

MINES RESCUE (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 34, 1972.

An Act to make provision for the establishment of a body corporate to be known as the Mines Rescue Board; to establish a Central Mines Rescue Fund; to provide for contributions by proprietors of colliery holdings for the erection, equipment and maintenance of rescue stations; for these and other purposes to amend the Mines Rescue Act, 1925; to validate certain matters; and for purposes connected therewith. [Assented to, 11th April, 1972.]

BE

Mines Rescue (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 34, 1972 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:—

1. (1) This Act may be cited as the "Mines Rescue <sup>Short title
and com-
mencement.</sup> (Amendment) Act, 1972".

(2) This section shall commence on the day on which this Act receives the Royal assent.

(3) Subject to subsection two of this section, this Act shall commence in accordance with subsection four of this section.

(4) The Governor may appoint and notify by proclamation published in the Gazette the day on which a provision of this Act shall commence and may, at different times, appoint different days for different provisions and the provision to which such a proclamation relates shall commence as specified therein.

2. The Mines Rescue Act, 1925, is amended—

<sup>Amendment
of Act No.
3, 1925.</sup>

^{Long title.}

(a) (i) by omitting from the long title the words "towards Mines Rescue Funds" and by inserting in lieu thereof the words "to the Mines Rescue Board";

(ii) by omitting from the long title the words "for the establishment at mines of rescue brigades";

(b) (i) by inserting in subsection three of section one Sec. 1.

next after the matter relating to Part I the <sup>(Short title
and com-
mencement.)</sup> following new matter :—

**PART IA.—MINES RESCUE BOARD—ss.
4A—4H.**

(ii) by omitting from the matter relating to Part II in the same subsection the word "CENTRAL";

(iii)

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(iii) by omitting from the matter relating to Part IV in the same subsection the words "RESCUE BRIGADES" and by inserting in lieu thereof the word "MISCELLANEOUS";

Sec. 2.
(Interpreta-
tion.)

(c) (i) by inserting in section two next after the definition of "Approved" the following new definition :—

"Board" means the Mines Rescue Board constituted under this Act.

(ii) by inserting in the same section next after the definition of "Breathing apparatus" the following new definition :—

"Central fund" means the Central Mines Rescue Fund established under this Act.

(iii) by omitting the definitions of "Central rescue station" and "rescue station" in the same section and by inserting in lieu thereof the following definition :—

"Central rescue station" means a rescue station erected under subsection two, or a building accepted as such under subsection three, of section five of this Act.

(iv) by inserting in the same section next after the definition of "Smoke helmet" the following new definition :—

"Subsidiary rescue station" means a rescue station erected under subsection (2A), or a building accepted as such under subsection three, of section five of this Act.

(d)

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(d) by inserting next after section four the following No. 34, 1972
new Part :—

New Part
IA.

PART IA.

MINES RESCUE BOARD.

4A. There shall be a Board, to be known as the ^{Mines} _{Rescue} Board, which shall be a body _{Board} corporate.

4B. (1) The Board shall consist of— Constitution
of Board.

- (a) the chief inspector, who shall be chairman of the Board; and
- (b) six persons appointed by the Governor, being—
 - (i) a person, nominated by the Minister, who shall be a person representing the Electricity Commission of New South Wales and the State Mines Control Authority;
 - (ii) a person nominated by the Australian Coal and Shale Employees' Federation;
 - (iii) a person nominated by the Australian Collieries' Staff Association;
 - (iv) two persons nominated by the New South Wales Combined Colliery Proprietors' Association; and
 - (v) a person nominated jointly by Broken Hill Proprietary Company Limited and Australian Iron & Steel Ltd.

(2) The Minister may nominate a person for appointment and the Governor may appoint that person, if no person, or no person willing to act, is nominated pursuant to subparagraph (ii), (iii), (iv) or (v) of paragraph (b) of subsection

one

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one of this section, within such time as is specified in a notice given by the Minister requesting the nomination.

(3) No person who is a member of a committee shall be nominated for appointment as a member of the Board.

