

The Mineral Lands Act of 1892.

(55th Vict., No. 3.)

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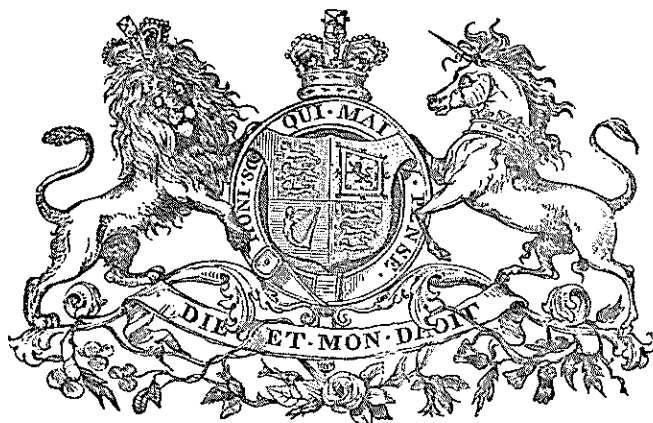
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Western Australia.

ANNO QUINQUAGESIMO QUINTO
VICTORIÆ REGINÆ.

No. III.

AN ACT to amend the Law relating to Mineral Land.

[Assented to, 1st February, 1892.]

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:—

Preamble.

1. THIS Act is divided into Eleven Parts:—

Division of Act.

PART I.—PRELIMINARY.

II.—MINING LICENSES.

III.—MINING DISTRICTS.

IV.—BUSINESS LICENSES.

V.—MINERAL LEASES.

VI.—LICENSES AND LEASES FOR COAL MINING.

VII.—AGRICULTURAL LANDS IN GOLDFIELDS OR MINING DISTRICTS.

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XI.—REGULATIONS.

PART I.—PRELIMINARY.

Repeal of Mineral
Regulations.

2. (1.) SO much of the Land Regulations proclaimed on the 2nd day of March, 1887, as are comprised in Part VI., Sections 80 to 92 inclusive, "Mineral Lands," are hereby repealed, but such repeal shall not affect any rights, claims, or liabilities already accrued or incurred under those regulations: Provided, however, that all mineral leases issued under those regulations shall be subject in all respects to the labor conditions prescribed by this Act and the regulations made under this Act.

Short title.

(2.) This Act may be cited as "The Mineral Lands Act of 1892."

Interpretation.

3. IN the interpretation of this Act the following words within inverted commas shall, unless the context otherwise indicates, have the meanings set against them, respectively:—

"Alluvial Ground."—Earth from which minerals are ordinarily obtained by washing.

"Business."—The selling or disposition of any chattels by hawking or in any other manner, except the hawking of farm or garden produce.

"Business License."—A business license issued under the provisions of this Act.

"Claim."—The portion of Crown land which any person or number of persons have lawfully taken possession of and occupy for mining purposes, or any number of such portions lawfully united by the holders: Provided that no land comprised in any lease granted for mining purposes shall be deemed to be a claim.

"Court."—The Local Court of the District in which the "Mining District" is situated.

"Crown Lands."—All lands vested in Her Majesty which have not been dedicated to any public purpose or which have not been granted in fee, or lawfully contracted to be so granted, or which are not under lease for purposes other than pastoral purposes.

"Earth."—Rock, stone, quartz, clay, sand, soil, or mineral.

"Gazette."—The *Government Gazette* of Western Australia.

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- “Governor.”—The Officer for the time being administering the Government of the Colony of Western Australia, acting with the advice of the Executive Council.
- “Lease.”—A mineral lease issued under the provisions of this Act.
- “Mine.”—A place, pit, shaft, drive, level, or other excavation, lead, vein, lode, or reef, in or by which any mining operation is carried on.
- “Miners,” “Miner.”—Any person being the holder of a Miner’s License, or any number of persons each being the holder of a Mining License; the singular to include the plural, and the plural the singular.
- “To Mine.”—To disturb, remove, cart, carry, wash, sift, smelt, refine, crush, or otherwise to deal with earth for the purpose of obtaining therefrom any mineral or metal other than gold.
- “Mining District.”—Any portion of Crown land constituted a Mining District under the provisions of this Act.
- “Mining License.”—A mining license issued under the provisions of this Act.
- “Minister.”—The responsible Minister of the Crown, for the time being, appointed by the Governor to administer this Act.
- “Prescribed.”—Prescribed by this Act or by any regulations made under its provisions.
- “Registrar.”—A Registrar appointed under the provisions of this Act, or a person lawfully authorised for the time being to perform the duties of a Registrar.
- “Regulations.”—The regulations made under this Act.

