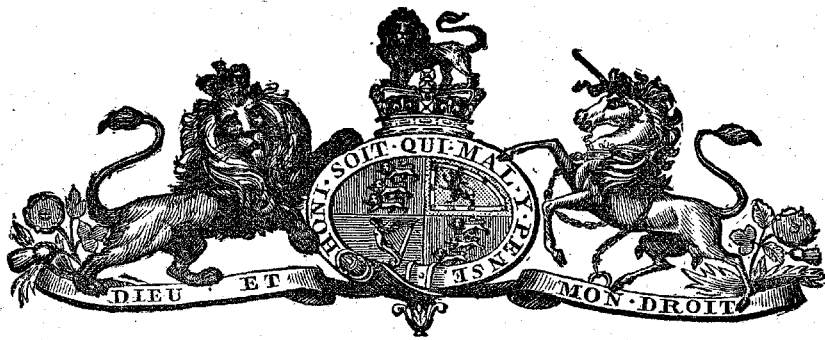


NEW ZEALAND.



TRICESIMO SEPTIMO

VICTORIÆ REGINÆ.

No. XL.

ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Lands hereafter alienated by the Crown may be resumed for mining purposes.</p> <p>3. Application may be made to Superintendent for the resumption of land under Act.</p> <p>4. Application for lands used as gardens, &c., not to be entertained unless under special circumstances.</p> <p>5. Application may be referred to Warden.</p> <p>6. Proceedings upon reference of application.</p> <p>7. Warden to give notice of his intention to hear application. Applicants to appear before him on day of hearing.</p> <p>8. Proofs to be adduced by applicant in absence of licensee lessee or owner.</p> <p>9. Warden may call in assistance of experts and skilled witnesses.</p> <p>10. Warden to forward evidence and his opinion to Superintendent.</p> <p>11. Superintendent to determine whether land shall be resumed or otherwise.</p> <p>12. Costs of inquiry.</p> <p>13. If land to be resumed, notice to be given to licensee, &c.</p> | <p>14. If not, no subsequent application to be made within twelve months unless under special circumstances.</p> <p>15. In default of agreement as to value, arbitrators to be appointed. Award to be transmitted to Superintendent and deposited in his office.</p> <p>16. Arbitrators, how appointed.</p> <p>17. Death or incapacity of arbitrator.</p> <p>18. When value ascertained, money to be paid to person entitled out of moneys to be appropriated by Provincial Council for that purpose.</p> <p>19. Arrears of fees, &c., to be deducted from amount paid.</p> <p>20. Notice of resumption to be gazetted. Effect of notice.</p> <p>21. Names of applicants to be published in notice. Priority.</p> <p>22. Superintendent to act with advice of his Executive Council.</p> <p>23. How when and where Act to be brought into operation. Schedules.</p> |
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AN ACT to provide for the Resumption of Land for the purposes of Mining for Gold or Silver. Title.

[29th September, 1873.]

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

1. The Short Title of this Act shall be "The Resumption of Land for Mining Purposes Act, 1873." Short Title.

2. All lands alienated from the Crown, whether by way of absolute sale or lease or for any lesser interest, after the date of the passing of this Act, shall be liable to be resumed for mining purposes (except lands alienated expressly for mining purposes) by Her Majesty, on paying full compensation to the licensee lessee or owner of the fee-simple Lands hereafter alienated by the Crown may be resumed for mining purposes.

Resumption of Land for Mining Purposes.

thereof for the value other than auriferous or argentiferous of the lands and improvements so resumed; such value in case of disagreement to be ascertained by arbitration, upon the terms and conditions hereinafter provided.

Application may be made to Superintendent for the resumption of land under Act.

3. Any person may, in the form in the First Schedule, apply to the Superintendent of the Province in which the land is for the resumption under the provisions of this Act of any land alienated from the Crown, and not hereinafter excepted from such application, and shall send with every such application the sum of twenty pounds, to be dealt with as hereinafter provided.

Application for lands used as gardens, &c., not to be entertained unless under special circumstances.

4. No application shall be entertained for any land used as a garden orchard vineyard nursery plantation or ornamental pleasure-grounds, or for any land of less extent in area than quarter of an acre within any city town or borough, or for any land which is the site or is within one hundred feet of the site of any house manufactory hospital asylum church public building, or any cemetery dam reservoir or waterworks, unless the consent in writing of the owners or trustees of such land accompany such application.

