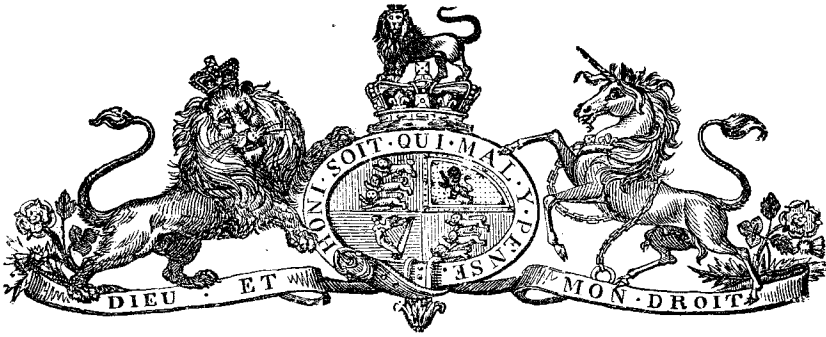


T A S M A N I A.



1900.

ANNO SEXAGESIMO-QUARTO

VICTORIÆ REGINÆ,

No. 30.

AN ACT to consolidate and amend the Law A.D. 1900.
relating to the Occupation and Disposal
of Crown Land on Mining Fields.
[6 December, 1900.]

WHEREAS it is expedient to consolidate and amend the Law PREAMBLE.
relating to the occupation and disposal of Crown lands on Mining
Fields:

Be it therefore enacted by His Excellency the Governor of *Tasmania*,
by and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:—

- 1** This Act may be cited as “The Residence Areas Act, 1900.” Short title.
- 2** This Act shall come into operation and shall take effect on the Date of operation
First day of *January*, One thousand nine hundred and one. of Act.
- 3** In the construction of this Act, unless the context otherwise Interpretation.
determines—
 - “Commissioner” means the Commissioner of Crown Lands for
the time being, as defined by “The Crown Lands Act, 1890.” 54 Vict. No. 8.
 - “Residence Area” means the surface of any Crown land
occupied under a Residence Licence.
 - “Business Area” means the surface of any Crown land
occupied under a Business Licence, and not being within

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the boundary of any town situate within any mining field.

“*Gazette*” means the *Hobart Gazette*.

“Prescribed” means prescribed by Regulations made under this Act.

“Mining Field” means any Crown land duly proclaimed a mining field under “The Mining Act, 1900,” or any Act repealed thereby.

“Commissioner of Mines” means a Commissioner of Mines appointed under the provisions of “The Mining Act, 1900,” or any Act repealed thereby.

“Crown Lands” means any lands in *Tasmania* which are or may become vested in the Crown, and have not been and are not dedicated to some public use, and includes all lands of the Crown which are or may be occupied for mining, pastoral, or other purposes under any lease, licence, or other right from the Crown.

“Bailiff” means a Bailiff of Crown lands duly appointed under “The Crown Lands Act, 1890.”

“Town” means a Town duly proclaimed under the provisions of *The Police Act, 1865*, “*The Crown Lands Act, 1890*,” or “*The Town Boards Act, 1896*.”

29 Vict. No. 10.
60 Vict. No. 31.

Repeal.

4 On and after the day on which this Act comes into operation, the Acts of Parliament of *Tasmania* set forth in Schedule (1.) hereto, to the extent therein set forth, shall be and are hereby repealed.

Land may be withheld from operation of this Act.

5 The Governor may by Proclamation in the *Gazette* withhold or withdraw any land from the operation of this Act or any part thereof, and may from time to time in manner aforesaid alter and revoke such Proclamation or may rescind the same as to any part of the land included therein, and thereupon the land, the subject of such further Proclamation, shall be subject to the operation of this Act, or any specified part thereof, at any time to be named in such Proclamation, not being less than Thirty days from the date thereof.

Occupation Licences.

Occupation Licences to be issued.

6—(1). It shall be lawful for the Commissioner to cause documents, called “Occupation Licences,” to be issued in such form and subject to such conditions as may be prescribed to any person of the full age of Twenty-one years or upwards applying for the same, upon payment of the fee hereinafter provided.

(2.) Every Occupation Licence shall describe the position and area of the land to be occupied thereunder.

(3.) No person shall at any time hold more than One Occupation Licence.

(4.) Any person who shall be the holder of an Occupation Licence shall, subject to the provisions of this Act and to the regulations made hereunder, be entitled, except as against Her Majesty, to take possession of and occupy the surface of any Crown land within any mining field not exceeding One quarter of an acre, and not withdrawn from the operation of this Act.

