

## COAL INDUSTRY ACT.

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Act No. 44, 1946.

An Act to provide means for securing and maintaining adequate supplies of coal throughout Australia and for providing for the regulation and improvement of the coal industry in the State of New South Wales; and for purposes connected therewith. [Assented to, 25th September, 1946.]

George VI.  
No. 44, 1946.

WHEREAS it has been agreed between the Governments of the Commonwealth of Australia and of the State of New South Wales that they shall take measures for securing and maintaining adequate supplies of

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**No. 44, 1946.** of coal to meet the need for that commodity throughout Australia and in trade with other countries, and for providing for the regulation and improvement of the coal industry in the State of New South Wales and for other matters relating to the production, supply and distribution of coal:

AND WHEREAS it has been further agreed between the two Governments that they shall jointly establish authorities vested with power to take action designed to attain those objectives:

AND WHEREAS it has further been agreed that the two Governments shall take all practicable steps to secure the passage by the Parliament of the Commonwealth and the Parliament of the State of New South Wales of legislation within the constitutional powers of the respective Parliaments providing for the establishment of such authorities:

AND WHEREAS each of the two Governments has undertaken not to take action, without the prior concurrence of the other, to repeal or amend any of the legislation covered by the agreement:

BE it therefore 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:—

**PART I.****PRELIMINARY.**

Short title  
and  
construc-  
tion.

**1.** (1) This Act may be cited as the "Coal Industry Act, 1946."

(2) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that where any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances shall not be affected.

Division  
into  
Parts.

**2.** This Act is divided into Parts as follows:—

**PART I.—PRELIMINARY.****PART**

## PART II.—ADMINISTRATION.

No. 44, 1946.

## PART III.—POWERS OF JOINT COAL BOARD.

## PART IV.—CONTROL OF COAL MINES.

## PART V.—ACQUISITION OF LAND, COAL AND EQUIPMENT.

DIVISION 1.—*Board may operate Coal Mines.*DIVISION 2.—*Acquisition and Requisition of Coal and Equipment.*

## PART VI.—FINANCE.

## PART VII.—INDUSTRIAL MATTERS.

## PART VIII.—GENERAL.

3. The several Parts and sections of this Act shall come into operation on such dates as are respectively fixed by the Governor by proclamation published in the Gazette. Commencement.

4. (1) In this Act, unless the contrary intention appears— Definitions.

“industrial dispute” means—

- (a) any dispute as to an industrial matter; or
- (b) any threatened or impending or probable dispute as to any industrial matter;

“industrial matter” means any industrial matter in relation to the wages, rates of pay or terms or conditions of employment of members of the Federation in the coal mining industry, other than members of the Federation excepted by the Board by order;

“prescribed” means prescribed by this Act or by regulations made thereunder;

“the Board” means the Joint Coal Board constituted in pursuance of this Act;

“the Commonwealth Act” means the Coal Industry Act 1946 of the Parliament of the Commonwealth and includes that Act as amended from time to time;

“the Court” means the Industrial Commission of New South Wales;

“the

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“the Federation” means the Australian Coal and Shale Employees Federation, an organisation registered under the Commonwealth Conciliation and Arbitration Act 1904-1946;

“the Tribunal” means the Coal Industry Tribunal constituted in pursuance of this Act.

(2) The Governor may by regulations made under this Act declare that the provisions of this Act or such of them as are specified in the regulations shall apply to and in respect of coke in such localities or circumstances as may be described in the regulations, in the same manner and to the same extent as such provisions apply to and in respect of coal.

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## PART II.

### ADMINISTRATION.

Joint  
Coal  
Board.

5. (1) The Governor may enter into an arrangement with the Governor-General of the Commonwealth for the constitution, subject to this Act, of an authority which shall be known as the Joint Coal Board.

(2) The Board constituted in pursuance of the arrangement shall consist of a Chairman and two other members.

(3) Each member of the Board shall be appointed for a period not exceeding seven years but shall be eligible for re-appointment.

(4) A member of the Board shall be deemed to have vacated his office if—

(a) he engages in any paid employment outside the duties of his office;

(b) he becomes bankrupt or insolvent, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

(c) except on leave granted by the Governor or the Governor-General of the Commonwealth, he absents himself from duty for fourteen consecutive days or for twenty-eight days in any twelve months;

(d)

- (d) he becomes in any way (otherwise than as a member of the Board) concerned or interested in any contract or agreement entered into by or on behalf of the Board or in any way (otherwise than as a member of the Board) participates or claims to be entitled to participate in the profit thereof, or in any benefit or emolument arising therefrom; No. 44, 1946.
- (e) he resigns his office by writing under his hand addressed to the Governor or the Governor-General of the Commonwealth and the resignation is accepted by the Governor or the Governor-General as the case may be; or
- (f) he becomes permanently incapable of performing his duties.

(5) An arrangement entered into under this section may provide for the appointment of persons to act for any member of the Board who is absent from duty by reason of illness or otherwise and for the termination of the appointment of any member of the Board for misbehaviour or incapacity, and any such provision shall have effect accordingly.

(6) The Board shall be a body corporate with perpetual succession and a common seal, and may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued in its corporate name.

(7) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to any document and shall presume that it was duly affixed.

(8) The Board shall not be deemed to be prevented from exercising any of its powers and functions by reason only of a vacancy in the membership of the Board.

**6.** (1) A member of the Board shall not exercise, and shall forthwith relinquish, any power or authority vested in him (otherwise than by or under this Act or the Commonwealth Act) by reason of which he may influence the management or control of any coal mine or any company owning or controlling a coal mine or engaged in the handling or distribution of coal. Member not to take part in management of coal mine, &c.