Application may be referred to Warden.

5. Such Superintendent may refer any such application to any Warden acting within such Province under any Act relating to gold mining, and shall inform the applicant thereof.

Proceedings upon reference of application.

6. Upon such reference the applicant may obtain from the Warden a summons to the licensee lessee or owner in fee of the land to which the application refers, to appear before him on a day and at a place therein specified to show cause why such land shall not be resumed.

Warden to give notice of his intention to hear application.

7. The Warden shall give notice in some newspaper circulating in the district that on some day not less than fourteen days from the date thereof he will proceed to hear such application; and every applicant, if there be more than one, shall on the day appointed appear before the Warden, and in default of such appearance, or of sufficient excuse for such default, the application shall be dismissed as against such applicant.

Applicants to appear before him on day of hearing.

8. Upon the hearing of the summons, the applicant shall, unless the parties summoned appear, prove the service thereof, and shall also prove that the land is auriferous or argentiferous, and may be mined with a reasonable profit; and shall also produce evidence as to the market value of the land and the improvements thereon at the date of the issue of the summons.

Proofs to be adduced by applicant in absence of licensee lessee or owner.

9. The Warden, whether all the parties be present or not, shall hear receive and examine evidence, whether it be tendered to him or called for by him, and may obtain the assistance of engineers surveyors valuers or other scientific persons, the expense whereof shall be deemed to be part of the costs of the hearing, and may adjourn the hearing from time to time as he thinks fit.

Warden may call in assistance of experts and skilled witnesses.

10. The Warden shall report to the Superintendent the evidence he has received and his opinion thereon, and the amount of costs (if any) which the applicant ought to pay.

Warden to forward evidence and his opinion to Superintendent.

11. Upon the report of the Warden, the Superintendent shall determine whether the land in whole or in part shall or shall not be resumed.

Superintendent to determine whether land shall be resumed or otherwise.

12. The costs of the inquiry, including all costs of the licensee lessee or owner in fee, shall be paid out of the sum deposited by the applicant, or if there be more than one applicant in equal proportions, unless the Superintendent otherwise order, by the several applicants, and the balance (if any) shall be returned to the depositor or depositors.

Costs of inquiry.

13. If it be determined that the land in whole or in part be resumed, the Superintendent shall cause notices to be sent to the

If land to be resumed, notice to be given to licensee, &c.

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licensee lessee or owner, and shall agree with him as to the value other than auriferous or argentiferous of such land and improvements at the date of the issue of the summons as aforesaid.

14. If it be determined that the land in whole or in part be not resumed, no further application in respect to the same land shall, unless by the special direction of the Superintendent, be entertained within twelve months from the date of the refusal of the application.

If not, no subsequent application to be made within twelve months, unless under special circumstances.

15. In default of such agreement, such value shall be determined by arbitration in manner as follows:—

One arbitrator shall be appointed by the licensee or lessee or owner, and another arbitrator shall be appointed by the Superintendent, who, together with an umpire to be appointed by such arbitrators, shall be arbitrators; and such three arbitrators, or any two of them, shall make their valuation or award in writing within three months after the date of their appointment, and every such valuation or award shall be in the form contained in the Second Schedule to this Act or to the like effect, and shall be transmitted by the arbitrators to and be deposited in the office of the Superintendent.

In default of agreement as to value, arbitrators to be appointed.

16. Upon any valuation or settlement by arbitration under this Act, the Superintendent, on the request of the licensee or lessee or owner, shall appoint an arbitrator, by delivering to the licensee or lessee or owner, his executors or administrators, or by leaving the same at his residence on the allotment, an appointment of such arbitrator by the Superintendent; and the licensee or lessee or owner, on the request of the Superintendent, shall appoint an arbitrator by delivering at the office of the Superintendent an appointment of such arbitrator under the hand of the said licensee or lessee or owner. If for fourteen days after the delivery of any such appointment by either the Superintendent or the other party, the party to whom such appointment has been delivered fail to appoint an arbitrator, the arbitrator appointed by the party delivering the notice shall be deemed to be appointed by and shall act alone on behalf of both parties, and shall make his valuation in writing within such time and in such form as hereinbefore provided in respect of valuations or awards to be made by two arbitrators; and the valuation of any arbitrator or arbitrators so appointed shall be binding final and conclusive upon the Superintendent, and the licensee or lessee or owner, to all intents and purposes whatsoever.

