2) At least 10 days’ notice in writing of any such application shall be given by the applicant to every other party to the dispute.

“(3) On the receipt of any such application the Registrar of the Court shall give notice of the time and place fixed for the hearing of the application to the applicant and every other party to the dispute.

“(4) The applicant and every other party to the dispute, either personally or by their counsel, shall be entitled to be present and to be heard at the hearing of the application.

“(5) On hearing the application the Court shall determine whether or not the land is a class of land referred to in subsection (4) of section 168A, or subsection (4) of section 32C, of this Act.

“168C. Appeals to Administrative Division of Supreme Court—(1) Any person aggrieved by the decision of a Magistrate’s Court under section 78B or section 168B of this Act may appeal against the decision to the Supreme Court.

“(2) Every appeal to the Supreme Court under this section shall be heard and determined by the Administrative Division of that Court.

“(3) Subject to rules of Court, the provisions of sections 72 to 78 of the Magistrates’ Courts Act 1947 shall, with the necessary modifications, apply in respect of every appeal under this section.”

(2) Section 8 of the Coal Mines Amendment Act 1950 is hereby repealed.

(3) Section 2 of the Land Act 1948 is hereby amended by repealing the definition of the term “minerals”.

(4) The following enactments are hereby consequentially repealed:

(a) Section 2 of the Land Amendment Act 1951:

(b) Subsection (2) of section 9 of the Land Amendment Act 1953.

**50. General regulations—**(1) Section 192 of the principal Act is hereby amended by repealing paragraph (k), and substituting the following paragraphs:

“(k) Prescribing or making provision for the Secretary to prescribe or provide forms of applications, licences, certificates, and other documents for the purposes of this Act, and prescribing the manner in which any such forms are to be executed:

“(ka) Prescribing the amount of any monetary deposit or bond required with applications for coal mining rights, providing for the application of such deposits, and prescribing the circumstances under which deposits are to be wholly or partly refunded:

“(kb) Prescribing the rent payable in respect of coal mining rights:

“(kc) Prescribing the manner in which rent and royalties are to be paid:

“(kd) Prescribing the manner in which money payable under this Act is to be collected, accounted for, and distributed:”.

(2) The said section 192 is hereby further amended by repealing subsection (2).

(3) The following regulations are hereby consequentially revoked:

- (a) Regulation 267 of the Coal Mines Regulations 1939:
- (b) Regulation 21 of the Coal Mines (Electrical) Regulations 1962.

**51. Special regulations**—(1) Section 193 of the principal Act is hereby amended by repealing paragraph (a) of subsection (3) and substituting the following paragraph:

“(a) The Magistrate usually exercising jurisdiction in the Magistrate’s Court nearest to the mine:”.

(2) The said section 193 is hereby further amended—

- (a) By omitting from subsection (5) the words “Warden or” and also the words “, as the case may be”:
- (b) By omitting from subsection (6) the words “Warden or” and also the words “, as the case may be,”.

**52. Offences against regulations**—(1) Section 198 of the principal Act is hereby amended by repealing subsection (3).

(2) Section 27 of the Coal Mines Amendment Act 1959 is hereby consequentially repealed.

**53. Offences and penalties**—The principal Act is hereby further amended by repealing section 202, and substituting the following section:

“202. (1) Every person commits an offence against this Act who acts in contravention of or fails to comply in any respect with any provision of this Act or of any regulations for the time being in force under this Act.

“(2) Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section shall be liable on summary conviction to a fine not exceeding \$200 or, if the offence is knowingly committed, to a fine not exceeding \$500, and, if the offence is a continuing one, to a further fine not exceeding \$10 for every day or part of a day during which the offence has continued.

“(3) If any body corporate is convicted of an offence against this Act, every director and every other officer concerned in the management of the body corporate shall be guilty of the offence if it is proved that the act or omission that constituted the offence took place with his authority, permission, or consent.

“(4) For the purposes of this section, the continued existence of anything in a state contrary to any provision of this Act or of any regulations for the time being in force under this Act shall be deemed to be a continuing offence.”

**54. Recovery of fees, etc.**—Section 204 of the principal Act is hereby repealed.

**55. Amending National Parks Act 1952**—Section 59 of the National Parks Act 1952 is hereby amended by omitting from the proviso to subsection (2) the words “any Warden or Commissioner of Crown Lands”, and substituting the words “the Minister of Mines”.

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This Act is administered in the Mines Department.

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