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7—(1.) It shall be lawful for the Commissioner to cause documents called "Residence Licences" to be issued, in such form and subject to such conditions as may be prescribed, to any person of the full age of Twenty-one years or upwards applying for the same, upon payment of the fee hereinafter provided.

Residence Licences may be issued.

(2.) Every Residence Licence shall describe the position and area of the land to be occupied thereunder.

(3.) No person shall at any time hold more than One Residence Licence.

(4.) Any person who shall be the holder of a Residence Licence shall, subject to the provisions of this Act and to the Regulations made hereunder, be entitled, except as against Her Majesty, to take possession of and occupy the surface of any Crown land, not exceeding One quarter of an acre, within any town situate within a mining field, and which has been surveyed and been declared, by notice under the hand of the Commissioner and published in the *Gazette*, to be available for the purpose of residence.

Business Licences.

8—(1.) It shall be lawful for the Commissioner to cause documents called "Business Licences" to be issued, in such form and subject to such conditions as may be prescribed, to any person of the full age of Twenty-one years or upwards applying for the same, upon payment of the fee hereinafter provided.

Business Licences may be issued.

(2.) Every Business Licence shall describe the position and area of the land to be occupied thereunder.

(3.) No person shall at any time hold more than One Business Licence.

(4.) Any person who shall be the holder of a Business Licence shall, subject to the provisions of this Act and to the Regulations hereunder, be entitled, except as against Her Majesty, to take possession of and occupy for any period not exceeding One year, the surface of any Crown land situate within any mining field, not exceeding One quarter of an acre, not being within a town and not withdrawn from the operation of this Act.

General.

9 The Commissioner may decline to issue any Licence under this Act if, in his opinion, the land to be occupied thereunder is likely to be required for sale or other purposes.

Commissioner may decline to issue Licence.

10 Every Licence issued under this Act shall expire on the Thirty-first day of *December*, in the year in which it shall have been issued, unless sooner determined in accordance with the provisions of this Act.

Licences to expire on Thirty-first *December* in each year.

11 The following Fees shall be payable under this Act in each and every year in respect of—

Fees payable under this Act.

i. An Occupation Licence, the sum of Five Shillings:

ii. A Residence Licence, the sum of Ten Shillings:

iii. A Business Licence, the sum of Twenty Shillings.

Provided, that when any such licence shall be applied for after the Thirtieth day of *June* in any year, the fee payable for such licence for the remaining portion of the year shall, in the case of an Occu-

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pation Licence, or Residence Licence, be Five Shillings; and, in the case of a Business Licence be Ten Shillings.

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Holders of licences may erect buildings.

12 Every Licence issued under this Act shall, subject to the provisions of this Act and of the Regulations made hereunder, entitle the holder thereof, during the continuance of such licence, to put up any building or other erection, and to remove the same at any time before but not after the expiration of such licence; and every such holder shall, during the continuance of such licence, be deemed in law to be possessed (except as against Her Majesty) of the surface only of the land which he shall occupy by virtue of such licence, and the property in such land shall be deemed a chattel interest.

Holder of Occupation Licence not entitled to compensation.

13 The holder of any Occupation Licence shall not be entitled to receive any compensation in respect of any building or other erection put up by him upon the land held under such licence.

Holders of licence may occupy leased land.

14 Where any person being the holder of any Occupation Licence or Business Licence desires to occupy under such licence any portion of Crown land already leased under the provisions of any Act relating to mining, he shall, before doing so, obtain permission in writing for that purpose from a Commissioner of Mines, who shall notify the lessee of the granting of such permission, and if demanded within Thirty days from the date of such permission, such person shall pay compensation to the lessee of such land for the loss or inconvenience, if any, such lessee may incur by such occupation; and such compensation, if not agreed upon by the parties, shall be settled by a Commissioner of Mines, whose decision shall be final.

Renewal of licences.

15 If any person who shall be the holder of any Licence issued under this Act shall, within One month before the expiration thereof, make application to a Commissioner of Mines to renew such licence for the then ensuing year, such officer shall, upon payment of the fee hereinbefore provided, indorse on such licence a renewal thereof, in the prescribed form, to the applicant dated the day following the day of expiration, and such new licence shall be deemed to be a continuance of such expired Residence Licence or Business Licence as the case may be.

Power to cancel Occupation Licence.