PART II.—MINING LICENSES.

4. (1.) THE Minister or his Agent or a Registrar may, on payment of the sum of Ten shillings, issue to any person, not being an Asiatic or African alien, a “Mining License” under the provisions of this Act.

Mining Licenses may be issued.

(2.) Such license shall continue in force for a period of twelve calendar months from the date thereof, and shall not be transferable.

(3.) On the face of such license shall be specified—

(a.) The date and place of issue thereof; and

(b.) The Christian name and surname of the person in whose favor it is issued.

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Rights and privileges
of mining licensees.

5. (1.) THE holder of a mining license shall, subject to the provisions of this Act and the regulations, be entitled (except as against Her Majesty) during the continuance of such license:—

- (a.) To take possession of, mine, and occupy, in the manner prescribed by the regulations, such an area of Crown lands for mining purposes as is specified in the regulations: Provided that such area shall not be within a declared townsite;
- (b.) To cut, construct, and use races, dams, and reservoirs, roads, and tramways for mining purposes;
- (c.) To take or divert water from a natural spring, lake, pool, or stream situated in or flowing through Crown lands, and to use such water for mining and for his own domestic purposes;
- (d.) To use, by way of an easement, any unoccupied Crown lands;
- (e.) To take possession of and occupy such area of Crown lands, for the purpose of residence, as is specified in the regulations.
- (f.) To put up, and at any time to remove, a building or any other erection upon such land;
- (g.) To cut timber on and to remove the same, to strip and remove the bark from any such timber, and to remove stone, clay, or gravel from Crown lands for the purpose of building for himself a place of residence or for mining purposes.

(2.) All land occupied for mining by virtue of a mining license shall be worked continuously and *bonâ fide* in accordance with the regulations.

(3.) Any holder of a mining license may hold any number of claims or shares therein, provided that such claims or shares are duly worked and represented by miners, and every person working in or in connection with a mine must be the holder of a mining license.

(4.) All minerals other than gold found upon Crown lands so occupied for mining purposes shall be the absolute property of the holder of such license.

(5.) The holder of such Crown lands may assign and encumber the same, or any interest therein, in the prescribed manner, but no person who is not the holder of a mining license shall take any interest in such assignment.

(6.) The interest in land held under a mining license shall be deemed a chattel interest.

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(7.) The Minister or his Agent or a Registrar may grant a license to any person to quarry, dig for, and carry away any rock, soil, or other material, on any Crown lands for building purposes, and to make bricks or any other commodity. The fee to be paid for such license shall be determined by the Governor, not being, however, less than five shillings per month for each man employed: Provided, also, that the license shall be subject to the regulations in force for the time being.

Quarrying, brick-making, &c.

PART III.—MINING DISTRICTS.

6. THE Governor may, by notice in the *Gazette*,—

(1.) Constitute any portion of Crown land a mining district under the provisions of this Act, and any proclaimed goldfield may be included within the boundaries of a mining district.

Mining districts may be proclaimed.

(2.) Alter or amend the boundaries of a mining district or abolish such district.

Boundary may be amended.

(3.) Exempt any prescribed area of Crown land within a mining district from the operations of this Act.

Area within mining district may be exempted.

(4.) Constitute any portion of a mining district, or the whole thereof, an area within which mining shall be carried on solely by holders of mining licenses.

Mining license area may be constituted.

7. (1.) WHERE a mining district so constituted comprises Crown land held under lease for pastoral purposes, the Governor may, if he think fit, suspend or cancel the lease in respect of such lands or any portion thereof.

Pastoral rents within mining district to be remitted.

(2.) From the date of such suspension or cancellation a proportionate part of the rent payable by virtue of such lease shall be remitted.

PART IV.—BUSINESS LICENSES.

8. (1.) THE Minister or his Agent, or a Registrar, may, on the payment of the sum of Four pounds, issue to any person, not being an Asiatic or African alien, a business license under the provisions of this Act.

Business licenses may be issued.

(2.) Such license shall continue in force for a period of twelve calendar months from the date thereof.

For a period of twelve months.

(3.) On the face of such license shall be specified—

(a.) The date and place of issue thereof; and

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- (b.) The Christian name, surname, occupation, and residence of the person in whose favor it is issued.

Rights and privileges
of business licenses.

9. (1.) A BUSINESS license shall, subject to the provisions of this Act and the Regulations, entitle the holder thereof, during the continuance of such license—

(a.) To occupy, in the manner prescribed by the regulations, for the purpose of residence and carrying on his business, the prescribed area of Crown lands as specified in the regulations.

