



Western Australia.

ANNO SEXAGESIMO SECUNDO

VICTORIÆ REGINÆ.

No. XVI.

AN ACT to amend the Goldfields Act, 1895.

[Assented to, 28th October, 1898.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. THIS Act may be cited as the Goldfields Act, 1895, Amendment Act, 1898, and shall be incorporated with the Goldfields Act, 1895, hereinafter called the principal Act. Short Title.

2. SECTION four of the principal Act is amended by striking out the definition of alluvial, and inserting in lieu thereof the words following:—“‘Alluvial,’ any earth containing or supposed to contain gold, not being a lode, dyke, reef, or vein; and in the definition of ‘Business,’ by striking out all the words after the word ‘manner;’ and in the definition of the word ‘Earth,’ by striking out all the words after the word ‘any,’ and inserting ‘clay, sand, soil, or other material of an alluvial character or origin.’” Amendment of Sec. 4.

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Amendment of
Sec. 13.

3. SECTION thirteen of the principal Act is amended by adding at the end thereof the words “or a business license, as the case may be.”

Amendment of
Sec. 14.

4. SECTION fourteen of the principal Act is amended by striking out the proviso at the end thereof, and by inserting the words following:—“ Provided always that no miner’s right, consolidated miner’s right, or business license shall be issued to any Asiatic or African alien, nor to any Asiatic or African claiming to be a British subject, without the authority of the Minister first obtained ; nor shall any Asiatic or African alien hold any interest by virtue of a consolidated miner’s right, nor shall any Asiatic or African, claiming to be a British subject, hold any such interest without the authority of the Minister first obtained ; nor shall any Asiatic or African alien be employed as a miner, or in any capacity whatever in or about any mine, claim, or authorised holding : Provided also that the labour of any aboriginal native of Australia shall not be accounted *bonâ fide* work for the purpose of fulfilling the labour conditions upon any claim, lease, or authorised holding.”

Amendment of
Sec. 17.

5. SECTION seventeen of the principal Act is amended by inserting, in line six thereof, after the word “co-partner,” the word “therein,” and by inserting in lines eleven and twelve thereof, in lieu of the words “register, transfer, assign, or encumber,” the words “of registering, transferring, assigning, or encumbering.”

Amendment of
Sec. 19.

6. SECTION nineteen of the principal Act is amended by inserting, in line four of Sub-section two, after the word “much,” the words “of the surface of.”

Exemption from
labour conditions.

7. THE paragraphs of Section twenty-five of the principal Act numbered (1), (2), (3), and (4) are repealed, and the following is inserted in lieu thereof:—

- “(a.) Want of capital, after a fair sum shall have been expended ;
- (b.) That time is required for the erection of machinery ;
- (c.) The influx or scarcity of water ;
- (d.) Scarcity of labour ;
- (e.) The collapse of the working shaft ;
- (f.) That the mine is for some other cause unworkable ;
- (g.) That the owner or owners require to be absent, for some sufficient reason, from the locality, or is or are unable, by reason of sickness or other sufficient cause, to work the mine ;
- (h.) That the title to the mine is in dispute ; or

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(i.) That the owner of two or more adjacent claims desires to concentrate the labour compulsory on such claims on one of such claims, and to obtain suspension of labour for the other claims.”

8. SECTION thirty-three of the principal Act is amended by striking out sub-division (*d.*) of Sub-section one thereof, and by inserting the following:—

Amendment of Sec. 33.

“(d.) Land lawfully occupied by the holder of a miner’s right or business license.

“Provided nevertheless, that land lawfully occupied by the holder of a miner’s right or business license for residence or business may be leased—

With the consent in writing of the holder; or

Without the consent of the holder on payment to him of compensation to be ascertained in the Warden’s Court in manner prescribed by the regulations; or

For mining below the surface of any residence or business area on the conditions prescribed by the regulations.”

And by inserting in Sub-division (*e.*) thereof, after the words “Lands which,” the words “on the hearing of the application are proved to the satisfaction of the warden to.”

9. BEFORE the hearing of any application for a lease the warden may obtain a report thereon from a person to be appointed by him for that purpose; and if such person shall report that the ground applied for is known to contain, or is likely to develop alluvial, the warden may postpone the hearing for such time as he may think fit, not exceeding six months.

Warden may obtain report on application for lease.

10. SECTION thirty-six of the principal Act is repealed, and such repeal shall take effect as from the twenty-third day of September, One thousand eight hundred and ninety-eight, and in lieu thereof the following section is inserted:—“36. An application for a lease shall entitle the applicant to mark out and take possession of the land applied for, and to hold the same, except as against any holder of a miner’s right desirous of entering upon the said land, pending the granting of the lease, for the purpose of searching for and obtaining alluvial subject to and in manner to be prescribed by the regulations.

Repeal of Sec. 36.

Entry on land under application for lease for alluvial.

“Provided that the applicant may mark off any portion, not exceeding one-third of the area of the land applied for, and shall have the exclusive use of such portion for his buildings, shafts, and workings, until the lease is granted or refused.

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“ Provided also that the applicant for a lease may, in the event of the refusal of his application, subject to the regulations, obtain an alluvial reward claim for any new discovery of alluvial made by him within the boundaries of the land applied for.”

Lessee to have exclusive privilege of mining upon land leased.

11. AFTER the granting of any lease, the lessee shall have the exclusive privilege of mining on the land demised and every part thereof.