Provided that the Commissioner may at any time, upon giving not less than Three months' notice by writing under his hand to the holder of any Occupation Licence, cancel such Licence, and at the expiration of time specified in such notice the holder of such licence shall give up possession of and cease to occupy the land held under such Licence.

Licence may be transferred.

16 The holder of any Residence Licence or Business Licence may transfer the same to any person, not debarred under this Act, by endorsement thereon signed by him in the presence of and attested by a witness; and another licence shall be granted by the Commissioner to the person named in such endorsement upon production and surrender of such licence so endorsed and upon a payment of a fee of Two Shillings and Sixpence; and every such last-mentioned licence shall be dated of the date and at the place of issuing thereof, and shall be in force for the then unexpired period of the licence, as aforesaid.

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17 The holder of any licence issued under this Act shall produce the same upon demand to any Constable or to any Bailiff or to any person duly authorised by the Commissioner to demand the same; and if any such person shall not produce the same when demanded he shall be deemed to be unlicensed, and upon conviction shall be liable to forfeit and pay a penalty not exceeding Five Pounds.

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Holders of licence to produce same.

18 Any person who shall be found in unauthorised occupation of any Crown land on a mining field shall, upon conviction, forfeit and pay a penalty not exceeding Five Pounds for the first offence, and for the second offence, after an interval of Fourteen days from the date of the previous conviction, shall forfeit and pay a penalty not exceeding Twenty Pounds, and for any subsequent offence, after a like interval forfeit and pay a penalty of Fifty Pounds; but no proceedings to recover such penalty may be taken except by a bailiff or any person duly authorised in that behalf by the Commissioner.

Penalty for unauthorised occupation of Crown land.

19 Subject to the provisions of this Act, the Commissioner may sell by public auction the surface of any Crown land occupied as a Residence Area or as a Business Area.

Areas may be sold by auction.

20—(1.) All Residence Areas and Business Areas shall, before sale, be surveyed and delineated in the public charts of the Colony, in such lots as shall subsequently be offered and put up for sale.

Survey before sale.

(2.) The area of any Residence Area or Business Area offered for sale by auction shall not exceed One quarter of an acre in extent, unless with the Governor in Council's authority.

(3.) The Commissioner may, if he thinks fit, withdraw and withhold any land from sale under this Act, notwithstanding that such land has been advertised for sale.

Land may be withdrawn.

21 Within Three months and not less than One month next preceding the sale of any Residence Area or Business Area under this Act the Commissioner shall, by notice in the *Gazette*, declare the time and place at which such sale will be held and what are the Residence Areas and Business Areas to be offered for sale at such auction, and the upset prices at which they will be offered for sale; and lithographed or other plans of the areas intended to be sold, showing the several lots for sale, shall, Fourteen days before the day of sale, be sent by the Commissioner to the auctioneer instructed to sell and to the Police Station nearest to such areas, or such place as the Commissioner shall in such notice specify, for the use of intending purchasers.

Notice of sale by auction to be published.

22—(1.) Previously to the publication of such notice the Commissioner shall make an estimate of what should be upset price of the Residence Areas and Business Areas to be specified in such notice, including in such estimate the cost of survey and of the grant deed, and the value of any buildings or improvements on such areas; and the Commissioner shall submit such estimates for the consideration of the Governor, who may approve or vary such estimates, and the upset prices and values of buildings and improvements named in such estimates when so approved or varied shall be the upset prices and value of buildings and improvements on the lands, to be specified in such notice, and shall for all purposes be final and conclusive.

Upset price how to be ascertained

(2.) The Commissioner may from time to time in any subsequent notice of the intended sale by auction of any land under this Act, raise

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or lower the upset prices and value of improvements of such lands, according to circumstances, in like manner as they were originally fixed.

Person in occupation of Residence Area entitled to purchase privately.

23 Any person being the holder of a Residence Licence or Business Licence who shall be in lawful occupation of any Residence Area or Business Area, and who shall be the owner of buildings and permanent improvements upon such land of a value equal to or greater than the upset price of such area, shall be entitled to purchase such area at the upset price by private contract at any time prior to the day on which such area is to be offered for sale as advertised. The upset price for such area shall not be less than Ten Pounds, exclusive of the value of improvements, cost of survey, and of grant deed.

Land not to be sold at less than upset prices.

24 No lands shall be sold under this Act at a lower price than the upset price of such area as fixed and advertised in the last preceding published notice of the intended sale of such area.

Terms of purchase.

