

**COAL MINES REGULATION (AMENDMENT)
ACT.**

Act No. 27, 1953.

*Elizabeth II,
No. 27, 1953.*

— An Act to make further provisions for the management and regulation of mines of coal and mines of shale; to enable provision to be made for the management and regulation of open cut workings; for these and other purposes to amend the Coal Mines Regulation Act, 1912-1947, and the Mining Act, 1906-1952; to validate certain matters; and for purposes connected therewith. [Assented to, 11th December, 1953.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title and citation.

1. (1) This Act may be cited as the "Coal Mines Regulation (Amendment) Act, 1953".

(2) The Coal Mines Regulation Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Coal Mines Regulation Act, 1912-1953.

Amendment of Act No. 87, 1912.

2. (1) The Coal Mines Regulation Act, 1912-1947, is amended—

*Section 3.
(Definitions.)*

(a) (i) by inserting in subsection one of section three at the end of the definition of "Mine" the words "but does not include any open cut working";

(ii) by inserting in the same subsection immediately before the definition of "Owner" the following new definition:—

"Open cut working" includes any place or excavation wherein or whereby any operation is carried on above or on the ground for or in connection with the purpose of obtaining any

any coal or shale from any open cut working, and any place adjoining thereto on which any product of such place or excavation is stacked, stored, cleaned, treated or crushed, and all the works, tramways, railways and sidings in and adjacent to and belonging to the open cut working;

(iii) by inserting next after the same subsection the following new subsection:—

(1A) Where in the Mines Rescue Act, 1925, the Mine Subsidence Act, 1928-1951, the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941-1952, or any other Act, or any by-law, regulation, rule, or any other instrument or document whatsoever, a reference to a mine would, but for the amendment of the definition of "mine" in subsection one of this section made by the Coal Mines Regulation (Amendment) Act, 1953, include an open cut working, such reference shall notwithstanding the said amendment be read and construed as including an open cut working.

(b) by inserting next after section 65A the following ^{New Part} _{IIA.}

PART II A.**OPEN CUT WORKINGS.**

65B. (1) The Governor may make regulations providing that such of the provisions of this Act, the general rules set out in section fifty-four of this Act, the Schedules to this Act and the regulations under this Act—

- (a) as may be specified in such regulations, and
- (b) as may be so specified and modified and adapted as the Governor deems necessary for the purpose, shall apply, mutatis mutandis, to and in respect of open cut workings.

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(2) (a) When any matter whatsoever involved in or connected with the regulation, management, control, working and operation of open cut workings has not been dealt with by any such provision the Governor may in respect of any such matter make such regulations as he may deem necessary.

(b) Without prejudice to the generality of the provisions of paragraph (a) of this subsection regulations may be made for and with respect to the replacement of surface soil and strata removed from, and the surface restoration of, open cut workings. Any such regulations may include such provisions of the like nature as those included in section thirty-eight of this Act as the Governor may deem necessary.

(3) The regulations made under this section—

- (a) may specify the provisions referred to in subsection one of this section by reference to sections, subsections, paragraphs, subparagraphs, general rules or regulations or in any manner whatsoever;
- (b) shall be in the form of a Schedule to be inserted in this Act;
- (c) be thereafter printed by the Government Printer as a Schedule to this Act in any reprint thereof under the Amendments Incorporation Act, 1906; and
- (d) have the same force and effect as if originally inserted in this Act.

(4) Regulations under this section may apply to all open cut workings generally, to specified classes of open cut workings or to all classes of open cut workings other than those specified.

(5) The provisions of subsection four of section 56B of this Act shall apply to and in respect of regulations made under this section.

(2)

(2) This section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. **No. 27, 1953.**

3. The Coal Mines Regulation Act, 1912-1947, is further amended— Further amendment of Act No. 37, 1912.

(a) (i) by omitting from subsection two of section 5A the words “After the thirty-first day of December, one thousand nine hundred and twenty-six”;

(ii) by omitting paragraph (b) of the same subsection;

(b) (i) by omitting from subsection one of section six the word “six” and by inserting in lieu thereof the words “the following”;

(ii) by inserting at the end of paragraph (f) of the same subsection the following word and new paragraph:—

“and

(g) certificates of fitness to operate electric locomotives or locomotives of the compression ignition type”;

(iii) by inserting at the end of the same subsection the following proviso and new subsection:—

Provided that for a period of three years from the day upon which the assent of Her Majesty to the Coal Mines Regulation (Amendment) Act, 1953, is signified this subsection in its application to an applicant for a first, second or third-class certificate of competency who, during the war between His Late Majesty King George VI and Germany and her Allies which commenced on the third day of September, one thousand nine hundred and thirty-nine, had not less than twelve months service in the naval, military or air forces of His Late Majesty King George VI, shall be read as if all words commencing with the words “five years”

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years" down to and including the words "or certificate" were omitted therefrom and the words "three years" were inserted in lieu thereof.

