

*State Coal Mines.*

## Act No. 70, 1912.

An Act to provide for the establishment of State coal mines, and the acquisition of lands for that purpose; to amend the Acts relating to the Government Railways, the Mining Act, 1906, and the Crown Lands Acts; and for purposes consequent thereon or incidental thereto. [20th December, 1912.]

BE it enacted by the King'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:—

*Preliminary.*

**1.** (1) This Act may be cited as the "State Coal Mines Act, 1912."

(2) The expressions "Crown lands" and "private lands" shall have in this Act the same meanings as those given to them respectively in sections three and forty-five of the Mining Act, 1906. "General Superintendent" means the General Superintendent of State Coal Mines appointed under this Act.

*Setting apart and acquisition of land.*

**2.** (1) The Governor may by proclamation set apart any lands which in his opinion contain coal or may be required for coal-mining operations under this Act.

(2) Upon publication of any such proclamation, the lands so set apart shall be exempted from alienation under the Crown Lands Acts, and from the leasing provisions of the Mining Act, 1906, and from occupation under any miner's right or business license.

(3) The Governor may in like manner revoke any such proclamation, either wholly or in part.

(4) The surface, and the lands to a specified depth from the surface of the lands so set apart, may be disposed of by way of lease or license under the provisions of the Crown Lands Acts, subject to the condition that the lease or license may be determined at any time without compensation to the lessee or licensee, in the event of the lands being required for coal-mining or any other purpose under this Act.

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Lands and coal mines may be purchased.

**3.** (1) Any owner of private lands alienated without any reservation of minerals to the Crown, or the lessee of any private or Crown lands held under mineral lease from the Crown, may by writing, addressed to the Minister or to some person appointed by the Minister in that behalf, offer to surrender his freehold or leasehold estate or interest in the said lands to His Majesty in consideration of the payment of a price named in such offer; and, except as hereinafter provided, such offer shall be binding on such owner, and shall not be withdrawn by him within a period of twelve months without the consent of the Minister in writing under his hand.

(2) Any such offer may be referred to such persons as the Minister may appoint, for inquiry and report as to the suitability of the lands for a State coal mine, and as to the estimated value thereof.

(3) If he considers the report to be favourable, the Minister, with the sanction of the Governor, may purchase the lands or the leasehold interest in the lands by an agreement with the owner or lessee: Provided that no such purchase shall be binding or shall take effect unless sanctioned by Act of Parliament.

(4) The Governor and the Minister may do all things necessary to carry out any contract entered into under this section.

(5) Upon completion of the purchase of any such lands being freehold and not leasehold, the lands shall vest in His Majesty, free from all estates, interests, trusts, and conditions affecting the same, and become Crown lands, and shall be deemed to be exempted from alienation under the Crown Lands Acts, from the leasing provisions of the Mining Act, 1906, and from occupation under any miner's right or business license: Provided that the Governor may by notification revoke any such exemption either wholly or in part.

Resumption of land for coal mines.

**4.** The Minister may order any person or persons whom he appoints to report to him on any private land alienated without any reservation of minerals to the Crown, or on any private or Crown land held under mineral lease from the Crown, and may under his own hand notify to the owner thereof that he has made an order for an inspection with the object of resuming the same under the provisions of this Act.

Authority to enter, inspect, and report.

**5.** The person or persons appointed to report as aforesaid with such assistants as he or they may deem necessary, may at any time enter any private or Crown land, and may remain thereon for such time as may be necessary to enable sufficient information to be obtained for the preparation of a report on such land:

Notice of intended entry.

Provided that not less than four weeks' notice of intention to enter on such land shall be given to the owner thereof or his manager or agent.

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**6.** (1) The person or persons appointed to report as aforesaid shall report on such matters as the Minister directs, and shall further make a valuation, having regard to—

Matters to be reported upon, and method of valuation.