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(2) If a member of the Board is a shareholder in any such company, he shall not as such exercise any vote.

(3) If a member of the Board acts in contravention of, or fails to comply with, any obligation imposed on him by this section, then, without affecting any liability he may have under this Act in respect of the act or failure, he shall be deemed to have vacated his office.

Meetings of  
the Board.

**7.** (1) Meetings of the Board shall be held at such times and places as the Board from time to time determines.

(2) Meetings of the Board shall be called in such manner as is prescribed.

(3) At all meetings of the Board a majority of the members of the Board shall form a quorum.

(4) The proceedings of the Board shall be conducted in accordance with regulations made under this Act.

Remunera-  
tion and  
allowances  
of members  
of the  
Board.

**8.** There shall be payable to the Chairman and to the other members of the Board such salaries and allowances as are fixed by the arrangement made in pursuance of section five of this Act.

Delegation.

**9.** (1) The Board may in relation to any particular matter or class of matters, by writing under its seal, delegate to any person or authority all or any of its powers under this Act (except this power of delegation), so that the delegated powers may be exercised by the person or authority with respect to the matters or class of matters or the part of this State specified in the instrument of delegation.

(2) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power by the Board.

(3) Where under this Act the exercise of any power or function by the Board is dependent upon the opinion or belief of the Board in relation to any matter, that power or function may be exercised by the delegate upon the opinion or belief of that delegate.

## PART III.

## POWERS OF JOINT COAL BOARD.

**10.** (1) In pursuance of agreement between the Government of the State and the Government of the Commonwealth, it is declared that the Board is to have all the powers and functions specified in this Act in relation to the Board.

Vesting of  
powers in  
Board.

(2) Subject to the Commonwealth of Australia Constitution Act, those powers and functions are by this subsection, and not otherwise, vested in the Board to the extent to which they are not in excess of the legislative power of the State.

**11.** (1) The powers and functions of the Board are to include the taking of such action as, in the opinion of the Board, is necessary or desirable—

General  
powers and  
functions of  
Board.

- (a) to ensure that coal is produced in the State in such quantities and with such regularity as will meet requirements throughout Australia and in trade with other countries;
- (b) to ensure that the coal resources of the State are conserved, developed, worked and used to the best advantage in the public interest;
- (c) to ensure that coal produced in the State is distributed and used in such manner, quantities, classes and grades and at such prices as are calculated best to serve the public interest and secure the economical use of coal and the maintenance of essential services and industrial activities; and
- (d) to promote the welfare of workers engaged in the coal industry in the State.

(2) In particular, without limiting the generality of the foregoing, the Board is to have power to make provision for or with respect to—

- (a) the working and getting of coal, including the introduction and operation of sound mining principles and practices and methods of stowage and haulage, and the regulation of output;

(b)

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- (b) the conservation of coal, the development of any coal mine, seam or field, and the opening, closing or abandonment of any coal mine;
- (c) the introduction, modification, replacement and operation of machinery, plant and equipment for use in connection with the production and distribution of coal, and the manufacture, procurement, improvement and standardisation of such machinery, plant and equipment;
- (d) the classification and grading of coal and its preparation for market;
- (e) the effective and economical distribution of coal, including its purchase, sale, marketing, acquisition, disposal, supply, storage, reservation, pooling, transport, carriage, conveyance, delivery, handling, loading, discharge and reception;
- (f) the efficient and economical use of coal, the development of uses or markets for coal, and the recovery of the by-products of coal;
- (g) the regulation of prices for the sale, purchase or re-sale of coal, the values at which coal is recorded in the accounts of any business, and of profits in the coal industry;
- (h) the health and, subject to this Act, the safety, of persons engaged in the coal industry, including the regulation of conditions in the industry with respect thereto, and the enforcement of measures for the abatement of dust in mines;
- (i) the establishment of sound industrial welfare practices including the provision of amenities for employees in the coal industry;
- (j) collaboration with other persons and authorities in the establishment and provision of amenities and of health, educational, recreational, housing and other facilities for communities of persons in coal mining districts, and in the promotion of the development and diversification of industry and of town and regional planning in such districts;

(k)



- (k) the regulation of employment in and recruitment to the coal industry, including the control of the manning of mines and the promotion of stability of employment; No. 44, 1946.
- (l) the training, efficiency, and competency of persons engaged in the coal industry;
- (m) the publication of reports and information of public interest; and
- (n) any matter incidental to all or any of the foregoing matters.

(3) The Board is to have authority to make such orders, take such measures, give such directions and do such things as are, in the opinion of the Board, necessary for, or incidental to, the effective exercise of its powers and functions and, in particular, without limiting the generality of the foregoing—

- (a) to provide, and to assist others to provide or obtain, advice, technical services, equipment, and other facilities and aids to efficiency and economy;
- (b) to undertake or arrange for research, inquiries, investigations, surveys, tests and inspections;
- (c) to enter into and carry out contracts and transactions, to incur expenditure and make advances, and to acquire and dispose of any property or rights;
- (d) to require the keeping and production of accounts, books and records and the compilation and furnishing of statistics, returns and other information in such form and relating to such matters as it may specify in the requirement;
- (e) to acquire any coal, sell any coal acquired by or vested in it, impose conditions under which any other person or authority may acquire, purchase, sell

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sell or dispose of coal, and enter into arrangements and agreements with other persons and authorities as to the sale or disposition of coal;

(f) to assume control of the management and operation of any coal mine;

(g) to acquire any coal mine and to operate any mine acquired by or vested in it;

(h) to acquire, procure, erect, construct, requisition the use of and operate plant, machinery and equipment (including railways, rolling stock and sidings, not being the property of the State or of the Commissioner for Railways);

(i) to establish and operate, or assist others to establish and operate, coal mines and other undertakings or enterprises;

(j) to terminate, suspend, vary or modify any contract or agreement relating to or affecting the production, supply or distribution of coal, including sale, transportation by land or sea, loading, discharge, delivery, storage and use; and

(k) to suspend or exclude from employment in the coal industry, subject to appeal to the Court or a Judge thereof in manner prescribed by rules of court, any superintendent, manager or other person employed in the industry who acts in a manner prejudicial to the effective working of the industry.

