

COAL INDUSTRY (AMENDMENT) ACT.

Act No. 47, 1951.

An Act to amend the Coal Industry Act, 1946, ^{George VI.}
in certain respects; and for purposes ^{No. 47, 1951.}
connected therewith. [Assented to, 11th
December, 1951.]

BE

Coal Industry (Amendment) Act.

No. 47, 1951.

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:—

Short title
and
citation.

1. (1) This Act may be cited as the "Coal Industry (Amendment) Act, 1951."

(2) The Coal Industry Act, 1946, as amended by this Act, may be cited as the Coal Industry Act, 1946-1951.

Commence-
ment.

2. This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Continu-
ance of
awards,
etc., under
the
National
Security
(Coal
Mining
Industry
Employ-
ment)
Regulations.

3. (1) In this section, "the National Security (Coal Mining Industry Employment) Regulations" means the regulations having that title in force, or purporting to be or to have been in force, by virtue of the National Security Act 1939-1940 (or of that Act as amended), the Defence (Transitional Provisions) Act 1946 (or of that Act as amended) or the Defence (Transitional Provisions) Act 1950-1951 of the Parliament of the Commonwealth.

(2) An award, order or determination made or given, or purporting to have been made or given, under the National Security (Coal Mining Industry Employment) Regulations or otherwise in operation or purporting to be in operation, by virtue of those Regulations, and an agreement in writing filed in the Commonwealth Court of Conciliation and Arbitration under those Regulations, being an award, order, determination or agreement in force, or purporting to be in force, immediately before the commencement of this section, shall continue in force until revoked by competent authority, and, if varied by competent authority, as so varied.

(3) While an award, order, determination or agreement continues in force by virtue of subsection two of this section, the provisions of the Industrial Arbitration Act, 1940-1951, under which awards and orders of the

the Industrial Commission of New South Wales may be enforced shall apply in relation to the award, order, determination or agreement as if it were an award or order of the Industrial Commission of New South Wales. No. 47, 1951.

(4) This section 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 section, or the application thereof to any person or circumstance is held invalid, the remainder of this section, and the application of such provision to other persons or circumstances shall not be affected.

4. The Coal Industry Act, 1946, is amended—

(a) by omitting from subsection one of section four the definitions of “industrial dispute” and “industrial matter” and by inserting in lieu thereof the following definitions:—

Amendment
of Act No.
44, 1946.
Sec. 4.
(Definitions.)

“industrial dispute” means—

- (a) a dispute (including a threatened, impending or probable dispute) as to industrial matters; and
- (b) a situation which is likely to give rise to a dispute as to industrial matters;

“industrial matters” means all matters pertaining to the relations of employers and employees in the coal mining industry, and, without limiting the generality of the foregoing, includes, in respect of that industry—

- (a) all matters or things affecting or relating to work done or to be done;
- (b) the privileges, rights and duties of employers and employees;
- (c) the wages, allowances and remuneration of persons employed or to be employed;
- (d) the piece-work, contract or other reward paid or to be paid in respect of employment;

(e)

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- (e) the question whether piece-work or contract work or any other system of payment by results shall be allowed, forbidden or exclusively prescribed;
- (f) the question whether monetary allowances shall be made by employers in respect of time when an employee is not actually working;
- (g) the hours of employment, sex, age, qualifications and status of employees;
- (h) the mode, terms and conditions of employment;
- (i) the employment of young persons or of any persons or class of persons;
- (j) the preferential employment or the non-employment of a particular person or class of persons being or not being members of an organisation;
- (k) the right to dismiss or to refuse to employ, or the duty to reinstate in employment, a particular person or class of persons;
 - (l) a custom or usage, whether general or in a particular locality;
- (m) a shop factory or industry dispute, including any matter which may be a contributory cause of such a dispute;
- (n) a question arising between two or more organisations or within an organisation as to the rights, status or functions of the members of those organisations or of that organisation or otherwise, in relation to the employment of those members;

(o)

(o) a claim that the same wage shall be paid to persons of either sex performing the same work or producing the same return of profit or value to their employer; and

(p) a question as to the demarcation of functions of employees or classes of employees, whether as between employers and employees or between members of different organisations,

and includes all questions of what is right and fair in relation to an industrial matter having regard to the interests of the persons immediately concerned and of society as a whole;

“organisation” means an association or body, whether corporate or unincorporate, the objects of which include the protection of the interests of its members in industrial matters, whether in the coal mining industry only or in that industry and other industries (and in particular their representation before industrial tribunals and authorities) and which, in the case of an association or body of employees, is registered under a law of the Commonwealth or of a State or Territory of the Commonwealth;

(b) by omitting from subsection three of section thirty-six the words “that person” and by inserting in lieu thereof the words “the person appointed”;

Sec. 36.
(Coal Industry Tribunal.)

