

charged, and recouped in the same manner as the compensation payable in the event of the land being resumed, or, if the land is not resumed, shall be paid out of moneys to be appropriated by Parliament.

Minister to determine whether land to be resumed.
1898, No. 38, sec. 53

Exceptions.

54. Upon receipt of such report the Minister shall determine in his discretion whether the land should or should not be resumed in whole or in part, and the land to be resumed shall be taken on behalf of His Majesty in manner prescribed by "The Public Works Act, 1894":

Provided that, except with the consent in writing of the owner and occupier, no land shall be resumed—

- (a.) Which is actually used as a garden, orchard, vineyard, nursery, plantation, or ornamental pleasure-ground; nor
- (b.) Which, being situate within any town or borough, is of less area than a quarter of an acre; nor
- (c.) Which is the site of or situate within one hundred feet of the site of any house, factory, hospital, asylum, church, public building, cemetery, or waterworks; nor
- (d.) Which cannot lawfully be resumed without the consent of the owner and occupier; nor
- (e.) Which is being mined for gold by or pursuant to the lawful authority of the owner or occupier in areas marked out in the same manner as is prescribed by this Act in the case of a claim, no one of which exceeds the maximum area of a special claim, and on all of which the mining operations are conducted in accordance with the provisions of this Act in like manner, *mutatis mutandis*, as if each such area had been duly taken up as a claim on Crown land; nor
- (f.) Which is being prospected for gold as vigorously and continuously as would be required in the case of a licensee under a prospecting license; nor
- (g.) Which, having been alienated from the Crown prior to the twenty-ninth day of September, one thousand eight hundred and seventy-three, or, in the case of Native land, by the Native owner to any person other than the Crown prior to the thirtieth day of August, one thousand eight hundred and eighty-eight, was comprised in any mining district on the seventeenth day of October, one thousand eight hundred and ninety-six, if the owner or occupier thereof satisfies the Warden that the land is being prospected with reasonable diligence, and that an average sum of not less than one pound per acre is being expended in so doing; nor
- (h.) Which, in the case of private land, is being prospected or mined by the owner or occupier, or forms part of a block that is being so prospected or mined, unless the applicant for resumption pays to the owner or occupier a sum bearing the same proportion to the net balance of the total amount expended since the first day of December, one thousand eight hundred and ninety-six, in prospecting and mining as aforesaid (after making due allowance for all receipts and recoveries) as the acreage of the land to be resumed bears to the acreage of the whole block:

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