

(e.) Before granting such application the Warden shall be satisfied, *inter alia*,—

(i.) That the mining privilege to be surrendered is validly subsisting, and is neither abandoned by operation of law nor liable to forfeiture; and also

(ii.) That no proceedings are pending in respect of such abandonment or forfeiture; and also

(iii.) That all sums in respect of rent, fees, royalties, penalties, and otherwise owing thereunder to His Majesty are fully paid up to the date of the surrender.

(f.) Such application may, if the Warden thinks fit, be granted, although it appears that the applicant is entitled to such existing mining privilege at law only or in equity only.

(g.) The license granted under this Act for such corresponding mining privilege shall be in such form as is specially prescribed, and simultaneously with the grant thereof the mining privilege for which it is exchanged shall be deemed to be surrendered.

(h.) Such license shall confer the same priority of rights and be subject to the same encumbrances, liens, and interests as the surrendered mining privilege conferred and was subject to. All such priorities, encumbrances, liens, and interests shall be specified in or indorsed on such license, and be registered; and such specification or indorsement shall, subject to the right of appeal, be final and conclusive for all purposes:

Provided that in every case where the surrendered mining privilege is a water-race for mining purposes, and the corresponding mining privilege is a water-race for other than mining purposes, such license shall be subject to the condition that one-half of the total quantity of water for the time being available shall be at the disposal (but solely for mining purposes) of the persons holding inferior rights for mining purposes, and in the order of their priority *inter se*, on the payment of such fees to the licensee as the Warden prescribes.

(i.) All references to such surrendered mining privilege in any document executed prior to such surrender shall, for the purpose of giving full effect to the provisions of the last preceding paragraph, be deemed to be references to such corresponding mining privilege and the license therefor.

(j.) Subject as aforesaid, such license shall be granted for the same term and subject to the same fees, rent, royalty, and other payments, and to the same provisions and conditions, as in the case of a license granted under this Act pursuant to original application:

Provided that a due apportionment of rent or license fee paid under the surrendered license shall be made up to the date of the surrender, and so much thereof as embraces any part of the term of the new license shall be considered and allowed to the licensee in or towards satisfaction of his liability in respect of rent or license fee under the new license.