Provisions concerning nominated members.

4c. (1) In this section "nominated member" means a person, other than the chief inspector, who is a member of the Board.

(2) A nominated member shall not, in respect of his appointment or in his capacity as a member of the Board, be subject to the Public Service Act, 1902.

(3) A nominated member shall be appointed for a period not exceeding three years and shall be eligible for reappointment.

(4) If a nominated member—

- (a) dies;
- (b) becomes a mentally ill, protected or incapable person within the meaning of the Mental Health Act, 1958;
- (c) resigns his office by writing under his hand addressed to the Minister;
- (d) becomes a bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes any assignment of his salary, remuneration, allowances or estate for their benefit;

(e)

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(e) is convicted in New South Wales of a felony No. 34, 1972 or of a misdemeanour punishable by imprisonment for a period of twelve months or more, or if he is convicted elsewhere than in New South Wales of an offence that, if it were committed in New South Wales, would be a felony or a misdemeanour so punishable;

(f) is absent, without the leave of the Board or the chairman of the Board, from three consecutive meetings of the Board of which reasonable notice has been given to him personally or in the ordinary course of post and is not, within six weeks after the last of those meetings, excused by the Board for his absence from those meetings; or

(g) is removed from office by the Governor, his office shall become vacant.

(5) If the office of a nominated member becomes vacant before the expiration of the term for which he was appointed, the Governor may appoint a person, nominated under the relevant provision of paragraph (b) of subsection one of section 4B of this Act, or nominated by the Minister pursuant to subsection two of that section, to be a member for the unexpired portion of the term.

(6) The Governor may, for any cause which appears to him sufficient, remove a nominated member from office.

4D. (1) The procedure for the calling of Proceedings of the Board. meetings of the Board and for the conduct of meetings shall, subject to the provisions of this section, be as determined by the Board.

(2) At a meeting of the Board—
 (a) three members shall constitute a quorum;

(b)

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- (b) the chairman of the Board, or in his absence such person as the members present elect, shall preside;
- (c) all questions shall be decided by a majority of votes of the members present and voting; and
- (d) the person presiding shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

(3) The Board shall cause minutes to be kept of the proceedings at its meetings.

Fees and allowances.

4E. (1) Every member of the Board, other than the chief inspector and any other member specified by the Minister as not being entitled to receive the fees and allowances referred to in this section, shall, subject to subsection two of this section, be entitled to receive—

- (a) such fees for attending meetings and transacting the business of the Board; and
- (b) such travelling and sustenance allowances in relation thereto,

as the Minister may determine.

(2) If the Minister so orders the fees and allowances which a member of the Board would, but for this subsection, be entitled to receive shall be paid to the employer, specified in the order, of the member instead of being paid to the member.

Board to make recommendations to the Minister, etc.

4F. (1) The Board shall recommend for the approval of the Minister—

- (a) the manner of calculating the sum payable pursuant to section six of this Act; and

(b)

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(b) the sum to be paid, from time to time, from No. 34, 1972
the Central fund to a fund.

(2) The Board shall take such steps as it
deems appropriate to ensure that a fund is applied
towards the purposes authorised by this Act.

4G. (1) For the purposes of exercising and performing the powers, authorities, duties and functions conferred or imposed on the Board by this or any other Act, the Board may, with the approval of the Minister of the Department concerned and on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

(2) No matter or thing done, and no contract entered into, by the Board, and no matter or thing done by any member of the Board or by any other person whomsoever acting under the direction of the Board shall, if the matter or thing was done, or the contract was entered into, bona fide for the purpose of executing this Act, subject the member or person so acting personally to any action, liability, claim or demand whatsoever.

(3) In relation to any particular matters or class of matters, the Board may by writing delegate any of its powers, authorities, duties or functions under this Act (except this power of delegation) to any one member of the Board or to any fit person.

(4) A delegation under this section shall not prevent the Board from exercising or performing any power, authority, duty or function the subject of the delegation.