(4) The Board is to have power at any time to rescind, terminate or vary any order, direction or requirement made or given by it.

**Safety in  
coal mines**

**12.** (1) Where any question arises at a coal mine in the State, as to whether the safety of employees at the mine is endangered, or is likely to be endangered, by any methods of working then in operation or proposed to be

put

put in operation in the mine, the Board is to have power to refer the question to an Inspector of Coal Mines and to an officer of the Board with a request that the question be at once considered and reported upon, so far as possible in co-operation with the manager of the coal mine and with the person appointed or elected by the persons employed in the coal mines in the district, in which the coal mine is situated, to inspect coal mines on their behalf. No. 44, 1946.

(2) Where any such question has been so referred to an Inspector of Coal Mines and to an officer of the Board, that inspector and officer are forthwith to make or cause to be made such inspections, investigations and inquiries as they deem necessary and to furnish to the Board a report setting out their opinion on the question referred to them and as to the relation of that question to the relevant provisions of any Act relating to safety in coal mines.

(3) If the Board after receipt of the report is of opinion that the safety of employees at the coal mine is, or is not, or is or is not likely to be, endangered by all or any of the matters referred to in subsection one of this section, it is to have power, by order, to direct the owner of the coal mine and any other person to do or refrain from doing all such matters or things in relation to the operation of coal mines as are specified in the order:

Provided that no such order shall derogate from any provisions of the law of the State prescribing requirements to be observed for securing the safety of persons engaged in or about coal mines.

(4) The owner of the coal mine and any such other person shall forthwith comply with the directions contained in the order.

(5) All persons having any duties, powers or functions under the laws of the State relating to the regulation of coal mines shall act in aid of the Board for the purpose of giving effect to any order made by the Board.

(6)

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(6) In this section, the expression "Inspector of Coal Mines" means an inspector as defined in the Coal Mines Regulation Act, 1912, as amended by subsequent Acts.

**Insurance.**

**13.** The Board is to have power to establish workers' compensation insurance schemes and to require any employer in the coal industry in the State to effect with or through the Board all workers' compensation insurance in respect of his employees in that industry.

**Appoint-  
ment of  
officers.**

**14.** (1) The Board is to have power to appoint such officers and employ such persons as it thinks necessary to assist it in the execution of its powers and functions.

(2) Officers appointed or persons employed in pursuance of this Act shall not be subject to the Public Service Act, 1902, or any Act amending that Act and their remuneration and conditions of employment shall be such as are determined by the Board.

(3) Where a person who is appointed an officer of the Board was immediately before his appointment an officer within the meaning of the Public Service Act, 1902, or an employee within the meaning of the Superannuation Act, 1916—

- (a) he shall retain any rights accrued or accruing under either of those Acts;
- (b) he shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916, as the case may be, and for such purpose his service under the Board shall be deemed to be service for the purposes of such Acts; and
- (c) he shall, in the event of his office as an officer of the Board being discontinued or abolished, be eligible for and be appointed to an office in the public service not lower in classification and salary than that which he held at the date of his appointment as an officer of the Board.

**15.**

**15.** (1) The Board shall, as and when required by the Premier or the Prime Minister of the Commonwealth, furnish reports to the Premier and to the Prime Minister with respect to the policy it is pursuing or proposes to pursue in the discharge of its powers and functions and, in particular, with respect to programmes of proposed re-organisation, acquisition or development involving substantial outlay of capital, and with respect to proposals affected by and affecting matters of national policy, including defence, full employment and price stabilisation.

**No. 44, 1946.**  
Directions  
on matters  
of policy.

(2) The Prime Minister of the Commonwealth may, in agreement with the Premier, issue directions to the Board on matters of policy and it is to be the duty of the Board to observe and carry out any direction so given.

(3) Where, under this Act, the exercise of any power or function by the Board is dependent upon the opinion or belief of the Board in relation to any matter and the Prime Minister, in accordance with the last preceding subsection, issues to the Board a direction in relation to that matter, the Board is to have the power to exercise that power or function in accordance with that direction.

**16.** Nothing in this Act shall be deemed to authorise any form of industrial conscription.

No industrial  
conscription.

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## PART IV.

### CONTROL OF COAL MINES.

**17.** (1) Where, in the opinion of the Board, it is desirable, with a view to maintaining or increasing the production of coal from any coal mine in the State, that the coal mine should be operated under the control of the Board, the Board may, by written order, authorise any person (in this Act referred to as an "authorised controller") to exercise such functions of control and to do such things, on behalf of the Board, but subject to any directions of the Board, with respect to that coal mine,  
as

Control of  
coal mines.

**No. 44, 1946.** as the authorised controller thinks necessary for the purpose of maintaining or increasing the production of coal at that coal mine, and the authorised controller may exercise those functions and do those things accordingly.

(2) So long as there is in force an order under subsection one of this section with respect to the coal mine, the coal mine shall be operated in accordance with the provisions of the order, and the owner and every person concerned with the management or conduct of the coal mine shall comply with any directions given by the authorised controller.