(1A) (a) The Minister may grant certificates of competency to any person to operate an electric locomotive or a locomotive of the compression ignition type. Any such certificate shall not be granted unless the applicant therefor has satisfied examiners appointed by the board constituted under this section by a suitable oral examination and practical test or such other examination as may be prescribed by the said board as to his qualifications, and has furnished a certificate from a duly qualified medical practitioner that he is not wholly or partially deaf, that his sight is not defective and that he is not subject to fits, giddiness or other infirmity likely to interfere with the efficient discharge of his duties.

(b) A Special Electric Motor Driver's Certificate of Competency (Coal or Shale Mines) issued or purporting to have been issued under the Mines Inspection Act, 1901-1945, before the commencement of the Coal Mines Regulation (Amendment) Act, 1953, shall be deemed to be a certificate of competency to operate an electric locomotive and shall have the same effect as a certificate of competency to operate an electric locomotive granted under paragraph (a) of this subsection.

A Special Diesel Locomotive Driver's Certificate of Competency (Coal or Shale Mines) issued or purporting to have been issued under the Mines Inspection Act, 1901-1945, before such commencement, shall be deemed to be a certificate of competency to operate a locomotive of the compression ignition type and shall have the same effect

as

as a certificate of competency to operate a locomotive of the compression ignition type granted under paragraph (a) of this subsection.

The provisions of this Act applicable to certificates of competency granted under paragraph (a) of this subsection shall apply to and in respect of such special certificates.

(c) The provisions of paragraph (a) of this subsection shall have effect notwithstanding the provisions of subsection one of this section or paragraph eight of the Second Schedule to this Act.

(c) by inserting in subsection two of section ten after the word "competency" where secondly occurring the words "as winding-engine drivers";

(d) by inserting next after subsection one of section thirteen the following new subsection:—

(1A) Any certificate of competency or service to operate an electric locomotive or locomotive of the compression ignition type granted by any duly constituted and recognised authority outside New South Wales may be approved by the board constituted under subsection two of section six of this Act if the holder produces the same and gives satisfactory evidence to such board of his sobriety, general good conduct and bona fides.

(e) by omitting paragraph (i) of general rule 5A of section fifty-four and by inserting in lieu thereof the following paragraphs:—

(i) unless he is the registered holder of a certificate of competency to operate a locomotive of the compression ignition type granted under paragraph (a) of subsection (1A) of section six of this Act or a certificate having the same effect as any such certificate by virtue of paragraph (b) of the said subsection and is at least twenty-one years of age;

Section 10.
(Certificates
of competency
as winding-
engine driver.
Examinations.)

Section 13.
(Engine-
drivers'
certificates
granted
outside
New South
Wales).

Section 54.
General Rule
5A.
(Internal
combustion
engines under-
ground.)

(ia)

**Seventh
Schedule.
Regulation
98 (11).**

(ia) unless he is the holder of a permit issued by the Minister, upon the recommendation of the chief inspector and application in writing by the owner, agent or manager of the mine, and is in the opinion of the Minister competent to operate a locomotive of the compression ignition type, and operates such locomotive in accordance with any conditions the Minister may impose in such permit; or

(f) by omitting sub-paragraph (a) of paragraph (11) of regulation ninety-eight of the Seventh Schedule and by inserting in lieu thereof the following sub-paragraph:—

(a) unless he is the registered holder of a certificate of competency to operate an electric locomotive granted under paragraph (a) of subsection (1A) of section six of this Act or a certificate having the same effect as any such certificate by virtue of paragraph (b) of the same subsection and is at least twenty-one years of age.