(5) A delegation under subsection three of this section may be revoked in writing at any time.

(6)

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(6) In the exercise and performance of its powers, authorities, duties and functions the Board shall be subject to the control and direction of the Minister.

Books of account to be kept.

4H. (1) The Board shall cause to be kept proper books of account, and shall, as soon as practicable after the thirtieth day of June in each year, prepare and transmit to the Minister for presentation to Parliament statements of account in a form approved by the Auditor-General, exhibiting a true and fair view of the financial position and transactions of the Board.

(2) The accounts of the Board shall be audited by the Auditor-General, who shall have, in respect thereof, all the powers conferred on the Auditor-General by any law for the time being in force relating to the audit of public accounts.

(3) The Audit Act, 1902, shall apply to members of the Board in the same manner and to the same extent as it applies to accounting officers of public departments.

(4) Towards defraying the costs and expenses of any such audit the Board shall pay to the Consolidated Revenue Fund such sums, at such times, as the Treasurer may decide.

Part II.
(Heading.)

(e) by omitting from the heading to Part II the word "CENTRAL";

Sec. 5.
(Districts and rescue stations.)

(f) (i) by omitting from subsection one of section five the words "by proclamation vary the boundaries of such districts" and by inserting in lieu thereof the words "in like manner amend or revoke any such proclamation";

(ii)

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(ii) by inserting next after subsection two of the No. 34, 1972 same section the following new subsection :—

(2A) A committee may, subject to the provisions of the regulations and with the approval of the Minister given on the recommendation of the Board, erect a subsidiary rescue station in a district.

(iii) by inserting in subsection three of the same section after the word "station" the words "or as a subsidiary rescue station";

(iv) by inserting in subsection four of the same section after the word "station" the words "and of a subsidiary rescue station";

(g) by omitting section six and by inserting in lieu ^{Subst. sec.} _{6.} thereof the following section :—

6. (1) In this section—

"colliery holding" means the lands included in a colliery holding of a mine as shown on plans of such mine or included in any description furnished to the Under Secretary for Mines and registered in accordance with the provisions of the Coal Mines Regulation Act, 1912;

"proprietor", in relation to any colliery holding, means any person or body corporate who is the immediate owner, or lessee, or occupier of the colliery holding, or of any part thereof, including any contractor for the working of the colliery holding, or any part thereof, but does not include a person or body corporate who merely receives a

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royalty,

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royalty, rent or fine from the colliery holding, or is merely the owner or lessee of the colliery holding, subject to any lease, grant, or license for the working thereof, or is merely the owner of the soil, and not interested in the coal or shale in the colliery holding;

“unimproved capital value”, in relation to a colliery holding, is the unimproved capital value of the colliery holding as determined under the Valuation of Land Act, 1916, or the Local Government Act, 1919.

(2) Subject to the provisions of subsection ten of this section, the proprietor of each colliery holding within a district shall in respect of each year pay to the Board towards the cost of erection, equipment, maintenance and administration of central rescue stations and subsidiary rescue stations a sum calculated in such manner as may be prescribed.

(3) The sum so payable by a proprietor of a colliery holding in respect of any year—

- (a) shall be based upon the unimproved capital value of the colliery holding, as in force on the thirtieth day of June in the preceding year, or if no such unimproved capital value was in force on that date, upon such other basis as is prescribed; or
- (b) where some other basis is prescribed, shall be based upon that other basis.

(4) Where on the thirtieth day of June in any year more than one unimproved capital value is in force in respect of a colliery holding the Board may, in its discretion, base the sum payable

under

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under this section by the proprietor of that colliery No. 34, 197- holding on any one of those unimproved capital values.

(5) The Board shall, in respect of each year, cause to be served, in accordance with subsection six of this section, on every proprietor of a colliery holding within a district a notice in the prescribed form specifying the sum payable by him pursuant to subsection two of this section in respect of that year.