(3) Upon making any order under subsection one of this section the Board shall cause notice of the effect of the order to be given as soon as practicable in such manner as it thinks necessary for bringing it to the notice of the owner of the controlled mine, and to the notice of such other persons, if any, as should, in the opinion of the Board, have notice of the order.

Service in  
controlled  
mines.

**18.** (1) The manager of every controlled mine and all persons employed or usually employed in an administrative, executive or clerical capacity, and all persons otherwise employed or usually employed, in or about the mine shall be officers and employees of the Board.

(2) For the purposes of any law relating to workers' compensation applying to persons employed by the Board in or about the controlled mine, those persons shall be deemed to be employed by the owner of the mine.

Terms and  
conditions of  
employment  
by the  
Board.

**19.** The terms and conditions of service of persons who are officers or employees of the Board in pursuance of this Part shall, subject to this Act and the Commonwealth Act and subject to any variation in accordance with the provisions of this Act or the Commonwealth Act, be—

- (a) in the case of those persons who were prior to the coal mine becoming a controlled mine employed or usually employed in or about the mine by the owner of the mine—the terms and conditions

conditions on which they were employed immediately prior to the mine becoming a controlled mine; and

- (b) in the case of those persons who are otherwise employed by or on behalf of the Board—the same terms and conditions which would in accordance with any law, or any award, order or determination, of any industrial tribunal, apply to them if they were employed by the owner of the mine, or, if the terms and conditions of employment are not prescribed by any such law, award, order or determination, such terms and conditions as the Board determines.

**20.** It shall be the responsibility of the owner of a controlled mine to pay the remuneration of all persons employed in or about the mine as officers and employees of the Board and the expenses incurred by the authorised controller of the mine with respect to the operation of the mine.

Payments to be made by owner of controlled mine.

**21.** The owner of a controlled mine who suffers loss (including loss of profits) or damage, by reason of anything done in pursuance of an order under subsection one of section seventeen of this Act in respect of the mine, shall be entitled to such compensation as is determined by agreement between the Board and the owner of the coal mine, or, in the absence of agreement, as is determined by an action by the owner against the Board in any court of competent jurisdiction.

Compensation.

**22.** The provisions of this Part shall extend and apply to any order which, pursuant to section twelve of the Commonwealth Act, is to have effect as an order of the Board in all respects as if this Part had been in force when the order was made and the order was made thereunder.

Orders under Commonwealth Act.

## PART V.

## ACQUISITION OF LAND, COAL AND EQUIPMENT.

DIVISION 1.—*Board may operate Coal Mines.*

**Definition.** **23.** In this Division "land" includes not only an estate in fee simple in land, but also any other estate or interest in land (legal or equitable) and any easement, hereditament, right or privilege in, over, or affecting land.

**Board may operate coal mines.** **24.** The Board may establish, maintain, manage, conduct and operate a coal mine or coal mines, and for those purposes may open a new coal mine, or may re-open a coal mine which has been closed or abandoned, or may acquire an existing coal mine.

**Acquisition of land.** **25.** (1) The Board may acquire land for any of the purposes of this Act—

(a) by agreement or arrangement with any person (including the Crown); or

(b) by appropriation or resumption under this Division.

**Power to acquire particular estate or interest.** (2) The power to acquire land conferred by this Part of this Act shall include power to acquire any particular estate or interest in land (legal or equitable) or any easement, hereditament, right or privilege in, over, or affecting land.

**Method of appropriation or resumption.** **26.** (1) The Board shall not be entitled to acquire land by appropriation or resumption except with the approval of the Premier and of the Prime Minister of the Commonwealth.

(2) Where the Board proposes to acquire land by appropriation or resumption and has obtained the approval referred to in subsection one of this section, it may apply to the Governor through the Minister.

(3)



(3) The Board shall make provision to the satisfaction of the Governor for the payment of compensation for the land, together with interest and all necessary charges and expenses incidental to the appropriation or resumption. No. 44, 1948,

(4) The Governor may authorise the appropriation or resumption of the land.

(5) Thereupon the Governor may—

- (a) appropriate or resume the land by Gazette notification under Division 1 of Part V of the Public Works Act, 1912; and
- (b) notify that the land is vested in the Board.

(6) Thereupon the land shall vest in the Board.

(7) For the purposes of the Public Works Act, 1912, such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act.

(8) For the purposes of this Act, the Public Works Act, 1912, as amended by subsequent Acts, shall be deemed to be amended—

- (a) by inserting after section 4A the following new section:—

4B. The provisions of this Act relating to the acquisition of land shall also apply to the acquisition of any particular estate or interest in land (legal or equitable), and of any hereditament, right or privilege in, over, or affecting land.

- (b) by omitting sections one hundred and forty-one to one hundred and forty-nine (both inclusive).

(9) Where any land upon or in which a coal mine is situated, or upon or in which any works used or capable of being used for or in connection with the operation of a coal mine are situated, is resumed under this section, any plant, equipment, machinery, vehicles and other fixed or movable appliances or works of any description in or upon such land at the date of such resumption used or capable of being used for or in connection with the operation of a coal mine shall vest in the Board.

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The compensation payable in respect of any resumption under this section shall include the value, as at the date of resumption, of plant, equipment, machinery, vehicles, appliances and works vested in the Board pursuant to this subsection. Such value shall be the value agreed upon between the Board and the owner and in default of agreement the value determined by the Land and Valuation Court.

The Land and Valuation Court shall have jurisdiction to hear and determine any matter under this subsection, and its determination shall be final and conclusive.

DIVISION 2.—*Acquisition and Requisition of Coal and Equipment.*

Acquisition  
and requisition  
of coal  
and equip-  
ment.