**Further
amendment
of Act No. 37,
1912.**

**Substituted
section 34.**

**Returns
by owner,
agent or
manager
of mine.**

4. (1) The Coal Mines Regulation Act, 1912-1947, is further amended—

(a) by omitting section thirty-four and by inserting in lieu thereof the following section:—

34. (1) Where the owner, agent or manager of a mine, or any other person carrying on any operation in connection therewith is called upon so to do, he shall at such times and in such manner as the Minister may require, furnish such statistics, returns and other information relating to the operation of such mine as may be required, and shall keep such records as may be necessary for the completion thereof.

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(2) Any information required under this section in respect of any particulars supplied in or omitted from a return shall be furnished within such period as may be specified by the Under Secretary for Mines.

(3) Any officer of the Department of Mines, or other person holding a position in the Public Service and authorised in writing by the Minister, shall at all times have full and free access to all mines, and to all buildings, books, documents and other records relating to the production and distribution of coal, shale or other material won or produced from any mine, and may make extracts from or copies of such books, documents or records, and may make such investigations as he may consider proper in connection with the production or distribution of such coal, shale or other material.

(4) Statistics, returns and information obtained pursuant to this section, shall be treated as confidential, provided that the Minister may cause to be published or otherwise made available the results of such statistics, returns and information with respect to the whole of New South Wales or any portion thereof and such details furnished on an individual return (other than details relating to working expenses) as he may think fit.

(5) Any person who fails to comply with any requirement made under this section or who makes any return or supplies any information which is false in any particular or who obstructs any officer or other person in the exercise of any power conferred by subsection three of this section shall be liable to a penalty not exceeding fifty pounds.

(b) (i) by inserting at the end of subsection one of Section 35, section thirty-five the following new paragraph:—

Unless the Under Secretary for Mines (Plan of mine to be kept at office.) otherwise determines, the plan required to be

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be kept in the office at the mine under this subsection shall show a fixed datum on the surface near the mine entrance related to standard datum and reduced levels at points not more than five chains apart on the floor of each seam being worked in all accessible underground workings.

(ii) by omitting subsections five and six of the same section and by inserting in lieu thereof the following subsections:—

(5) Every tracing required to be forwarded to the Under Secretary for Mines under subsection (1A) of this section shall be deposited in the principal office of the Department of Mines and, except as evidence in a court or with the consent in writing of the owner of the mine, no copy thereof shall be furnished and no information in relation thereto shall be given:

Provided that, if the Minister considers that in the public interest the circumstances so warrant, he may, subject to such conditions or restrictions as he thinks fit, grant permission for a copy of such tracing or part thereof or for information in relation thereto to be supplied to any person.

(6) Every officer in the Public Service, and every person who is supplied with any copy or information under the authority of this section, shall preserve and aid in preserving secrecy with regard to such copy or information, and shall not allow any other person to inspect such copy, and shall not divulge any such information to any other person, otherwise than by the authority of this section or under the authority of a court of competent jurisdiction.

Any person who contravenes or fails to observe the provisions of this subsection shall be liable to a penalty not exceeding one hundred pounds.

(e)

(c) (i) by omitting from subsection one of section 35A the words "on a scale that will clearly define the area showing the freehold and leasehold lands held by the owner of such mine, and comprising the colliery holding of such mine" and by inserting in lieu thereof the words "of the freehold and leasehold lands held by the owner of such mine and within the colliery holding of such mine on a scale which will clearly define such lands";

(ii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsections:—

(2) (a) Within three months after any variation in such colliery holding by the acquisition or disposal in any manner whatsoever of freehold or leasehold lands the owner, agent or manager shall furnish to the Under Secretary for Mines a plan of such lands and in the case of acquisition of any such lands a schedule of particulars of title of the lands so acquired.

(b) Where upon any variation in a colliery holding the lands acquired or disposed of comprise the whole of a Department of Lands or Department of Mines measured portion or a subdivision portion of a deposited plan registered at the office of the Registrar General a description of the area may be substituted for the plan.

(3) The Under Secretary for Mines shall cause to be kept a register of the freehold and leasehold lands within colliery holdings plans and particulars of title of which have been furnished to him under subsection one of this section either before or after the commencement of the Coal Mines Regulation (Amendment) Act, 1953.