(b.) To put up a building or other erection thereon, and at any time to remove the same; and

(c.) To hold in lawful possession (except as against Her Majesty) the surface only of the land so occupied.

(2.) The property in land held under a business license shall be deemed a chattel interest.

(3.) No person shall be entitled by virtue of one business license to occupy at the same time more than one such portion of land.

(4.) Lands situated within a declared Townsite shall not be open for occupation by virtue of a business license, except by special permission of the Minister.

Business license
transferable.

10. THE holder's interest in a business license may be transferred at any time during its currency in the manner following; that is to say :—

(1.) The holder shall, in writing under his hand, endorsed upon the license, and signed by him in the presence of a witness, express his desire to transfer his interest in the same.

(2.) Upon the production and surrender to the Registrar of the license so endorsed, and upon payment of the sum of Ten shillings, the person named in the endorsement shall be entitled to a new license, on the prescribed form, for the unexpired period of the original license.

Certain lands
exempted.

11. NOTWITHSTANDING anything contained in this Act to the contrary, the undermentioned Crown lands, that is to say,—

(1.) Land in lawful occupation as a yard, garden, orchard, or cultivated field;

(2.) Land in actual occupation on which a house, shed, or other building has been erected; and

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(3.) Land on which an artificial reservoir or waterway has been made or a well sunk—

(4.) Land within one hundred yards of any land specified in the three preceding sub-sections.

shall be exempted from occupation by the holder of a license for mining purposes or for business under the provisions of this Act.

Provided the Minister may order, if he thinks fit, that upon payment of compensation, to be determined in the prescribed manner, such exemption shall cease.

When compensation is paid exemption ceases.

PART V.—MINERAL LEASES.

12. THE Minister may, subject to the provisions of this Act and the regulations, grant to any person not being an Asiatic or African alien a mineral lease of any Crown land within a mining district not exempted by the next following section for any or all of the undermentioned purposes, that is to say,—

Mineral leases.

- (1.) For mining therein or thereon for any mineral other than gold; or
- (2.) For cutting and constructing thereon water-races, drains, dams, reservoirs, tramways, and roads, to be used in connection with such mining; or
- (3.) For erecting thereon any buildings and machinery to be used in connection with such mining; or
- (4.) For pumping or raising water from any land mined for such minerals; or
- (5.) For residence thereon in connection with any of such purposes.

13. THE undermentioned lands shall be exempted from lease under the powers conferred by the last preceding section, that is to say.—

Exemptions from leasing.

- (1.) Any Crown land reserved for any public purpose.
- (2.) All Crown land occupied by virtue of a mining license, unless the holder thereof consents to the leasing of such land; and
- (3.) All Crown land which consists of alluvial ground, except such land as, in the opinion of the Minister,—
 - (a.) Has been already worked and abandoned; or
 - (b.) Is only suitable for leasing on account of its great depth or excessive wetness, or on account of the costliness of the appliances required for its development; or

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- (c.) For any sufficient reason, in the opinion of the Minister, ought not to be exempt from lease under this Act:

Provided that the Registrar may, until the assent or dissent of the Governor is ascertained, reserve any Crown lands within his district for any public use or purpose or exempt from occupation for mining purposes any Crown lands within his district.

Claim to merge in lease.

14. WHEN application is made under the provisions of this Act for the lease of any land, a part or the whole of which is held by the applicant under a mining license, the interest of the applicant shall in nowise be prejudiced by such application, nor by the refusal, abandonment, or failure thereof; and if such lease is granted, the interest of the applicant held under the mining license shall merge in the interest held by him under the lease.

Rent and term of leases.

15. (1.) EVERY application for a lease shall be made to the Registrar in the prescribed form, and shall be accompanied by the proper survey fee and the required rent.

(2.) The yearly rent of every lease shall be at the rate of Five shillings per acre, payable in advance at the time and in the manner prescribed.

(3.) The term shall not exceed twenty-one years, and shall be renewable for a further term of twenty-one years on such conditions as the Minister deems equitable.

(4.) The area shall be such, not exceeding One hundred and sixty acres, as may be from time to time prescribed, except in the case of a coal-mining lease, when the area shall not exceed Six hundred and forty acres.

Conditions of leases.

16. EVERY lease granted for mining shall be granted for the working of some mineral or combination of minerals to be specified therein, and every lease shall contain the following reservations, covenants, and conditions, that is to say,—

- (1.) A reservation of all gold found in the land comprised in the lease;
- (2.) A covenant by the lessee to pay rent at the prescribed times, as specified by the regulations;
- (3.) A condition for the forfeiture of the lease on non-payment of rent for thirty days after it accrues due;
- (4.) Such other conditions, not inconsistent with this Act, as may be prescribed;
- (5.) A covenant on the part of the lessee to work the mine continuously and *bonâ fide* in accordance with the regulations;

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- (6.) A condition for the forfeiture of the lease on failure to perform such covenant.