(c) by inserting next after section thirty-eight the following new section:—

New sec. 38A.

38A. In this Part—

(a) references to the coal mining industry include references to the shale mining industry; and

Interpretation.

(b) in the application of the definition of “industrial matters” to this Part, the reference

No. 47, 1951.

reference to the coal mining industry shall be read as including a reference to the shale mining industry.

Subst.
sec. 39.

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

Exercise of
powers of
Tribunal.

39. The Tribunal is to have authority to exercise any of its powers, duties and functions—

(a) of its own motion;

(b) on the application of—

(i) a party to an industrial dispute;

(ii) an organisation or person affected by an industrial matter;

(iii) the Board; or

(iv) an organisation or person bound by an award or order of the Court relating to the coal mining industry or of the Tribunal or bound by an award, order, determination or agreement continued in force by section three of the Coal Industry (Amendment) Act, 1951; or

(c) on reference to it by a Local Coal Authority of an industrial dispute or industrial matter.

Sec. 40.
(Powers
of Coal
Industry
Tribunal.)

(e) (i) by omitting subsection one of section forty and by inserting in lieu thereof the following subsections:—

(1) Subject to this section the Tribunal is to have power to consider and determine—

(a) an industrial dispute extending beyond the limits of any one State;

(b) an industrial dispute in the State;

(c) an industrial matter arising under an award or order of the Court or of the Tribunal relating to the coal mining industry in the State;

(d)

- (d) an industrial matter arising under No. 47, 1951.
an award, order, determination or
agreement continued in force by
section three of the Coal Industry
(Amendment) Act, 1951, and
relating to the coal mining industry
in the State;
- (e) an industrial dispute or matter
referred to the Tribunal by a Local
Coal Authority; and
- (f) any other matter affecting
industrial relations in the coal
mining industry in the State which
the Board declares to be, in the
public interest, proper to be dealt
with under this Act.

(1A) For the purpose of the exercise of
the power referred to in subsection one of
this section, the Tribunal is, subject to this
section, to have (in addition to all other
powers conferred on it by this Act or the
Commonwealth Act) all powers which are
given to the Court in relation to an
industrial dispute of which the Court has
jurisdiction.

(1B) The Board is to have power to make
an order excluding (subject to such
exceptions, if any, as are specified in the
order) from the powers of the Tribunal the
power to make an award or order removing,
or having the effect of removing, from the
operation of a subsisting award, order or
determination (whether of the Tribunal or
otherwise) a class of work or classification
described or specified in the order, or
inserting or having the effect of inserting
in an award, order or determination
(whether of the Tribunal or otherwise)
binding upon an organisation of employees
a class of work or classification for the time
being described or specified in another
award,

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award, order or determination (whether of the Tribunal or otherwise) which is subsisting and binding upon another organisation of employees.

(1c) While an order under subsection (1B) of this section remains in force, the Tribunal shall not exercise the power excluded by the order except in accordance with the terms of the order.

(ii) by omitting from subsection three of the same section the words "any industrial dispute or matter or part thereof within the cognizance of the Tribunal" and by inserting in lieu thereof the words "an industrial dispute or industrial matter, or part of an industrial dispute or industrial matter";

(iii) by omitting from subsection four of the same section the words "any such industrial dispute or matter or part thereof" and by inserting in lieu thereof the words "an industrial dispute or industrial matter, or part of an industrial dispute or industrial matter";

(iv) by omitting subsection five of the same section;

Sec. 41.
(Power to
appoint
assessors.)

(f) (i) by omitting from subsection two of section forty-one the words "the Federation" and by inserting in lieu thereof the words "such of the parties to the dispute as, in the opinion of the Tribunal, have interests in common with the employees";

(ii) by inserting at the end of the same section the following new subsection:—

(3) If default is made in nominating either or both of the assessors or if the parties consent, the Tribunal may appoint an assessor or assessors without nomination;

(g)

(g) by inserting next after section forty-three the following new section:—

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New sec.
43A.