Award to be transmitted to Superintendent and deposited in his office.

Arbitrators, how appointed.

17. If before the making of such valuation as aforesaid any arbitrator die or refuse or become incapable to act, the party by whom such arbitrator was appointed shall appoint in like manner another in his stead; and if either party fail so to do for the space of fourteen days after notice from the other party in that behalf, the arbitrator appointed by the party giving the notice may proceed alone *ex parte*; and every arbitrator so appointed shall have the same powers and authorities as were vested in the arbitrator in whose stead the appointment is made.

Death or incapacity of arbitrator.

18. When such value has been ascertained, the Superintendent may direct that the money be paid either to the licensee lessee or owner, as the case may be, or if other parties appear to be interested therein into the Supreme Court, to abide the direction of the Court as to its distribution. Such moneys shall be paid only out of such moneys as may from time to time be appropriated by the Provincial Council of such Province for the purpose, or out of such moneys as shall be supplied by the applicant or applicants for the purpose.

When value ascertained, money to be paid to person entitled out of moneys to be appropriated by Provincial Council for that purpose.

19. The amount of all unpaid license fees, rents or purchase money, which if the land had not been resumed before grant would have been payable to the Crown before the issue of a grant in fee,

Arrears of fees, &c., to be deducted from amount paid.

Resumption of Land for Mining Purposes.

shall be deducted from the sum agreed upon or awarded as the value as aforesaid.

Notice of resumption to be gazetted.

20. Upon payment of the value as aforesaid, and upon the recommendation of the Superintendent, the Governor in Council may, by a notice in the *New Zealand Gazette* and in the *Gazette* of the Province in which the land is situated, declare that the land in such application described has been resumed for mining purposes by Her Majesty; and thereupon the whole estate and interest of the licensee lessee or owner, and of every person claiming through or under him, shall cease and determine, and the land shall be deemed to be Crown land, as if the same had never been alienated, and the Registrar of Titles shall make in his Register the proper entries accordingly.

Effect of notice.

Names of applicants to be published in notice.

Priority.

21. The names of the successful applicants, in the order of their application, shall be published in the notice of resumption, and such order shall determine their priorities *inter se*; and until thirty days after the date of such application, no act of any person other than such applicants, or some person by them authorized in that behalf, done upon or in relation to such land, shall be of any force or effect in creating or intimating any right or title, or determining the priority of any application for permission to mine in or upon the said land or any part thereof, or to occupy the same or any part thereof, for any purpose in relation to mining.

Superintendent to act with advice of his Executive Council.

How when and where Act to be brought into operation.

22. The Superintendent shall, in exercising the powers conferred hereby, act with the advice of his Executive Council (if any).

23. This Act shall only be in force within a proclaimed gold field, and shall not come into operation in any Province, excepting the Province of Otago, until a recommendation be made by the Superintendent and Provincial Council of any Province that the Act be brought into operation within such Province, and a Proclamation by the Governor in Council to that effect be published in the *New Zealand Gazette* and the *Gazette* of such Province.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

FORM OF APPLICATION FOR RESUMPTION OF LAND FOR MINING PURPOSES, UNDER SECTION 3.

I, _____, of _____, assert that the land [*Describe the allotment*] was alienated since the Act intituled "The Resumption of Land for Mining Purposes Act, 1873," came into operation, by license [*or lease*] [*or grant in fee*]; that the said land contains gold or silver, and may be mined with reasonable profit; and that I believe its present value to be £ _____, or thereabouts.

I hereby apply that the said land shall be resumed for mining purposes; and I send herewith the sum of £20, in accordance with the provisions of the said Act, and for the purpose therein mentioned.

SECOND SCHEDULE.

FORM OF AWARD OF COMPENSATION, UNDER SECTION 15.

WE, A.B. of &c., C.D. of &c., and E.F. of &c., have valued the lands and improvements thereon submitted to us for arbitration, situate at _____, and we find the said value to amount to £ _____, payable to the said _____. And we make our award accordingly.

In witness whereof we have hereunto set our hands the _____ day of _____
A.B.
C.D.
E.F.