The regulations in force at the time the lease is granted, and which are applicable to the lease, shall be the regulations applicable thereto during its continuance, unless the Minister and the lessee, by memorandum endorsed on the lease, agree to the application thereto of any subsequent regulations.

Regulations in force when the lease is issued not to be altered without consent.

17. IF the Minister is satisfied that greater facilities for the working of two or more contiguous leases would be ensured by the union of such leases, he may authorise such union subject to the following conditions, that is to say,—

Union of leases.

- (1.) The application shall be made for union by at least three-fourths of the lessees, holding at least three-fourths of the interest, of each lease.
- (2.) The leases shall be surrendered, and a new lease embracing the aggregate area of the surrendered leases issued, notwithstanding anything to the contrary contained in this Act.
- (3.) The conditions as to working contained in the several surrendered leases shall be embodied and contained in the aggregate in the united lease.
- (4.) The general provisions and conditions, and the power of resumption and re-entry on the part of the Government for non-payment of rent and non-fulfilment of conditions, shall be the same as those prescribed for the individual leases.
- (5.) When the unexpired terms of the surrendered leases are not the same, the new lease shall be for the residue of that one of such terms which will first terminate.
- (6.) When the conditions or provisions of the surrendered leases are not identical, the conditions and provisions of the new lease shall be such of the conditions and provisions of the surrendered leases, or of any of them, as the Minister may determine; and
- (7.) In addition to all the prescribed fees the sum of Ten pounds shall be paid by way of fine.

18. A LEASE or an application for the same, or any interest therein, may be transferred on payment of the fee of One pound, in addition to the duty payable under the provisions of "*The Stamp Act of 1882*," but no transfer shall be effectual unless it is approved by the Minister.

Transfer of mineral leases.

PART VI.—LICENSES AND LEASES FOR COAL MINING.

Licenses may be
granted to search for
coal.

19. NOTWITHSTANDING that the foregoing sections of this Act apply to coal as well as to all other minerals except gold, any person who is desirous of prospecting Crown lands specially for coal either within or without a Mining District may make application in the prescribed form to the Registrar of the district within which or nearest to which the land applied for may be situated for a license to occupy any Crown lands described in the application, and not being of greater area than Six hundred and forty acres, for the purpose of searching for coal thereon, subject to the following conditions:—

- (a.) Every such application shall be accompanied by a description of the land sufficient to identify it, and the applicant shall pay to the Registrar when he lodges the application a sum equal to sixpence for every acre of the land comprised in the application.
- (b.) Upon receipt of the application the Registrar shall forthwith make a report thereon to the Minister. Such report shall contain such particulars as may be prescribed, or as may be required by the Minister in any particular case.
- (c.) Upon receipt of the report the Minister may either refuse the application, or require it to be amended, or accept it.
- (d.) Upon the acceptance of the application, or upon its being amended to the satisfaction of the Minister, and accepted in its amended form, the Minister may give the applicant a license to occupy the land for a period of twelve months from the date of the license, and to dig and search for coal therein.
- (e.) If the application of a first applicant who is entitled to priority under this section is refused, the Minister shall not be precluded from considering a subsequent application for the same land or comprising in part the same land; and the priority hereby given shall be deemed to confer upon the first applicant only a right to have his application first considered.
- (f.) In the case of an amended application it shall be in the discretion of the Minister to deal with it as if it were dated either on the day of the original application or on the day of the acceptance of the amendment, as he shall think just.
- (g.) The entry upon, occupation of, or interference with, any Crown lands so applied for as aforesaid, by any person

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who was not, prior to the application, in the lawful occupation of such Crown lands, shall, at any time after the making of the application, and until and unless the application is refused, or such entry, occupation, or interference, has been authorised by the Minister, be deemed to be a trespass or encroachment. And the applicant for the said Crown lands may take proceedings for such trespass or encroachment, and for any damages in respect thereof, and may recover any coal taken by such first-mentioned person from the said Crown lands, or the value thereof, in a Registrar's Court.

- (h.) Provided always that no applicant shall recover in any such proceedings unless he proves to the satisfaction of the Court that he has complied with the regulations and statutory requirements in force and applicable for the time being to the license applied for, so far as such regulations and requirements were at the time of such entry, occupation, or interference, capable of being complied with.