Restrictions on and relief against forfeiture.

12. (1.) NOTWITHSTANDING the provisions of section forty of the principal Act, the forfeiture of any lease, or application for lease, at the will of the Governor, for any breach of any of the provisions of this Act, or of any Act heretofore in force, or of any regulations thereunder respectively, or of any covenant or condition in any such lease, shall not be enforceable unless and until notice shall have been given to the lessee or applicant in manner prescribed by the regulations specifying the breach complained of.

(2.) On notice being given as aforesaid, the lessee or applicant may, in manner prescribed by the regulations, apply to the warden for relief; and the warden may grant or refuse relief as the warden may under all the circumstances think fit; and in case of relief may grant it on such terms, if any, as to costs, expenses, damages, compensation, penalty, or otherwise, including the granting of an injunction to restrain any like breach in the future, as the warden in the circumstances may think fit.

(3.) This section shall not extend—

(a.) To labour conditions; or

(b.) To any provision, regulation, covenant, or condition relating to the entry upon and inspection of the mine, or the working thereof, on behalf of the Crown.

Amendment of Sec. 43.

13. SECTION forty-three of the principal Act is hereby repealed, and the following inserted in lieu thereof:—“ Any number of adjoining gold mining leases, not exceeding four, may be amalgamated upon payment of a fee of twenty shillings for each lease so amalgamated: Provided that the labour to be employed in or in connection with such amalgamated leases shall be the sum of the labour conditions in each separate lease.”

Amendment of Sec. 45.

14. SECTION forty-five of the principal Act is amended by adding at the end thereof the words following:—“ Provided that in the case of a first breach of the labour conditions or regulations, it shall be lawful for the Governor to impose a fine as an alternative to forfeiture.”

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15. IT shall be lawful for any lessee, with the consent of the Minister, to permit a church or miners' institute to be erected on the land demised.

Permission to erect churches, etc.

16. IT shall not be necessary for an applicant for a lease, or a lessee, or for a transferee of an application for a lease, or of a lease, or any share or interest therein respectively, to be the holder of a miner's right.

Lessee need not hold miner's right.

17. FOR the purpose of all applications relating to land not within any proclaimed goldfield, the Under Secretary for Mines shall be deemed to be a warden, and the office of the Under Secretary for Mines in Perth shall be deemed to be a Warden's Court.

Application for land not within a goldfield.

18. SECTION forty-eight of the principal Act is amended by omitting, in line six thereof, the words "conclusive evidence," and by inserting in lieu thereof the words "*prima facie* evidence."

Amendment of Sec. 48.

19. THE publication of any notice in the *Government Gazette* may be proved in any proceedings before the warden by telegraphic advice, communicated to the warden in the ordinary course by a message signed by the Minister purporting to set out the words of the notice and the date of the *Government Gazette* in which it appears.

Proof of notice in *Gazette* by telegraph.

20. (1.) THERE shall be kept at the office of the Department of Mines a register of all gold buyers and dealers in gold bullion, gold specimens, ores, alluvial gold, and of unwrought gold in any form, and every person engaged as a buyer or dealer, as aforesaid, shall cause his name, and the address of his place or places of business, and of any change of address, to be registered therein.

Register of buyers of and dealers in gold, and records of sales and purchases.

(2.) The register shall be open for inspection by the public at all times during the ordinary office hours.

(3.) A license shall be taken out by every buyer or dealer, as aforesaid, in the form and manner to be prescribed by the regulations, and annually renewed.

(4.) All sales and purchases of gold, bullion, specimens, ores, alluvial gold, or of unwrought gold in any form, shall be recorded in the office of the Department of Mines, or of the registrar of a goldfield or district, in manner to be prescribed by the regulations, and returns shall be collected by the Department of Mines, and published monthly in the *Government Gazette*.

(5.) Every owner or manager of a battery or other apparatus for the extraction of gold from earth or ore shall furnish the Mines Department monthly with a return setting forth the amount of stone or earth treated by him during the previous month, together

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with full particulars of the amount of gold extracted therefrom, with such other particulars as may be prescribed by the regulations.

(6.) Such fees shall be payable for every registration and license as shall be prescribed by the regulations.

(7.) Every person shall be liable, on conviction, for every breach or non-observance of this section, to a fine not exceeding Fifty pounds.

Repeal of Sections 85 and 89. **21.** SECTIONS eighty-five and eighty-nine of the principal Act are hereby repealed.

Amendment of Section 86. **22.** THE words "the Court of Mining Appeal," in line five of Section eighty-six of the principal Act, are hereby struck out, and the words "the Supreme Court in Banco" inserted in lieu thereof, and all the words after the words "Supreme Court," in line four of Sub-section (2), up to and inclusive of the word "Appeal," in line six, are hereby struck out.

Amendment of Sections 87 and 88. **23.** SECTIONS eighty-seven and eighty-eight are hereby amended by the striking out of the words, "The Court of Mining Appeal," and the insertion of the words "The Supreme Court in Banco," in lieu thereof.

saving of existing right. **24.** THE repeal by this Act of any of the sections of the principal Act shall not affect any right, interest, or liability existing or incurred, nor anything lawfully done or suffered thereunder before the repeal, excepting as herein specially provided.

In the name and on behalf of the Queen I hereby assent to this Act.

ALEX. C. ONSLOW, Governor's Deputy.