No. 27, 1953.**Section 35A.****(Plans to be furnished.)**

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Such register shall record any variations of freehold and leasehold lands within a colliery holding in respect of which plans have been furnished to the Under Secretary for Mines under subsection two of this section before such commencement.

The Under Secretary for Mines shall—

- (a) upon any plans or descriptions being furnished to him in pursuance of subsection two of this section;
- (b) upon the termination of any lease granted under the Mining Act, 1906-1952, of any lands within a colliery holding;

amend the register in such manner as may be necessary to record such matters.

Section 39.
(Plan of
abandoned
mine or
seam
to be sent to
Minister.)

- (d) by omitting subsection two of section thirty-nine and by inserting in lieu thereof the following subsection:—

(2) The plan and section shall be preserved under the care of the Minister and no person other than an officer of the Department of Mines shall be entitled to see such plan and section or be supplied with any copy thereof or of any part thereof or information in relation thereto without the permission of the Under Secretary for Mines.

Fourth
Schedule.
(Conse-
quential.)

- (e) by omitting the Fourth Schedule.

(2) The amendments made by paragraphs (a) and (e) of subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment
of Act
No. 46, 1906.
Sec. 70E.
(Protection
of land in
certain
colliery
holdings.)

5. The Mining Act, 1906-1952, is amended by omitting from subsection one of section 70E the words "upon any land included in or added to any colliery holding, a plan of which showing the freehold and leasehold lands held by the owner of the colliery and comprising the colliery holding has" and by inserting in lieu thereof the words "upon

“upon the freehold or leasehold lands held by the owner No. 27, 1953. of such colliery and within such colliery holding a plan and particulars of title of which lands have”.

6. (1) The Coal Mines Regulation Act, 1912-1947, is Further amendment of Act No. 37, 1912. further amended—

(a) (i) by inserting next after paragraph (a) of subsection one of section 56B the following new paragraph:—

(ai) make regulations inserting in section fifty-four of this Act or in the Fifth, Sixth or Seventh Schedule to this Act, general rules or regulations, as the case may be, relating to any or all of the matters with respect to which the Governor is empowered to make regulations under the subsequent provisions of this subsection;

(ii) by inserting in paragraph (d) of the same subsection before the word “prescribing” the words “make regulations”;

(b) by inserting next after section 79B the following New section 79C. new section:—

79C. (1) Any person who proposes to drill a borehole or extend an existing borehole for the purpose of proving coal or oil shale shall before commencing the work, notify the chief inspector of his intention and furnish to him particulars of the location of the borehole, and shall also either before or after commencing the work furnish such additional particulars in relation to the borehole as the chief inspector may require.

(2) Where, in the course of drilling any such borehole, a core is obtained, such core (other than material therefrom required for purposes of analysis) or if no core is so obtained, samples of the material obtained, shall be labelled and preserved by such person for at least one year after the completion of the bore-hole in such manner as the chief inspector may direct:

Provided

Boreholes for proving coal or oil shale at depth.

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Provided that no samples need be kept where the borehole is sunk in surface gravel or alluvial ground:

Provided further that, before disposing of any core or samples after the expiry of a year, at least two weeks' notice thereof shall be given by such person to the chief inspector.

(3) Cores and samples preserved by any person as aforesaid shall at all times be available for examination by the Government Geologist, a Geologist of the Department of Mines, or an inspector, or any other officer authorised in that behalf by the Minister, and may be taken for purposes of analysis or other examination, but no information obtained as a result of such analysis or examination shall be published without the consent of such person unless the Minister sees fit to direct otherwise.

(4) This section shall not apply in respect of bores put down to determine the extent of the overburden and the thickness and quality of coal for the purpose of open cut workings where the occurrence of coal seams has previously been proved.

(5) Any person who fails to act in compliance with this section or with any direction given thereunder shall be guilty of an offence against this Act.

**Section 81.
(Application of
Amendments
Incorporation Act,
1906.)**

- (c) (i) by inserting in subsection one of section eighty-one after the word "Where" the words "any general rule is, by regulation made pursuant to this Act, inserted in section fifty-four of this Act, or where";
- (ii) by inserting in the same subsection after the word "including" the words "the general rule as so inserted and".

(2) The amendments made by paragraphs (a) and (c) of subsection one of this section shall be deemed to have commenced upon the twenty-seventh day of August, one thousand nine hundred and forty-eight.

WORKERS'