20. THE licensee shall be entitled, during the period of the license, to occupy the land and to dig and search for coal therein, and to depasture upon the land any stock used by him in and about the digging for coal or kept for the use of the persons employed by him in and about such digging, and to cultivate the land for the maintenance of such persons or stock, and to cut timber for the purposes aforesaid, but shall not be entitled to use the land for any other purpose. Effect of license.

21. THE license may be renewed by the Minister for another year upon payment of a like sum of sixpence per acre of the land comprised therein, and upon proof to the satisfaction of the Minister that the licensee has during the period of the license used reasonable endeavors to search for coal upon the land, and has not used the land for any purpose not hereby authorised. Renewal of license.

22. IF during the period of the license or the renewed license, the licensee desires so to do he may apply for a lease of any part of the land comprised in the license, not exceeding Three hundred and twenty acres in extent, and his application shall have precedence over the application of any other person for the same land. The term of such lease shall not exceed twenty-one years, and shall be renewable for a further term of twenty-one years on such conditions as the Minister deems equitable. Licensee may apply for lease.

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Rent by way of
royalty.

23. EVERY application for a lease shall be made to the Registrar in the prescribed form, and shall be accompanied by the proper survey fee and the required rent. The yearly rent of land leased for the purpose of mining for coal shall be at the rate of sixpence per acre, and there shall also be reserved in the lease a royalty at the rate of threepence for every ton of coal raised from the land during the first ten years of the term of the lease, and at the rate of sixpence for every ton raised during the remainder of the term.

The times and mode of ascertaining the amount of any royalty so payable, and the time for payment thereof, shall be prescribed by the lease.

If land leased for the purpose of mining for coal is used for the purpose of mining for any other mineral, rent shall become payable in respect thereof at the rate of Five shillings per acre in addition to the royalty, if any, payable in respect of coal raised therefrom.

Special privilege to
discoverer of new
coal-field, or coal at
great depths.

24. WHEN a licensee under the provisions of this Act—

- (1.) Discovers payable coal at a distance of not less than fifteen miles from any payable coal previously discovered, or,
- (2.) Discovers a payable seam of coal at a depth of not less than six hundred feet from the surface,

he shall be entitled to a lease of Six hundred and forty acres of land, instead of Three hundred and twenty acres as hereinbefore provided, and the royalty payable in respect of coal raised by the lessee shall in the first-mentioned case as to all coal, and in the second-mentioned case as to all coal raised from a depth of Six hundred feet and upwards, be at the rate of one penny for every ton, instead of threepence as hereinbefore provided.

In this section the term “payable,” applied to coal or to a seam of coal, means coal of such quality and thickness that it can, under ordinary circumstances, be worked with profit.

Labor conditions.

Minister may
dispense with labor
conditions.

25. ALL land held under license or lease for coal prospecting or mining shall be worked in accordance with the Regulations, but in the case of a lease granted for mining for coal the Minister may, by license under his hand, dispense with the performance of the lessee's covenant to work the mine continuously if it is proved to his satisfaction that the lessee has made reasonable efforts to work and develop the mine, and that continued working of the mine would result in unnecessary loss to the lessee.

Any such license shall be for a period not exceeding six months, and shall be subject to the regulations and the payment of the required fees and to such other conditions as the Minister may think fit.

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A license may be renewed from time to time for a further period not exceeding six months upon fresh application and proof to the Minister as aforesaid, and may be so renewed subject to the same conditions as those to which the first license was subject, or different conditions.

PART VII.—AGRICULTURAL LANDS IN MINING DISTRICTS.

26. (1.) THE Governor may approve of any land within a goldfield or a mining district being disposed of for agricultural, pastoral, or other purposes, under the Land Regulations in force for the time being in the land district in which such goldfield or mining district is situate: Provided, however, that every application made for agricultural land shall be made to the Warden or Registrar, as the case may be, in open court, and that before any land is granted, precautions shall be taken to ascertain whether the land applied for is free from gold or minerals.

Lands in goldfield or mineral districts may be sold for agricultural purposes.

(2.) In the event of the Minister not being satisfied that the land is free from gold or minerals, he may grant a lease of such land for agricultural purposes, for any term not exceeding Twenty-one years, and at a rental of not less than Sixpence per acre per annum, subject to such conditions as to improvements as he may think fit: Provided that the holder of a miner's right or mining license may be granted by the Warden or a Registrar, as the case may be, permission to mine upon any portion of such lease, and in that case the area of such lease and the rental shall be accordingly reduced. Provided further, that the person mining upon such land shall pay compensation to the lessee for any improvements done by the lessee upon such portion, to be assessed by the Warden or Registrar, whose decision shall be final and binding on all parties.