**27.** (1) For all or any of the purposes specified in paragraphs (a), (b) and (c) of subsection one of section eleven of this Act the Board may—

- (a) issue a direction declaring that any coal specified or described in the direction is acquired by the Board; or
- (b) issue a direction declaring that any equipment of whatever kind (not being a fixture or part of the soil) used or capable of being used in the production, treatment, handling or distribution of coal and specified in the declaration is acquired by the Board; or
- (c) require any person who is the owner of any equipment of whatever kind (whether as a fixture or part of the soil or not) which is specified or described in the requirement and is used or capable of being used in the production, treatment, handling or distribution of coal, including any trucks or vehicles (not being the property of the Crown or of the Commissioner for Railways) to make the equipment available to the Board,

and for any coal or equipment so acquired or required to be made available, or for the use of any equipment so made available, compensation shall be payable by the Board as provided in this section to the owner of the coal or equipment. (2)

(2) Any direction or requirement issued or made **No. 44, 1948.**  
under subsection one of this section shall be served in the  
manner prescribed by subsection two of section fifty-  
six of this Act upon the owner of the coal or equipment  
specified or described in the direction or requirement, or  
where the owner is unknown and cannot with reasonable  
diligence be ascertained, shall be served upon the person  
for the time being in possession of the coal or equipment  
or upon the occupier of the land upon which the same is  
situated.

(3) Any person on whom a requirement under  
paragraph (c) of subsection one of this section is served  
shall, within such time as is specified in the requirement,  
make the equipment available accordingly.

(4) Where any coal or equipment is acquired or  
any equipment is made available under this section, the  
general or special property therein shall pass to the  
Board freed from all mortgages, charges, liens, pledges,  
interests and trusts affecting the coal or equipment and  
the rights and interests of any person in that coal or  
equipment shall, by virtue of this section, be converted  
into a claim for compensation to be satisfied out of the  
compensation payable to the owner of the coal or  
equipment.

(5) The compensation payable by the Board for  
any coal acquired under this section shall be a sum  
equivalent to the price payable for the coal as at the date  
of acquisition in accordance with the current price  
determination as made by the Board and applicable to  
the coal.

(6) The compensation payable by the Board for  
any equipment acquired or required to be made avail-  
able, or for the use of any equipment made available,  
under this section shall include compensation for loss of  
profits and other consequential losses and shall be deter-  
mined by agreement between the Board and the owner  
of the equipment, and in default of agreement shall be  
determined by the Land and Valuation Court, in accord-  
ance with rules of court.

The

No. 44, 1946. The Land and Valuation Court shall have jurisdiction to hear and determine any matter under this subsection, and its determination shall be final and conclusive.

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## PART VI.

## FINANCE.

**Accounts.**

**28.** (1) The Board shall open and maintain an account or accounts at the Commonwealth Bank of Australia into which it shall pay all moneys received by it.

(2) The Board shall, as soon as possible after the close of each financial year, submit to the Premier and to the Prime Minister of the Commonwealth an annual report in the prescribed form of its financial accounts in respect of that year including a balance-sheet, in the prescribed form, in respect of each fund kept in the books of the Board.

(3) A copy of each annual report shall be laid before both Houses of Parliament.

(4) The Board shall keep accounts in such form as is prescribed.

**Coal  
Industry  
Funds.**

**29.** (1) For the purposes of this Act there shall be kept in the books of the Board—

- (a) a Workers' Compensation Fund;
- (b) a Welfare Fund;
- (c) a Coal Industry Fund; and
- (d) such other funds as are prescribed.

(2)

(2) There shall be credited to the Workers' Compensation Fund all premiums and other moneys received under any workers' compensation insurance scheme established by the Board and any other moneys received by the Board for the purposes of the scheme or allocated to the Fund by the Board. No. 44, 1946.

(3) The moneys standing to the credit of the Workers' Compensation Fund shall be applied in payment of any sum required to be paid by the Board under any workers' compensation insurance scheme established by it, and any expenses incurred in the administration of the scheme.

(4) There shall be credited to the Welfare Fund such moneys as are received by the Board as contributions by the Commonwealth and State and such moneys as are allocated to the Fund by the Board or otherwise payable to the Fund under this Act.

(5) There shall be credited to any fund established under paragraph (d) of subsection one of this section, such moneys becoming payable to the Board as are prescribed.

(6) The moneys standing to the credit of the Welfare Fund shall be applied in such manner as the Board determines, so as to promote the welfare of employees in the coal mining industry in the State, their dependants and communities of persons in coal mining areas.

(7) There shall be credited to the Coal Industry Fund all moneys becoming payable to the Board other than moneys payable to the Funds specified in subsections two, four and five of this section.

(8) The moneys standing to the credit of any fund established under paragraph (d) of subsection one of this section shall be applied in meeting such expenditure under this Act and under the Commonwealth Act (including any allocations to the Welfare Fund and the Workers' Compensation Fund) as is prescribed.

(9)

No. 44, 1946.

(9) The moneys standing to the credit of the Coal Industry Fund shall be applied in meeting any expenditure incurred under this Act and under the Commonwealth Act (including any allocations to the Welfare Fund and to the Workers' Compensation Fund) other than expenditure specified in subsections three and six of this section and expenditure prescribed under subsection eight of this section.

Application of amounts paid by Commonwealth to State.

**30.** Any amounts referred to in subsection two of section twenty-two of the Commonwealth Act, paid to the State by way of financial assistance shall, subject to any terms and conditions imposed by the Parliament of the Commonwealth in relation thereto, be applied towards enabling any authority constituted under this Act to exercise the powers and functions vested in it by this Act.

Power of Board to borrow money.

**31.** The Board is to have power to borrow money on overdraft from the Commonwealth Bank of Australia under and subject to the provisions of section twenty-three of the Commonwealth Act.