- (a) the value of the land or the leasehold interest, including any improvements thereon and plant used in connection therewith;
- (b) the damage caused by the severance of the land purchased from other land of the owner or lessee; and
- (c) the enhancement or depreciation in value of other land of the owner or lessee adjoining the land purchased or severed therefrom, caused by the carrying out of the purpose for which the land was purchased.

(2) Before commencing such inquiry the person or persons appointed shall give to the owner or lessee of such private or Crown land not less than seven days' notice of the date upon which such inquiry is to be held.

Notice of inquiry.

**7.** (1) The valuation, as reported by the person or persons appointed, shall, subject to appeal, as hereinafter provided, be the purchase price.

Appeal.

(2) After the valuation as aforesaid, the matter may be referred by the Minister to Parliament.

Reference to Parliament.

(3) If Parliament, by Act sanctions the resumption of the land the Governor shall, by notification in the Gazette, declare that the land described in such notification has been resumed under and for the purposes of this Act; and the land so described shall vest or re-vest, as the case may be, in His Majesty, and shall be deemed to be exempted from alienation under the Crown Lands Acts, from the leasing provisions of the Mining Act, 1906, and from occupation under any miner's right or business license: Provided that the Governor may by notification revoke any such exemption either wholly or in part.

Resumption and vesting.

(4) If the owner or mortgagee be dissatisfied with such price, either or both may, within twenty-eight days of the notification of resumption as in this Act provided, lodge with the Minister a notice of appeal. But on or before lodging such notice of appeal, the owner or mortgagee shall notify in writing to the Minister what amount he claims as the purchase money of the land.

(5) Such appeal shall be heard by a court consisting of one of the judges of the Supreme Court, appointed for the purpose by the Governor, within fourteen days of such notice of appeal, and two assessors, one of whom shall be appointed by the Governor, and the other by the appellant within the aforesaid period.

Court of appeal.

(6)

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(6) In determining the price of any land, the court hearing an appeal under this Act shall have regard to—

- (a) the value of the land or the leasehold interest, including any improvement thereon and plant used in connection therewith;
- (b) the damage caused by the severance of the land purchased from other land of the appellant; and
- (c) the enhancement or depreciation in value of other land of the appellant adjoining the land purchased or severed therefrom, caused by the carrying out of the purpose for which the land was purchased.

The enhancement or depreciation in value shall be set off against or added to the amount of the value and damage specified in paragraphs (a) and (b) aforesaid in the last preceding subsection.

Decision.

(7) The decision of the said judge and one of such assessors as to the price shall be final, whether such price be greater or less than the reported valuation.

(8) Where a judge has been appointed for the purposes of this section the Governor may, in the case of the death, illness, incapacity, or absence of such judge, or at the request of the Chief Justice, or for any other reasonable cause, at any time appoint in the place of the judge first mentioned any other judge of the Supreme Court. The judge so appointed shall have the powers and authorities of a judge appointed in pursuance of this section.

(9) Where an assessor appointed under this section dies or becomes incapable of acting in his office, the Governor or the appellant, as the case may be, may at any time appoint any person to be assessor in the place of the assessor who has died or become incapable of acting. The person so appointed shall have the powers of an assessor appointed in pursuance of this section.

Provisions of Public Works Act to apply.

**8.** (1) No land or leasehold interest in land on which a mine of coal is situated, the value of which, including any buildings, plant, and machinery used in connection therewith, exceeds twenty thousand pounds shall be acquired under this Act unless sanctioned as hereinafter provided:—

- (a) The Minister shall submit and explain in the Legislative Assembly the proposal to make such acquisition. The explanation shall comprise a description of the land and particulars showing its suitability for the purpose to which it is proposed to be put.
- (b) Upon motion, in the usual manner, made by the Minister or by any member of the Assembly, such proposal shall be referred to the Parliamentary Standing Committee on Public Works for their report thereon.
- (c)

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- (c) The Committee shall, with all convenient despatch, deal with the matter so referred to them, and for that purpose may exercise all powers by the Public Works Act, 1900, conferred on such Committee.
- (d) The Committee shall, as soon as conveniently practicable, report to the Legislative Assembly the result of their inquiries.
- (e) After the receipt of such report the said Assembly shall, by resolution, declare, either that it is expedient to carry out the proposal or that it is not expedient to carry out the same :

Provided that the said Assembly, instead of declaring affirmatively or negatively as aforesaid, may resolve that the report of the Committee shall, for reasons or purposes to be stated in the resolution, be remitted for their further consideration and report to the said Committee; in which case such Committee shall consider the matter of such new reference and report thereon accordingly.