Or may be leased for agricultural purposes.

27. THE Warden or Registrar shall report to the Minister on each application as to whether it should be approved or not. If any objection is made, the evidence taken at the hearing of the objection shall be forwarded to the Minister, with the report, immediately after the case has been heard.

Report must be made to Minister.

PART VIII.—TRESPASSING AND UNAUTHORISED MINING.

28. ANY person who, not being the holder of a mining license, is found working for minerals other than gold on Crown lands may be forcibly ejected therefrom by any member of the police force, Crown land ranger, or any other person authorised by the Minister.

Unauthorised miners may be ejected.

29. ANY person found working for minerals or removing minerals or mineral ores from the claim, lease, or land of any other

Proceeding and penalty for mining

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or removing minerals
without authority
from claims.

person who is personally or by his agents occupying the same, whether such claim, lease, or land is—

- (1.) Held under mining license, or lease, or in fee; or
- (2.) Applied for to be licensed or leased under this Act; or
- (3.) Held under any tenure subject to the provisions of the laws in force for the time being relating to the alienation of Crown lands—

may be forcibly ejected by any member of the police force, or by any other person appointed by the Minister; and on conviction thereof shall forfeit and pay for every such offence any sum not exceeding Fifty pounds, to be recovered in a summary way before two justices.

Removing minerals
from claims, larceny.

30. ANY person who takes or removes mineral ores from the claim, lease, or land of any other person shall be deemed to have stolen the same; and any person receiving the same with knowledge of such facts shall be deemed to have received the same knowing them to have been stolen.

PART IX.—MISCELLANEOUS.

Mining lessee, &c., to
pay compensation for
improvements on
lands applied for.

31. (1.) THE lessee or licensee of any land applied for or held under this Act shall pay fair compensation, to be ascertained by agreement, or by arbitration as prescribed by Clause 108 of the Land Regulations of 1887, for all improvements existing on any portion of the land comprised in such holding.

Rights of adjoining
proprietors over
boundary creek, &c.

(2.) Where claims or leases have a frontage to one side only of a creek, lagoon, or watercourse, the Registrar may grant the holders of the claims or leases on either side permission to work, dredge, and mine up to the middle of the main channel of such creek, lagoon, or watercourse.

(3.) In the event of such holders not being able to agree as to the middle, any one of the said holders may demand that the question shall be decided by the Registrar on payment of a fee of One pound.

(4.) The Registrar shall, after having made a personal examination of the channel, give his decision subject to appeal to the Minister, such decision being recorded in a book to be kept for the purpose.

(5.) Where the creek, lagoon, or watercourse is of such a width as in the opinion of the Registrar to justify the refusal to permit the whole of the bed of the channel to be worked, such permission may be refused.

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(6.) In all such cases the permission shall be subject to such restrictions and conditions as to the mode of working and otherwise as the Registrar sees fit.

32. (1.) APPLICATIONS for leases by persons who have complied with the regulations shall take priority according to the time of their receipt by the officer appointed to receive them; and in the event of two or more applications being received at the same time for the same land, the priority shall be decided by lot.

Grant of lease discretionary.

But nothing contained in this Act shall render it obligatory to grant a lease to any person notwithstanding that he has complied with the prescribed regulations.

(2.) If the application of any person is refused, he shall be informed of the reasons for such refusal.

(3.) A lease may be granted, notwithstanding that the person applying for the same has not in all respects complied with the regulations.

33. WHEN gold is found associated or combined with any other mineral or metal in land held under a lease, and the nature of the mining operations is such as to lead to the extraction of such gold, the lessee shall pay to the Colonial Treasurer a royalty of One pound *per centum* of the value of the gold extracted.

Royalty to be paid for gold found in association with other metals.

34. WHEN gold is found in any land held under a lease otherwise than in association or combination with the mineral specified therein, the land may, for the purpose of mining for gold, be dealt with, notwithstanding the lease, under the provisions of "*The Gold-fields Act of 1886*," and in such case the Registrar shall have, in respect to such lease, all the powers of a warden under such Act. Provided that—

When gold found in leasehold, "*Gold-fields Act of 1886*" to apply.

- (1.) Any person mining thereon for gold shall not interfere with the working of the lessee;
- (2.) The lessee or any of the lessees may, if he or they be the holder or holders of a miner's right or rights under that Act, take up a claim or claims under that Act in the land comprised in the lease;
- (3.) The lessee shall be entitled in priority to any other person to apply for and obtain a gold mining lease, under the last-mentioned Act, of so much of the land as may under that Act be comprised in a gold mining lease: And such gold mining lease shall be subject in all respects to the same conditions as other leases granted under that Act.