Investment of moneys.

**32.** Subject to the approval of the Treasurer of the Commonwealth the Board is to have power to invest any moneys standing to the credit of any fund kept in the accounts of the Board.

Disposal of profits.

**33.** The Board is to have power to allocate as it sees fit to the Welfare Fund, to the establishment of reserve funds, or to other purposes of the Board, the net profits (if any), after provision for interest and sinking fund charges, arising from the exercise of any of its powers and functions.

Audit.

**34.** A copy of each report furnished to the Premier by the Auditor-General for the Commonwealth pursuant to section twenty-six of the Commonwealth Act shall be laid before both Houses of Parliament.

Taxation.

**35.** The property, income and operations of the Board shall not be liable to taxation under any law of the State to which the Commonwealth is not subject.

## PART VII.

No. 44, 1946.

## INDUSTRIAL MATTERS.

**36.** (1) The Governor may enter into an arrangement with the Governor-General of the Commonwealth for the constitution, subject to this Act, of a Coal Industry Tribunal and for the appointment of a person to constitute that Tribunal.

Coal  
Industry  
Tribunal.

(2) The person appointed to constitute the Tribunal shall—

- (a) be a person who is or has been a practising barrister or solicitor of the High Court of Australia or of the Supreme Court of any State of the Commonwealth of not less than five years' standing;
- (b) be appointed for a period not exceeding seven years but shall be eligible for re-appointment; and
- (c) shall be deemed to have vacated his office if—
  - (i) he engages in any paid employment outside the duties of his office;
  - (ii) he becomes bankrupt or insolvent, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
  - (iii) except on leave granted by the Governor or the Governor-General of the Commonwealth he absents himself from duty for fourteen consecutive days or for twenty-eight days in any twelve months;
  - (iv) he resigns his office by writing under his hand addressed to the Governor or to the Governor-General of the Commonwealth and the resignation is accepted by the Governor or the Governor-General as the case may be; or

(v)

No. 44, 1946.

(v) he becomes permanently incapable of performing his duties.

(3) An arrangement entered into under this section may provide for the appointment of a person to act as the person constituting the Tribunal during the absence through illness or otherwise of the person appointed to constitute the Tribunal and for the termination of the appointment of that person on the ground of misbehaviour or incapacity and any such provision shall have effect accordingly.

Remuneration of person constituting the Tribunal.

**37.** There shall be payable to the person appointed to constitute the Tribunal such salary and allowances as are fixed by the arrangement made in pursuance of the last preceding section.

Powers, &c., of authorities established under this Part.

**38.** (1) In pursuance of agreement between the Governments of the State and of the Commonwealth it is declared that any authority constituted under this Part is to have all the powers and functions specified in this Part in relation to that authority.

(2) Subject to the Commonwealth of Australia Constitution Act those powers and functions are by this subsection, but not otherwise, vested in the authority in relation to which they are specified to the extent to which they are not in excess of the legislative power of the State.

Cognizance of disputes.

**39.** The Tribunal is to have cognizance of—

- (a) any industrial dispute, extending beyond the limits of any one State, between the Federation on the one hand and employers or associations of employers on the other hand, referred to it by the Federation or the employers or associations parties thereto or by the Board;
- (b) any industrial dispute in the State, not extending beyond the limits of the State, between the Federation on the one hand and employers or associations of employers on the other hand, referred to it by the Federation or the employers or associations parties thereto or by the Board;

(c).



- (c) any industrial matter arising under any award of the Court or of the Tribunal relating to the coal-mining industry in the State referred to it by the Federation or the employers or associations affected by the matter or by the Board;
- (d) any industrial dispute or matter referred to it by a Local Coal Authority; and
- (e) any other matter affecting industrial relations in that industry which the Board declares is in the public interest proper to be dealt with under this Act.

**40.** (1) The Tribunal is to have power to consider and determine any industrial dispute or any matter of which it has cognizance and, for that purpose, is to have (in addition to any other powers conferred on it by this Act or the Commonwealth Act) all powers which are given to the Court as regards an industrial dispute of which the Court has cognizance.

Powers of  
Coal  
Industry  
Tribunal.

(2) The Tribunal shall act according to equity, good conscience and the substantial merits of the case, without regard to technicalities or legal forms, and shall not be bound by any rules of evidence, but may inform its mind on any matter in such manner as it thinks just.

(3) The Tribunal is to have power to refer to a Local Coal Authority for investigation and report any industrial dispute or matter or part thereof within the cognizance of the Tribunal and any Local Coal Authority to which the reference is made shall, as soon as may be, make the investigation and report.

(4) The Tribunal is to have power to refer to a Local Coal Authority for settlement any such industrial dispute or matter or part thereof.

(5) The Tribunal shall not exercise, with respect to any matter which it determines is a local matter, any of the powers specified in this section, unless the dispute or matter is likely, in the view of the Tribunal, to lead to industrial unrest in other localities, but is to refer that local matter to the appropriate Local Coal Authority for settlement.

(6)

No. 44, 1946.

(6) The Tribunal may make its own rules of procedure.

Power to  
appoint  
assessors.

**41.** (1) The Tribunal is to have power, on the application of any original party to an industrial dispute, or, without such application, at any stage of the dispute, to appoint two assessors for the purpose of advising it in relation to the dispute, and the assessors shall discharge such duties as are directed by the Tribunal or as are prescribed.

(2) One of the assessors shall be a person nominated by the Federation, and the other shall be a person nominated by such of the parties to the dispute as in the opinion of the Tribunal have interests in common with the employers.

Enforcement  
of awards  
and  
agreements.