25 The terms of credit for the sale of any land purchased under this Act shall be as follows :—a sum equal to one-eighth of the price shall be added by way of premium for the allowance of credit, and the amount of the price and premium together shall become the purchase-money of the land, and the purchaser shall pay a deposit equal to one-fifth of such purchase-money at the time of sale, and shall contract to pay and shall pay the residue of the purchase-money by four annual instalments of one-fifth of the purchase-money, the first instalment to be paid at the expiration of One year from the date of sale; and unless such purchaser pays such residue at such times and in such manner as hereinbefore mentioned the sale of such area shall be void, and the deposit and all instalments paid shall be forfeited and the land shall revert to the Crown.

Provided, that any purchaser of any land under this Act may at any time during the period of credit allowed, and before default is made in payment of any instalment of the purchase money, pay off the balance then remaining unpaid under the contract of sale.

Payment of instalments may be postponed.

26 Notwithstanding anything to the contrary contained in this Act, whenever any purchaser of land under this Act has become liable to have his land forfeited on account of his failure to pay any instalment of the purchase-money, or any part thereof, as provided by this Act, it shall be lawful for the Governor to postpone the payment of such instalment for any period not exceeding One year upon being satisfied that such purchaser has become unable to pay such instalment or any part thereof, or upon it being shown to the Governor that the enforcement of the payment of such instalment or part thereof would inflict hardship upon the purchaser.

Postponed instalments to bear interest.

27 In every case in which payment of any instalment, or part thereof, is postponed by the Governor as hereinbefore provided, such instalment, or part thereof, shall bear interest at the rate of Five Pounds per centum per annum, commencing from the date on which such instalment, or part thereof, first became payable; and failure to pay such interest, or part thereof, on demand, shall have the same operation upon the rights and privileges of the purchaser as failure to pay any instalment, or part thereof, of the purchase-money of the Residence Area or Business Area purchased by such purchaser.

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28 No land purchased hereunder shall be forfeited or revert to the Crown until the Commissioner shall have given Thirty days' notice of his intention to declare the land forfeited to the purchaser thereof, and also by advertisement in the *Gazette*, and also in one newspaper generally circulating in the locality in which such land is situate, in such manner and form as the Commissioner shall think necessary or expedient; and no such land shall be declared forfeited if the purchaser shall pay the amount of instalments and interest in arrear, together with a fine of One Penny for every Pound sterling of the amount of the purchase-money of the land in respect of which default has been made, and Five Shillings to cover cost of advertising, within Thirty days from the date of the first publication of such notice.

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Notice of intention to forfeit to be given.

29 The owner of any buildings or improvements upon any land sold under this Act shall be entitled to demand and receive from the Commissioner the amount of money at which such buildings or improvements have been assessed under this Act; and in the event of such owner becoming the purchaser of such land, the value of such buildings or improvements, so assessed as aforesaid, shall be paid to the owner aforesaid.

Owner of buildings to receive value of same.

30 When any land purchased under this Act has become forfeited to the Crown, such land shall not be available for occupation under a Residence Licence or Business Licence.

When land once sold, same not available for licence.

31 —(1.) When any land purchased under this Act, or under any Act hereby repealed, has become forfeited to the Crown, as provided in such Acts, it shall be lawful for the Commissioner to offer such land for sale by public auction in the manner provided in this Act for the sale of land occupied as a Residence Area or Business Area, and if such land be not then sold it shall be lawful for the Commissioner to sell such land by private contract in the following manner:

Land forfeited may be sold by public auction.

(2.) Within Twenty-one days after any land has been offered for sale by auction under this Section, and afterwards quarterly or oftener if he thinks fit, and until the same lands are again offered for sale by auction, the Commissioner may cause a list of all such lands as were offered for sale by auction and not sold, with the upset prices at which they were offered for sale, to be published in the *Gazette*, and shall prefix a notice that any person may purchase any of the said lots at such upset prices by private contract; and the Commissioner shall, after the expiration of Fourteen days from the date of the first publication of such notice, sell any of such lots at the upset prices mentioned in the notice by private contract to any person who applies to purchase the same; and if more than one application is made at the same time to purchase the same lot, such lot shall not be sold by private contract, but shall be again submitted by public auction as soon as may be after such applications are made.

Land unsold at auction may be sold by private contract

(3.) This Section shall apply to any land which, before the commencement of this Act, has been offered for sale by auction and not sold.