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If the lessee mines for gold found otherwise than in such association or combination, not being authorised to do so by a miner's right or gold mining lease, the lease shall be liable to forfeiture.

35. IF any lessee desires to mine for any mineral other than that specified in the lease, he shall apply to the Minister for permission to do so, and the Minister may grant such permission and may alter or vary the conditions of the lease so as to make them applicable to mining for such other mineral in accordance with this Act and the regulations.

Provision in case of lessee desiring to work other minerals.

If a lessee mines for any such other mineral without obtaining such permission, he shall be liable to a penalty not exceeding Five pounds for every day on which he shall so offend.

PART X.—ADMINISTRATION.

36. THE Governor may appoint such Registrars and other officers as he deems necessary for the administration of this Act.

Governor may appoint Registrars and other officers.

37. (1.) THE Registrar shall, subject to the regulations, be empowered to hold a Court, from time to time, in any mining district.

Registrar's Courts to be Courts of record.

(2.) Every such Court shall be a Court of record, and shall have jurisdiction to hear and determine all actions, suits, claims, demands, disputes, and questions which may arise in relation to mining within the district, whether the mine in respect of which the dispute arises is held under this Act or on any other tenure.

(3.) Every Registrar shall have jurisdiction in respect of the matters hereinbefore contained throughout the Colony, with power to issue summonses, warrants, or other process, which shall have legal effect and operation throughout the said Colony.

(4.) The Registrar's Court shall have jurisdiction when the defendants, or one of two or more defendants, as the case may be, shall be resident within the mining district to which such courts respectively shall belong.

(5.) When the hearing of any complaint involves the trial of a right to any claim, residence, business, or machinery area, or other mining tenement or share therein, or any money due in respect thereof, or in any way connected therewith, the same shall take place in the Registrar's Court appointed for the mining district in which such claim or mining tenement is situate.

Manner of hearing cases before Registrar.

(6.) In such Court the proceedings taken, forms used, and manner and time of determining all cases within its jurisdiction, shall be in accordance with the regulations.

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(7.) In any matters not prescribed in the regulations as aforesaid the procedure of the Registrar's Court shall, *mutatis mutandis*, be in accordance with the law in force for the time being relating to the procedure or practice of the Local Court of the district.

When not otherwise provided for, procedure to be according to procedure in the Local Court of the district.

(8.) Every Registrar, and all parties to any action, suit, claim, demand, dispute, or question within the jurisdiction of the Registrar's Court, shall, *mutatis mutandis*, have, exercise, enjoy, and be subject to the like rights, powers, authority, duties, and obligations enjoyed, held, exercised, and imposed under or by virtue of "*The Goldfields Act of 1886*," upon the warden and parties to any action, suit, claim, demand, dispute, or question within the jurisdiction of the warden's court. Provided that every such action, suit, claim, demand, dispute, or question, shall be heard and determined by the Registrar alone.

38. A PERSON aggrieved by the decision of a Registrar may (where such decision is not hereinafter declared to be final) appeal from the same to the Local Court of the district in which the Mining District is situated, subject to the following conditions, that is to say—

Appeals from Registrar's decision.

(1.) The appeal shall be made at the sitting held next after the expiration of fifteen days from the date of such decision.

To nearest Local Court at first sitting.

(2.) The Registrar may within three days after such decision, give leave to either party to appeal to any subsequent sitting of such court.

Or, by leave, at subsequent sitting.

(3.) The appellant shall, within seven days from the date of such decision, give—

Appellant to give notice and security for costs.

(a.) To the Registrar and the opposite party notice, in writing, of the appeal; and,

(b.) Security, to the satisfaction of the Registrar, for the sum of Fifty pounds, or any less sum which to him seems reasonable to cover the cost of the appeal.

(4.) The appellant shall also, at least five days before the day appointed for the hearing of such appeal, give to the Registrar notice in writing thereof, and the notice shall be accompanied by a fee of Three pounds.

Notice to be given to the Registrar accompanied by fee.

39. (1.) THE appeal shall be heard in the Local Court of the district at the time and place appointed as aforesaid.

Appeal to be heard as appointed.

(2.) The Court may make an order—

(a.) Reversing or varying the decision; or

(b.) Dismissing the appeal.

Court may make an order.

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And every such order shall, except as hereinafter provided, be final and conclusive on the parties.

Court may make order.

(3.) The Court may order—

(a.) The payment of money ; or

(b.) The delivery of the possession of any claim, lease, land, race, drain, dam, reservoir, or water, mineral or other property ; or

(c.) The restitution of any such property—

to the person who was the complainant, or as the case otherwise requires.