**42.** (1) Any award or order made by the Tribunal in respect of a matter which is within the jurisdiction of the Court shall be binding on the parties, shall be filed in the Court and shall thereupon have effect in all respects and be enforceable as if it were an award or order of the Court.

(2) Where, at the hearing before the Tribunal, an agreement as to the whole or part of any industrial dispute is made in writing between the parties thereto, and the dispute is one which is within the jurisdiction of the Court, the agreement shall be filed in the Court and shall thereupon have effect in all respects and be binding on the parties and enforceable as if it were an award of the Court.

Establish-  
ment of  
Local Coal  
Authorities.

**43.** (1) The Tribunal is to have power to appoint persons to be Local Coal Authorities in the State.

(2) The terms and conditions of employment (other than as to tenure of office) of a Local Coal Authority are to be such as the Tribunal, with the concurrence of the Board, determines.

(3) A Local Coal Authority is to exercise its power within such limits as to locality or otherwise as are specified by the Tribunal.

(4)

(4) The term of office of a Local Coal Authority shall be for a period specified in the instrument of appointment not exceeding three years from the date of appointment. No. 44, 1946.

(5) The Tribunal is to have power to remove a person holding office as a Local Coal Authority from office for misbehaviour or incapacity.

**44.** (1) Subject to this Act and to the Commonwealth Act, a Local Coal Authority is to have, in pursuance of the powers conferred by those Acts, power to— Cognizance  
of disputes.

- (a) settle any dispute as to any local industrial matter likely to affect the amicable relations of employers in the coal-mining industry of the State and their employees who are members of the Federation where such dispute is not pending before the Tribunal;
- (b) investigate and report upon any industrial dispute or matter or part thereof referred to it by the Tribunal;
- (c) settle any local industrial dispute or matter or part thereof referred to it by the Tribunal for settlement;
- (d) inquire into and report to the Tribunal on industrial matters not covered by any award of the Court or award or order of the Tribunal; and
- (e) hear and settle any dispute affecting members of the Federation (other than members excepted by the Board by order) referred to it by a Mine Conciliation Committee.

(2) A Local Coal Authority is to keep the Tribunal advised as early as practicable of any industrial dispute or matter coming or likely to come before the Authority.

(3) If any industrial dispute or industrial matter affecting persons outside the limits of power of a Local Coal Authority, not being a matter, or an industrial dispute with respect to a matter, determined by the  
**Tribunal**

**No. 44, 1946.** Tribunal to be a local matter, is referred to or brought before it, the Local Coal Authority is to refer the industrial dispute or matter to the Tribunal.

(4) At any time before a decision has been made, or a settlement has been effected, by a Local Coal Authority in relation to any matter before it in pursuance of paragraph (a) of subsection one of this section, the Local Coal Authority is to have power, if it thinks fit to refer, and, if so requested by the Board or the Tribunal, is to refer, to the Tribunal the question whether any of the matters in dispute is or is not a local matter or is or is not a matter appropriate to be dealt with under this Part.

(5) A determination made by the Tribunal in pursuance of a reference made under subsection three of this section is to be binding upon the Local Coal Authority, and the Tribunal is to have power to set aside or vary any decision of, or settlement effected by, the Local Coal Authority inconsistent with that determination.

**Powers of  
Local Coal  
Authorities.**

**45.** Subject to this Act, the provisions of sections forty and forty-two of this Act are so far as applicable, to apply with such alterations as are necessary in relation to matters before a Local Coal Authority in pursuance of subsection one of the last preceding section.

**Board to  
provide  
assistance.**

**46.** The Board shall provide such assistance as is required by the Tribunal or by a Local Coal Authority to enable it to carry out any of its powers and functions.

**Review of  
decision,  
&c., of  
Local Coal  
Authorities.**

**47.** (1) Where, in the opinion of the Board, any decision or settlement given or effected by a Local Coal Authority is likely to lead to industrial unrest in localities other than that in respect of which the decision was given or the settlement effected, it is to have power within one month after the date on which the decision was given or the settlement effected, to order that the decision or settlement be reviewed by the Tribunal.

(2) The Board is to have power to direct the stay of the operation of the decision or settlement and, upon the issue of any such direction, such operation is to be stayed accordingly.

(3).

(3) If on that review, the Tribunal is of opinion **No. 44, 1946.** that the decision or settlement is likely to lead to any such industrial unrest, the Tribunal is to have power to re-hear the whole or any part of the industrial dispute or matter in respect of which the decision or settlement was given or effected, but, if not of that opinion, the Tribunal is to have power to certify to the Board to that effect and any stay of the operation of the decision or settlement is thereupon to cease and the decision or settlement is to operate as from the time at which it was given or effected or according to its tenor.

**48.** (1) The Board is to have power to appoint, and when requested by the Tribunal, is to appoint, at any coal mine in the State a Mine Conciliation Committee consisting of an equal number of members representing the persons engaged in the management and conduct of the coal mine, and of members representing the Federation. **Mine Conciliation Committee.**

(2) Where a member of a Mine Conciliation Committee suffers loss of wages by reason of his services on the Committee he shall be compensated by the Board for such loss.

**49.** A Mine Conciliation Committee is to have the duty and power, in respect of the coal mine at which it is appointed— **Functions of Mine Conciliation Committee.**

- (a) to deal with all industrial grievances arising at the coal mine and with any matters so arising which in the opinion of the Committee affect or are likely to affect the production of coal at the coal mine;
- (b) to endeavour by conciliation to maintain harmonious relations between the persons engaged in the management and conduct of the coal mine and the persons engaged in the working of the coal mine; and
- (c) to refer to a Local Coal Authority any dispute affecting members of the Federation (other than members excepted by the Board by order) as to which the Committee cannot agree and refer any other matter as to which the Committee cannot agree to the Board. **50.**

No. 44, 1946.