(6) The notice referred to in subsection five of this section shall be deemed to have been served on the proprietor of a colliery holding—

- (a) where the proprietor is an individual, if it is delivered to him personally, or is sent by prepaid certified mail to his address last known to the Board; or
- (b) where the proprietor is a body corporate, if it is served in a manner authorised under the Companies Act, 1961, for the service of documents on a body corporate.

(7) If, within twenty-eight days after any such notice has, in accordance with subsection six of this section, been served on the proprietor of a colliery holding the amount specified in the notice has not been paid, he shall be deemed to be in arrears with his contribution, and interest, at such rate, not exceeding ten per centum per annum, as may from time to time be determined by the Board for the purposes of this subsection, shall be paid by the proprietor in respect of the period from the expiration of the said period of twenty-eight days until the date of payment of that amount.

(8) The Board may waive any interest payable under subsection seven of this section.

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(9) Any sum or interest payable under this section which is not paid as required by this section shall be a debt due to the Crown and may be recovered by the Board on behalf of the Crown in any court of competent jurisdiction.

(10) The Minister may exempt the proprietor of a colliery holding from paying in respect of any year any sum pursuant to subsection two of this section in respect of that colliery holding.

New sec. 6A.

(h) by inserting next after section six the following new section :—

Central
Mines
Rescue
Fund.

6A. (1) There shall be constituted a fund to be called the Central Mines Rescue Fund.

(2) The Central fund shall consist of—

- (a) the amounts, and any interest thereon, paid by the proprietors of colliery holdings pursuant to section six of this Act;
- (b) interest from time to time accruing from any investment of moneys by the Board authorised by this Act; and
- (c) all moneys which may be voted by Parliament for the purpose of assisting in the provision and equipment of central rescue stations and subsidiary rescue stations or which may be derived by the Board from any other source.

(3) The Central fund shall be under the direction and control of the Board.

(4) The Central fund shall be applied towards the payment to a fund of any sum approved by the Minister under section 4F of this Act.

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(5) The Central fund may be applied No. 34, 1972 towards the fees and travelling and sustenance allowances of members of the Board entitled to fees and allowances, and towards the salary of any person employed in, or towards expenses incurred in connection with, the administration of the Central fund.

(6) The Board may invest moneys forming part of the Central fund and not immediately required, in any manner in which trustees are for the time being authorised to invest trust funds.

(7) Where there are insufficient moneys to the credit of the Central fund to meet payments to be made therefrom the Treasurer may advance such moneys to the Board upon such terms and conditions as to repayment and interest as may be agreed upon.

(i) (i) by omitting subsection one of section seven Sec. 7. and by inserting in lieu thereof the following (Mines Rescue Fund.) subsections :—

(1) All moneys received from the Board, and interest received on any moneys invested pursuant to subsection five of this section, shall be paid into a fund which shall be under the direction and control of the committee of the district.

(1A) Any moneys in a fund at the commencement of subparagraph (i) of paragraph (i) of section two of the Mines Rescue (Amendment) Act, 1972, shall continue to form part of that fund.

(ii)

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- (ii) by omitting from paragraph (a) of subsection two of the same section the words "the rescue station" and by inserting in lieu thereof the words "the central rescue station and any subsidiary rescue station";
- (iii) by inserting in paragraph (b) of the same subsection after the word "superintendent" the words "and of any person employed to assist the superintendent";
- (iv) by omitting from paragraph (c) of the same subsection the words "the station" and by inserting in lieu thereof the words "the central rescue station";
- (v) by omitting from paragraph (e) of the same subsection the words "the station" and by inserting in lieu thereof the words "a rescue station in the district";
- (vi) by inserting next after subsection three of the same section the following new subsections :—
 - (4) The fund may be applied towards the fees and travelling and sustenance allowances of members of the committee.
 - (5) Any application of the fund by a committee, whether before or after the commencement of subparagraph (vi) of paragraph (i) of section two of the Mines Rescue (Amendment) Act, 1972, towards the cost of providing housing or other living or office accommodation for persons connected with rescue operations shall be deemed to have been or to be an application of the fund authorised by this Act.