Costs to be discretionary.

(4.) The Court may make such order as it thinks fit in respect of the costs of the appeal.

Copies of documents to be transmitted by the Clerk.

40. THE Registrar is hereby required to transmit to the Clerk of the Court, before the time appointed for hearing the appeal, a copy of—

(a.) The plaint and notice of defence ; and

(b.) The minute of the decision, and of the order thereon, signed and certified under the hand of the Registrar or his clerk.

In matters under £20 appellant not entitled to costs.

41. (1.) IF at the hearing of an appeal as aforesaid the matter in dispute appears to the Court not to exceed Twenty pounds, the appellant shall not, except as hereinafter provided, be entitled to the costs of the appeal.

But if greater sum involved, costs may be discretionary.

(2.) If the Court is of opinion that the interests, whether direct or indirect, involved in the decision exceed Twenty pounds, or that the special circumstances of the case entitle the appellant to costs, the question of costs shall be in the discretion of the Court.

Appeal heard before Court.

42. THE appeal shall be heard and determined by the Court, and shall be in the nature of a re-hearing.

Usual procedure to be applicable.

43. THE usual mode of proceeding in respect of the trial of issues and of questions of fact in original proceedings in the Local Court of the district, under the laws in force for the time being relating thereto, shall in like manner be applicable in the case of appeals to such Court under this Act.

Registrar may order an injunction, &c.

44. (1.) WHENEVER an appeal is brought, the Registrar whose decision is so questioned may, on the application of any party interested therein, make an order for—

(a.) An injunction ; or

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- (b.) The appointment of a manager ; or
- (c.) The payment of money into the hands of the Registrar to abide the event ; or
- (d.) The stay of the proceedings or otherwise—

upon such terms as the Registrar thinks proper.

(2.) Without such order, or an order by the Court, which order such Court is hereby authorised to make, no appeal shall operate as a stay of proceedings.

Without order appeal not to stay proceedings.

(3.) The Registrar may, at any time thereafter, if he thinks fit, discharge such order.

Order may afterwards be discharged.

45. (1.) AN appeal on any question of law raised by either of the parties at the time of the hearing of an appeal to the Local Court of the district shall lie to the Supreme Court.

Appeal on questions of law to Supreme Court.

(2.) The party so appealing shall give to the clerk of the Local Court of the district and to the opposite party notice in writing of such appeal within thirty days after the decision so appealed against has been pronounced.

Appellant to give notice within thirty days.

(3.) Such appeal to the Supreme Court shall be in the form of a special case settled by the Court before whom the appeal was heard.

In form of special case settled by the Court.

(4.) The Court may in a special case submit to the Supreme Court any point of law reserved by it at the hearing.

Or submitted by the Court.

(5.) The Supreme Court shall entertain and adjudicate upon an appeal case so submitted.

Supreme Court required to hear appeal.

46. (1.) PREVIOUSLY to the hearing of a complaint before the Registrar, the parties thereto may agree to accept his decision as final.

By previous agreement Registrar's decision may be final.

(2.) A memorandum of any such agreement shall be entered by the Registrar on a register to be kept by him.

(3.) In such case no appeal shall be made from the decision of the Registrar.

47. IF any Registrar under this Act, at any time during his appointment, holds any interest in a claim or mineral lease or mining adventure, or adjudicates in any matter in which he is pecuniarily interested, he shall be guilty of a misdemeanor, and be liable to fine or imprisonment for any term not exceeding three years, or both, in the discretion of the Court.

Penalty for Registrar holding interest or adjudicating.

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PART XI.—REGULATIONS.

Power to make regulations.

48. (1.) THE Governor may from time to time make such regulations, not being contrary to the provisions of this Act, as are necessary for giving effect thereto.

Regulations to be published.

(2.) Such regulations shall be published in the *Gazette*, and after publication therein shall have the force of law, and shall be judicially noticed in any court of justice.

(3.) Nothing herein contained shall affect the rights of Her Majesty, or prevent the operation of any municipal or other lawfully made by-law or regulation of the Board of Health.

Maximum penalty.

(4.) Such regulations may impose for any breach thereof, or for any disobedience of a lawful order of the Registrar's Court, a fine not exceeding Ten pounds, and in default of payment imprisonment with or without hard labor for any period not exceeding three months.

Regulations to be laid before Parliament.

(5.) All regulations made under this Act shall be laid before Parliament within fourteen days from the making thereof, if the Parliament is then in session, and if not, then within fourteen days after the commencement of the next session thereof.

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

ALEX. C. ONSLOW, Administrator.