(2) Every resolution of the Legislative Assembly declaring that it is expedient to carry out any such proposal shall be deemed to impose a statutory duty on the Minister to introduce a Bill into the said Assembly to sanction the carrying out of such proposal, upon the passing whereof by the Legislature, and in such form as the Legislature may think fit, the Minister may acquire such land under this Act.

(3) The provisions of the Public Works Act, 1900, and any Act amending it, shall apply to the construction of any works under this Act.

**9.** The following provisions shall apply to the costs of all Costs of appeal. proceedings by way of appeal under this Act:—

- (a) Where the value determined by the court hearing the appeal is equal to or less than the amount of the valuation as reported to the Minister under this Act, the appellant shall pay the costs of the appeal.
- (b) Where the value so determined is equal to or greater than the amount which the owner or mortgagee claims as the value of the land, the Crown shall pay such costs. Where the value so determined is greater than the amount of such valuation, but is less than the amount of the claim of the owner or mortgagee, the Crown shall pay to the appellant the proportion of his costs which the excess of the value so determined over the said valuation bears to the excess of the said claim over such valuation.

**10.** (1) The Governor may, by notification published in the Gazette, exempt from the operation of Part IV of the Mining Act, 1906, any private lands which in his opinion contain coal reserved to the Crown, and may cancel or vary any such notification. Private lands may be set apart.

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Compensation to owner and occupier.

(2) Before commencing to search or mine for coal upon any such private lands, the Minister shall direct the warden to assess compensation to be paid by the Crown to the owner and occupier of such lands in respect of the surface required to be occupied for such mining. Such assessment shall be made and paid in the manner prescribed by the Mining Act, 1906, Part VII, Division 5.

*Establishment and management of State coal mines.*

Minister may open or establish coal mines.

**11.** Subject to the provisions of this Act, the Minister may, on behalf of his Majesty, open and establish State coal mines on Crown lands or private lands set apart or acquired as aforesaid, or on private lands the Crown grant of which contains, or if not yet issued will when issued contain, a reservation to the Crown of all minerals.

Powers of the Minister for carrying on coal-mining.

**12.** The Minister shall, subject to this Act, have the control of any State coal-mine, and may, on behalf of His Majesty—

- (a) construct, erect, or by purchase, lease, or otherwise acquire buildings, plant, machinery, tramways, hulks, ships, and other fixed or movable appliances or works of any description, and sell or otherwise dispose of the same when no longer required;
- (b) supply, and deliver coal and other products the result of coal-mining operations for the use of His Majesty, or of the State Government railways and tramways, or of any State Government department, establishment or undertaking;
- (c) work any tramway, hulk, ship, or movable appliance acquired by him for the purpose of supplying and delivering coal;
- (d) enter into and enforce contracts and engagements; and
- (e) generally, in so far as is not elsewhere in this Act sufficiently provided, do anything that the owner of a coal mine might lawfully do in the working of any such mine.

Appointment of manager and officers, &c.

**13.** The Governor may, on the recommendation of the General Superintendent, appoint a manager for each mine, who may, under the authority of the Minister, and subject to the regulations, appoint and discharge under-managers, engineers, surveyors, agents, workmen, and servants.

Appointment of General Superintendent of State Coal Mines.

**14.** (1) The Governor may appoint a person to be called the General Superintendent of State Coal Mines.

(2) Such General Superintendent shall hold office for a term of five years, and may be removed from office for misbehaviour or incompetence.

