ANNO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1953

No. 40 of 1953.

An Act to amend the Mining Act, 1930-1951.

[Assented to 17th December, 1953.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Mining Act Amendment Act, 1953".

(2) The Mining Act, 1930-1951, as amended by this Act, may be cited as the "Mining Act, 1930-1953".

(3) The Mining Act, 1930-1951, is hereinafter called "the principal Act".

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.

3. Section 4 of the principal Act is amended—

(a) by striking out the words "coal shale or oil" in the definition of "private land" therein and inserting in their place the words "or coal";

(b) by adding at the end thereof the following subsection (the preceding portion of section 4 being read as subsection (1) thereof):

(2) For the purposes of this Act and of any lease granted under this Act whether before or after the commencement of the Mining Act
Amendment Act, 1953, substances collected from any land shall be deemed to be obtained from that land.

4. The following sections are enacted and inserted in Division I. of Part III. of the principal Act after section 23a thereof:

23b. (1) Where pursuant to this Part a lease granted whether before or after the commencement of the Mining Act Amendment Act, 1953, reserves a sum based on the gross amount realized from the sale of any substance obtained from the land comprised in the lease, in computing that gross amount there shall be deducted expenditure incurred by the lessee on—

(a) treatment of the substance before delivery to the buyer other than any treatment which is necessary in order to make the substance a marketable product; and

(b) transport of the substance from the mine to the place of delivery to the buyer.

(2) If any dispute arises between the lessee and the Minister as to the expenditure incurred by the lessee on any treatment or transport of any substance or as to whether a treatment is necessary to make any substance a marketable product, the Minister or the lessee may require it to be settled by arbitration. Thereupon it shall be referred to and decided by a single arbitrator nominated by the Governor. The Governor shall nominate as arbitrator either a Judge of the Supreme Court, a Local Court Judge or a Special Magistrate, or a legal practitioner of not less than ten years standing.

23c. (1) Where a person has applied for a mining lease and has been notified in writing by or on behalf of the Minister that the Minister has approved the application, that person shall be liable for payment of rent and any other sum payable by a lessee of a mining lease of the kind applied for pursuant to this Act and shall be deemed to hold the land the lease of which he applied for as though he were a lessee under a mining lease of the kind applied for granted at the time mentioned in the written notification.

(2) Where a person holding land under subsection (1) of this section is granted a mining lease of the kind applied for, that lease shall not be granted for a longer term than
the balance of the term prescribed by this Act for a lease of the kind applied for after deducting therefrom the period for which that person has held the land pursuant to subsection (1) of this section.

(3) This section shall apply notwithstanding any other provision of this Act and whether the application for a mining lease was made, or the notification of approval was received, before or after the commencement of the Mining Act Amendment Act, 1953.

23d. (1) Notwithstanding any other provision of this Act where a lease granted whether before or after the commencement of the Mining Act Amendment Act, 1953, reserves a sum other than rent pursuant to this Part, and—

(a) the lessee uses in manufacture any substance mined on the land comprised in the lease; or

(b) the said substance is salt or gypsum,

the Minister may agree with the lessee upon a sum calculated by reference to the weight or volume of the substance mined which shall be payable by the lessee in place of the sum reserved by the lease.

(2) A sum agreed upon under this section shall be payable in respect of substances mined during such period as is agreed upon between the Minister and the lessee.

(3) Upon the making of any such agreement, the sum payable shall for the purposes of this Act, be deemed to be reserved by the lease.

(4) This section shall not authorize the Minister to agree upon any sum unless that sum is recommended by the Auditor-General.

5. Section 27 of the principal Act is amended by striking out the word “oil” in the third line thereof.

6. Section 69e of the principal Act is amended by striking out the words “coal, shale or oil” therein and inserting in their place the words “or coal”.

7. Section 69f of the principal Act is repealed and re-enacted as follows:—

69f. (1) Subject to subsection (4) of this section there shall be payable to the Minister by the owner of every claim under Division II. of Part III. on private land to
which this Part applies a sum amounting to two and one half per centum of the gross amounts realized from the sale of any substance obtained from the land comprised in the claim.

(2) Subject to subsection (4) of this section there shall be payable to the Minister by every licensee under Part V. of any private land to which this Part applies a sum amounting to two and one half per centum of the gross amounts realized from the sale of any substance obtained from the land comprised in the licence.

(3) Subject to subsection (4) of this section in addition to the annual rent there shall be payable to the Minister by every lessee under any mining lease of private land to which this Part applies, a further sum amounting to two and one half per centum of the gross amounts realized from the sale of any substance obtained from the land comprised in the lease. No other amounts shall be payable as royalty under any such mining lease.

(4) Where a claim has been pegged out, or a licence or lease granted before the commencement of the Mining Act Amendment Act, 1953, the sum payable under this section shall be one per centum of the gross amounts realized from the sale of any substance obtained from the land comprised in the claim, licence or lease.

(5) For the purposes of this section, in computing the gross amounts realized from the sale of any substance obtained from any land, sections 23a and 23b of this Act shall apply mutatis mutandis as though a sum payable under this section were a sum reserved by a mining lease pursuant to Part III. of this Act, and as though the owner of the claim, or the licensee or lessee, as the case may be, were a lessee to whom the said sections apply.

8. Section 69h of the principal Act is amended by striking out the words "or permit to prospect for oil" in the third and fourth lines of subsection (2) thereof.

9. The following section is enacted and inserted in the principal Act after section 125 thereof:—

125a. (1) Where any rent is payable pursuant to section 23c of this Act, the rent shall in each year be payable in advance on the day, or the anniversary of the day, upon which the mining lease is deemed to have been granted, and for the purposes of section 125 of this Act that day shall be the appointed day for payment of the rent.

(2) Where any sum other than rent is payable pursuant to any mining lease whether granted before or after the commencement of the Mining Act Amendment Act, 1953, or pursuant to section 23c of this Act, notwithstanding the terms of any lease, the Minister may determine the periods in respect of which such sums shall be assessed and the sum in respect of any such period shall be payable on a day fixed by notice given by or on behalf of the Minister at or after the expiration of the period, and stating the amount due; and for the purposes of section 125 of this Act that day shall be the appointed day for payment of the sum.

(3) Any rent or any other sum payable pursuant to section 23c of this Act shall for the purposes of section 125 of this Act be deemed to be a sum reserved by a mining lease.

10. The fifth schedule to the principal Act is amended—

(a) by striking out the words “mineral phosphates or oil” in the heading of the form contained therein and inserting in their place the words “or mineral phosphates”;

(b) by striking out the words “mineral phosphates or oil” in the form contained therein and inserting in their place the words “or mineral phosphates”.

11. The sixth schedule to the principal Act is struck out.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

R. A. GEORGE, Governor.