Award, order, determination or decision not to be challenged or questioned.

Awards of Court inconsistent with award of industrial authority.

Witnesses.

Representation of parties at hearing.

Reporting officers.

**50.** An award, order or determination of the Tribunal or a decision of a Local Coal Authority under this Act shall not be challenged, appealed against, quashed or called into question, or be subject to prohibition, mandamus or injunction, in any court on any account whatever.

**51.** During the currency of any award or order made by the Tribunal or of a decision of any Local Coal Authority under this Act, no award or order made by the Court or by any tribunal having jurisdiction in industrial matters in the coal mining industry dealing with the same subject-matter and inconsistent with the award or order made by the Tribunal or Local Coal Authority (except an award, order or decision made under this Act or the Commonwealth Act) shall be effective.

**52.** (1) Allowances payable to persons attending under this Act as witnesses before the Tribunal or a Local Coal Authority shall be as prescribed by regulations.

(2) In the making of regulations for the purposes of this section provision shall be made for compensation for loss of wages incurred by witnesses by reason of their attendance as such.

**53.** On the hearing, determination or decision of any dispute, industrial dispute, or matter by the Tribunal or a Local Coal Authority under this Act an organisation may be represented by a member or officer of the organisation, and any party not being an organisation may be represented by an employee of that party, but no party shall (except by leave of the person who is hearing, determining or deciding the dispute, industrial dispute or matter and consent of all parties) be represented by counsel or solicitor or paid agent.

**54.** The Board is to have power to appoint reporting officers whose duties shall be to report to the Board upon the facts of any matter which is, or is likely to be, the cause of an industrial dispute of which any authority established under this Part could have cognizance.

## PART VIII.

No. 44, 1946.

## GENERAL.

**55.** (1) If any person claims that he has sustained any loss or damage by reason of an exercise by the Board of the power referred to in paragraph (j) of subsection three of section eleven of this Act, he may, within three months after the exercise of the power, lodge with the Board a claim in writing setting out full particulars of the loss or damage and the question whether any and, if any, what amount of compensation should in all the circumstances of the case be paid to that person shall be settled by agreement between him and the Board, or failing any such agreement, by an action by him against the Board in any court of competent jurisdiction.

Compensation for loss resulting from suspension of contract, etc.

(2) Any person who shall suffer loss or damage by reason of the wrongful act neglect or default of the Board or of any person acting or purporting to act under this Act or in pursuance thereof, or by reason of any invalid or unauthorised order, provision, direction or determination made or given by the Board, or anything done in pursuance of any such order, provision, direction or determination shall be entitled to such compensation as is determined by agreement between such person and the Board or in the absence of agreement as is determined by an action by such person against the Board in any court of competent jurisdiction.

(3) Nothing in this section shall entitle any person to compensation by reason of the performance of any obligation imposed by or under any other Act.

**56.** (1) Where any order, direction or requirement made or given under this Act is published in the Gazette or in the Government Gazette of the Commonwealth it shall be deemed to have been sufficiently served upon, or brought to the notice of all persons concerned or affected thereby.

Manner of serving order.

(2) Any order, direction or requirement made or given under this Act may be made or given so as to apply to any particular person and may be served upon that person by delivering a copy thereof to him by hand or by sending it to him by registered post, or in the case of a direction or requirement may be given orally or by telegram.

**57.**

No. 44, 1946.

Access to  
premises,  
books, &c.

**57.** Any person thereto authorized in writing by the Board shall, for the purposes of this Act, at all times have full and free access to all coal mines in the State and to all buildings, places, books, documents and other papers in the State relating to the production, distribution or use of coal and for those purposes may make extracts from or copies of any such books, documents and papers and may interview any person employed in or in connection with such production, distribution or use.

Persons to  
comply with  
orders.

**58.** Any person who is affected by any order, direction or requirement made or given or deemed to be made or given by the Board in the exercise of any power or function vested in it by this Act or who falls within the intended application or operation of any such order, direction or requirement shall observe and comply with the order, direction or requirement or shall cause it to be observed and complied with.

Power of  
Board to  
perform  
work.

**59.** (1) Where any person fails, wholly or in part, to comply with any order, direction or requirement made or given by the Board in the exercise of any power or function vested in it by this Act, the Board is to have power, by its officers, employees or agents, to do all things which that person by his failure has omitted to do.

(2) Anything done by the Board in pursuance of this section shall, so far as necessary, be deemed to have been duly authorized by the person who failed to comply with the order, direction or requirement.

(3) The Board may recover, in any court of competent jurisdiction, as a debt due to it, from the person who so failed to comply with the order, direction or requirement, the cost incurred by it in doing anything in pursuance of this section.

Offences.

**60.** Any person who refuses or fails to comply with any order, direction or requirement made or given by any authority in exercise of any power or function vested in it by this Act shall be guilty of an offence against this Act, and shall, in the case of a company, be liable to a penalty not exceeding one thousand pounds and, in addition, to a penalty not exceeding one hundred pounds for each day during which the offence continues, and,



and, in the case of an individual, be liable to a penalty No. 44, 1946. not exceeding one hundred pounds or imprisonment for a term not exceeding six months or both.

**61.** (1) The Governor may, upon the recommen- Regulations. dation of the Premier in agreement with the Prime Minister of the Commonwealth, make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed in relation to any matter within the powers and functions vested by this Act in the Board or in any other authority and generally for regulating and carrying into effect any action taken by the Board or any other authority in the exercise of any such power or function.

(2) Such regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of such publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.