(6)

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(6) The committee may invest moneys No. 34, 1972 forming part of the fund and not immediately required, in any manner in which trustees are for the time being authorised to invest trust funds.

(7) The committee shall transmit to the Board estimates of expenditure when required to do so by the Board, and such information as the Board may, from time to time, require concerning the exercise and performance by the committee of the powers, authorities, duties and functions conferred or imposed on committees by this Act.

(j) by omitting from subsection two of section nine the Sec. 9.
 words "or rescue brigade";
 (Room for
 rescue and
 first aid
 purposes.)

(k) (i) by omitting from subsection one of section ten Sec. 10.
 the words "breathing apparatus each with a (Rescue
 minimum rated service period of two hours" apparatus to
 be provided
 and by inserting in lieu thereof the words "an at each
 mine.)
 approved type of breathing apparatus";

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

(2) Telephone communication shall be established and maintained by the owner of the mine between the mine and the central rescue station, and any charge or expense in relation thereto shall be borne by the owner.

(l) by inserting next after section eleven the following New sec.
 11A.
 new section :—

11A. Every member of a committee shall be entitled to receive such fees for attending meetings and transacting business of the committee, and such travelling and sustenance allowances in relation thereto, as the Minister may determine. Fees, etc.
 payable to
 member of
 committee.

(m)

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Sec. 12.
(Superintendent.)

(m) (i) by inserting next after subsection two of section twelve the following new subsection :—

(2A) The superintendent appointed to be in charge of a central rescue station in a district shall be in charge of any subsidiary rescue station in that district.

- (ii) by omitting from subsection three of the same section the words “the instruction of rescue brigades and the maintenance and working of the station” and by inserting in lieu thereof the words “the instruction of persons who engage in rescue operations and the maintenance and working of the central rescue station and any subsidiary rescue station”;
- (iii) by omitting from paragraph (c) of subsection four of the same section the words “rescue brigades” and by inserting in lieu thereof the words “persons employed in rescue operations”;

Sec. 13.
(Instructors.)

- (n) (i) by omitting from subsection one of section thirteen the words “or rescue brigade” and by inserting in lieu thereof the words “or persons to engage in rescue operations”;
- (ii) by omitting paragraph (b) of the same subsection;

Part IV.
(Heading.)

- (o) by omitting from the heading to Part IV the words “RESCUE BRIGADES” and by inserting in lieu thereof the word “MISCELLANEOUS”;

(p)

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(p) by omitting section sixteen and by inserting in lieu No. 34, 1972 thereof the following section :—

Subst. sec.
16.

16. Where the Minister has not directed that a permanent rescue corps be established in a district, or where a mine is not within the boundaries of a district, the owner of every mine in the district, or not within the boundaries of a district, as the case may be, shall make such arrangements for rescue operations as the Minister may direct.

(q) by omitting section eighteen;

Sec. 18.
(Breathing
apparatus
to be
provided.)

(r) (i) by inserting in subsection one of section nineteen after the word "station" the words "or a subsidiary rescue station";

Sec. 19.
(Site for
rescue
station.)

(ii) by inserting in subsection two of the same section after the word "station" where firstly occurring the words "or subsidiary rescue station";

(iii) by inserting in the same subsection after the word "station" where secondly occurring the words "or a subsidiary rescue station";

(s) by omitting from section twenty the words "brigades or rescue corps" and by inserting in lieu thereof the words "rescue corps or persons who engage in rescue operations";

Sec. 20.

(Plans of
workings
to be kept.)

(t) by omitting from section twenty-one the word "brigades" and by inserting in lieu thereof the words "persons who engage in rescue operations";

Sec. 21.
(Uniform
rules and
signals.)

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(u)

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Sec. 26.
(Regula-
tions.)

(u) (i) by inserting in paragraph (g) of subsection one of section twenty-six after the word "superintendents" the words "and of persons appointed to assist superintendents";

(ii) by inserting in paragraph (l) of the same subsection after the word "stations" the words "and subsidiary rescue stations".

MOTOR