(3) He shall each year be paid from the Consolidated Revenue Fund the amount of one thousand pounds, and such amount is hereby specially appropriated for that purpose.

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(4) In case of his illness, suspension, or absence from duties the Governor may appoint some person to act as his deputy during such illness, suspension, or absence, and such deputy shall have the powers and perform the duties of the General Superintendent.

**15.** (1) The Minister shall, within six months after the establishment of any mine under this Act, by notification published in the Gazette, vest the control of such mine, and of the manager and other persons employed in the mine, in the General Superintendent: Provided that for the purposes of this section a mine shall be deemed to be established as soon as coal is being produced therefrom.

Mines may be vested in General Superintendent.

(2) Upon publication of such notification the General Superintendent shall exclusively have and may exercise in respect of the mine described in such notification all the powers hereinbefore conferred upon the Minister.

**16.** (1) The Minister shall cause full and faithful accounts to be kept of all moneys received and expended under this Act, and of all assets and liabilities, and of all profits and losses.

Accounts to be kept and balance-sheet prepared.

(2) The Minister having control of a mine shall for such mine cause a balance-sheet for each financial year to be prepared, together with a statement of accounts, including a capital account and a profit and loss account.

(3) Such balance-sheet and statement shall be so prepared as to show fully and faithfully the financial position of such mine, and the financial result of its operations for the year.

(4) Such balance-sheet and statement shall be submitted to the Auditor-General for audit, and shall be certified by the Auditor-General either wholly or with such exceptions as may be necessary, and when so audited and certified shall be published in the Gazette.

(5) The balance-sheet and statement of accounts duly audited, together with a report by the manager on the operations of the mine to which he has been appointed, for the year ending the preceding thirtieth day of June, shall, on or before the thirtieth day of November in that year, be laid before Parliament.

**17.** The Chief Commissioner for Railways and Tramways shall purchase from the Minister all coal required to be used for the purpose of the Government Railways and Tramways, and all works in connection therewith under the control of the said Chief Commissioner so far as the State coal mines can supply such requirements: Provided that the Chief Commissioner is satisfied that such coal is, as to quality, price, and situation, equal to any other coal that is available for purchase by him.

Coal for railways to be purchased from Minister.

**18.** Except as otherwise provided in this Act, all sums expended or payable under this Act shall be payable out of moneys to be appropriated by Parliament.

Moneys to be appropriated by Parliament.

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**19.** All moneys payable to the Minister under this Act shall be collected and received for or on account of the Consolidated Revenue; and the provisions of any Act for the collection and payment of the public moneys and the audit of the public accounts shall apply to all such moneys.

Mines to be worked  
subject to Coal  
Mines Regulation  
Acts.

**20.** Every State coal mine worked under this Act shall be managed and worked subject to the provisions of the Coal Mines Regulation Act, 1902, and any Acts amending the same, in so far as the same are applicable.

Prohibition of  
residences within  
half a mile of coal  
shafts.

**21.** No person employed in or about a State coal mine shall (except with the written consent of the Minister) build or construct or reside in any building or tent within half a mile of any State coal shaft or pit.

Regulations re State  
coal mines.

**22.** (1) The Minister, with the approval of the Governor, may make and publish regulations applicable to any State coal mine the control of which is vested in him, for all or for any of the following purposes:—

- (a) The management of such mine.
- (b) The functions, duties, and powers of all persons acting in the management and working of such mine.
- (c) The appointment and discharge of officers and workmen.
- (d) The form approved by the Auditor-General of the accounts to be kept and the balance-sheets to be prepared in respect of such mine; and
- (e) Generally for the conduct and management of such mines.

(2) The Minister may in such regulations impose a penalty not exceeding ten pounds for any breach thereof. Any such penalty may be recovered in any court of petty sessions.

(3) The Minister may, with the approval of the Governor, rescind or amend any regulation in force in respect of any such mine.