32 Any dispute arising under this Act shall, except as otherwise hereinbefore provided, be heard and determined in a summary manner by a Court, consisting of a Commissioner of Mines and Two Assessors to be appointed by such Commissioner, to hear the dispute in the manner provided by "The Mining Act, 1900;" and the decision

Disputes how determined.

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Grant deed to contain certain reservations.

of any Two members of such Court shall be final and conclusive, and shall be binding on all parties.

33 The grant deed of any land purchased under this Act shall contain a reservation to the Crown, or to any lessees from the Crown, of the right to mine for gold or other metals or minerals under such land at a depth of not less than Twenty feet from the natural surface thereof: Provided that any person causing any injury or damage to such land or any buildings thereon by mining thereunder, shall be liable for such injury or damage to the owner of the surface of such land. The grant deed shall also contain a reservation to the Crown of the right at all times of making and constructing in or on the said land such and so many drains, sewers, and waterways for sanitary or other purposes as may be deemed expedient, and also the right of altering, amending, cleansing, or repairing such drains, sewers, and waterways.

Power to enter leased land for survey, &c.

34 It shall be lawful for the Commissioner, or any person authorised by him, to enter upon any Residence Area or Business Area, or upon any leased Crown land, or upon any land held under Occupation Licence, for the purpose of surveying any Residence Area or Business Area, or for assessing the value of any buildings or improvements upon such land.

Leased land may be resumed.

35—(1.) It shall be lawful for the Governor to resume any portion of the surface of any Crown lands comprised in any lease to the extent of seven-eighths of the area thereof for the purposes of this Act, and thereupon such land shall be available for the purposes of this Act.

(2.) The lessee from whom such lands may be resumed shall be entitled to compensation for all buildings and improvements on such land when so resumed, but shall not be entitled to any other compensation whatsoever.

Area not to comprise portion of any road, &c.

36 No person or company shall be entitled to purchase or occupy as a Residence Area or Business Area any portion of a public highway or road or street, or any land reserved for public purposes.

Grant deed evidence of resumption.

37 The issue of a grant deed by the Governor of any land purchased under this Act shall be conclusive evidence that the land as described in such grant deed has been resumed by the Governor for the purposes of this Act, and thereupon the land so described in any such grant deed shall cease to be comprised in any lease.

Half purchase-money may be expended on public works.

38 One half of all purchase-money received for land sold under this Act shall be set apart from time to time and paid into a special account in the Treasury, to be applied for the purpose of constructing roads, streets, bridges, drains, sewers, or waterways, or for sanitary and other purposes, in and upon the town where the land so sold is situate, or in the vicinity of such land so sold if not within a town.

All expenditure or liabilities incurred before the passing of this Act in the construction of streets and public works for the benefit of the Residence Areas to the extent of One half of the purchase-money shall be considered to have been lawfully undertaken and paid for.

The Treasurer shall, within Fourteen days after the meeting of Parliament, furnish an account of the moneys received and allocated under this Section.

Residence Areas.

39 The Governor is hereby empowered from time to time to make and issue regulations not inconsistent with and subject to the provisions of this Act respecting all matters and things necessary for the more effectual carrying into effect the objects and purposes of this Act: Provided that Parliament may disallow such regulations or any part thereof.

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Regulations may be made.

40 All Regulations made under this Act shall be published in the *Gazette*, and shall take effect on and from the date of the publication in the *Gazette*, unless otherwise provided in such Regulations; and in all legal proceedings the production of the *Gazette* containing any such Regulations shall alone be sufficient *prima facie* evidence that such Regulations have been duly made, and the onus of proving the contrary shall in every case be on the person disputing the validity thereof. Such Regulations shall be laid before both Houses of Parliament within Fourteen days of the making thereof if Parliament is then in Session, and if not, then within Fourteen days after the commencement of the next Session.

Regulations to be published.

41 This Act and "The Crown Lands Act, 1890," and every Act amending the same shall, save where inconsistent with this Act, be read and construed as one and the same Act.

Acts to be read with 54 Vict. No. 8.

SCHEDULE.

ACTS TO BE REPEALED.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>	<i>Extent of Repeal.</i>
55 Vict. No. 30	"The Residence Areas Act, 1891 "	The whole Act
57 Vict. No. 17	"The Residence Areas Act, 1893 "	The whole Act
59 Vict. No. 36	"The Residence Areas Amendment Act, 1895"	The whole Act
60 Vict. No. 40	"The Residence Areas Act, 1896 "	The whole Act