43A. (1) When exercising its powers under section forty-three of this Act in relation to a dispute or matter not affecting members of the Federation (other than members excepted by the Board by order), the Local Coal Authority is to consist of a person appointed to be a Local Coal Authority, as Chairman, and of two or three other members representative of employers and the same number of other members representative of employees, respectively, selected by the Chairman, according to the subject-matter to be dealt with, from among persons appointed by the Tribunal for the purposes of this section.

Constitu-
tion of
Local Coal
Authorities
when
dealing
with
disputes,
etc. not
affecting
the Federa-
tion.

(2) A person so selected is to receive such remuneration and allowances (if any) as the Tribunal, with the concurrence of the Board, determines.

(3) The Chairman and half the other members of a Local Coal Authority constituted in accordance with this section are to form a quorum.

(4) Unless a question arising before a Local Coal Authority constituted in accordance with this section is decided by a unanimous vote, the question is to be decided in accordance with the opinion of the Chairman.

- (h) (i) by omitting from paragraph (a) of subsection one of section forty-four the words "who are members of the Federation";
- (ii) by omitting from paragraph (e) of the same subsection the words "affecting members of the Federation (other than members excepted by the Board by order)";
- (iii) by omitting from subsection three of the same section the words "not being a matter, or an industrial dispute with respect to a matter, determined by the Tribunal to be a local matter";

Sec. 44.
(Cogniz-
ance of
disputes.)

(i)

Coal Industry (Amendment) Act.**No. 47, 1951.****Sec. 45.****(Powers of
Local Coal
Authori-
ties.)****Subst.
sec. 47.****Review of
decision,
etc. of
Local Coal
Authorities.**

(i) by inserting in section forty-five immediately before the word "forty" the word "thirty-nine";

(j) by omitting section forty-seven and by inserting in lieu thereof the following section:—

47. (1) A party to a decision given by a Local Coal Authority is to have the right, within seven days after the giving of the decision, or within such extended time as the Tribunal allows, to apply to the Tribunal for leave to apply to the Tribunal for review of the decision.

(2) The Tribunal is to have power, if it is of opinion that reasons exist why, in the public interest the decision should be reviewed (including the likelihood of the decision leading to industrial unrest) to grant leave and is to have power to fix a time within which the application for review shall be made.

(3) On the application for review, the Tribunal is to have power to rehear the whole or a part of the industrial dispute or matter in respect of which the decision was given and is to have power either to determine the dispute or matter or to remit it to the Local Coal Authority for determination in accordance with such directions as the Tribunal gives.

(4) The operation of the decision is not to be stayed pending the determination of an application under this section unless the Tribunal, when granting leave to apply for review, directs a stay of the decision or settlement.

(5) The Tribunal is to have power to make its own rules of procedure for hearing and determining applications under this section.

(k) (i) by omitting from subsection one of section forty-eight the words "a Mine Conciliation Committee" and by inserting in lieu thereof the words "one or more Mine Conciliation Committees";

**Sec. 48.
(Mine Con-
ciliation
Commit-
tees.)**

(ii).

- (ii) by omitting from the same subsection the words "the Federation" and by inserting in lieu thereof the words "the members of one or more organisations engaged in the working of the coal mine";
- (l) by omitting from paragraph (c) of section forty-nine the words "affecting members of the Federation (other than members excepted by the Board by order)";
- (m) by omitting from section fifty-four the words "of which any authority established under this Part could have cognizance" and by inserting in lieu thereof the words "in respect of which an authority established under this Part could have jurisdiction";
- (n) by inserting next after section fifty-four the following new section:—
- 54A (1) A person shall not—
- (a) wilfully insult or disturb the Tribunal or a Local Coal Authority when exercising powers or functions under this Act;
 - (b) interrupt the proceedings of the Tribunal or a Local Coal Authority when exercising powers or functions under this Act;
 - (c) use insulting language towards the Tribunal or a Local Coal Authority;
 - (d) by writing or speech use words calculated to influence improperly the Tribunal or a Local Coal Authority when exercising powers or functions under this Act or to bring the Tribunal or a Local Coal Authority into disrepute; or
 - (e) by writing or speech use words calculated to influence improperly a witness before the Tribunal or a Local Coal Authority when exercising powers or functions under this Act.

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Sec. 49.
(Functions of Mine Conciliation Committees.)

Sec. 54.
(Reporting officers.)

New sec. 54A.

Protection of Tribunal.

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**Government Railways (Superannuation)
Amendment Act.**

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(2) Any person contravening any of the provisions of subsection one of this section shall be liable to a penalty not exceeding one hundred pounds.
