

STATE COAL MINES (AMENDMENT) ACT.

Act No. 36, 1932.

George V.
No. 36, 1932.

An Act to provide for the establishment of a Board to control State coal mines; to amend the State Coal Mines Act, 1912, and certain other Acts; to vest certain lands in such board; and for purposes connected therewith. [Assented to, 1st December, 1932.]

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,
citation and
commence-
ment.

1. (1) This Act may be cited as the "State Coal Mines (Amendment) Act, 1932."

(2) The State Coal Mines Act, 1912, as amended by the State Coal Mines (Amendment) Act, 1915, is in this Act referred to as the Principal Act.

(3) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.

(4) The Principal Act, as amended by this Act, may be cited as the State Coal Mines Act, 1912-1932.

Amendment of
Act No. 70,
1912.

2. The Principal Act is amended—

Sec. 1 (2).
(Defini-
tions.)

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

(2) In this Act, unless the context or subject-matter otherwise indicates or requires,—

"Board" means the State Coal Mines Control Board.

" Crown

“ Crown lands ” means Crown lands within the meaning of section three of the Mining Act, 1906.

No. 36, 1932.

“ Crown Lands Acts ” means the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts or any Act replaced by such Act.

“ Mining Act, 1906, ” means that Act as amended by subsequent Acts.

“ Prescribed ” means prescribed by this Act or by regulations made thereunder.

“ Private lands ” means private lands within the meaning of section forty-five of the Mining Act, 1906.

(b) by inserting at the end of paragraph (b) of section twelve the words “ and/or use, sell or otherwise dispose of the coal or any product of the coal from such mine.”

Sec. 12.
(Powers of the Minister for carrying on coal-mining.)

3. The Principal Act is further amended by omitting sections thirteen, fourteen and fifteen and by inserting in lieu thereof the following sections:—

Further amendment of Act No. 70, 1912.

13. (1) There shall be a board which shall be a body corporate by the name of “ The State Coal Mines Control Board,” and by that name shall have perpetual succession and a common seal and may sue and be sued in the corporate name, and shall for the purposes and subject to the provisions of this or any other Act be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

Secs. 13, 14, 15.

Incorporation of board.

(2) For the purpose of this Act the board shall be deemed a statutory body representing the Crown.

(3) The board shall consist of the person for the time being holding or acting in the office of the Under Secretary of the Department of Mines who shall be chairman and two other members appointed by the Governor, one of whom shall be a representative of the Department of Railways nominated by the Minister for Transport upon the recommendation of

of

No. 36, 1932.

of the Commissioner for Railways, and the other an officer of the Department of Mines nominated by the Minister for Mines.

(4) No action or suit shall be brought or maintained against any person who is or at any time has been a member of the board for anything lawfully done or omitted by him pursuant to the duties imposed upon him by this Act, nor shall any action, suit, or other proceeding lie against him, nor any costs be payable by him in respect of any proceeding before the board.

Term of office.

14. (1) The appointed members of the board shall hold office for a term not exceeding five years and shall be eligible for reappointment.

On the occurrence of a vacancy, an appointment may be made for the remainder of the unexpired term of the vacant office.

(2) The Governor may appoint a deputy for any member of the board to act for such member during any illness, absence, or inability to attend any meeting.

Every such deputy shall have the immunities and shall during the time he acts as deputy have all the power and authority of such member.

(3) The chairman shall have the right to vote on all occasions.

In the absence of the chairman from a meeting the member nominated by the Minister for Mines shall preside and at that meeting shall have the rights of the chairman.

Any two members of the board shall form a quorum and may exercise all or any powers of the board.

(4) If at any meeting of the board at which two members only are present, such members differ in opinion upon any matter, the determination of such matter shall be postponed to the next meeting of the board at which all three members are present.

The notice convening the next meeting shall refer to the matter, and to the fact that the members had differed in opinion.

(5)

(5) Any act or proceeding of the board shall not be invalidated or prejudiced by reason only of the fact that at the time such act or proceeding was taken, done or commenced, there was a vacancy in the office of any member, or that some informality or irregularity has occurred in the constitution of the board.

(6) The board shall cause minutes of its decisions to be kept upon the official papers, and cause minutes to be kept of the proceedings at formal meetings.

Until the contrary is proved every meeting of the board whereof a minute has been made shall be deemed to have been duly convened and held.

(7) For the purpose of carrying out the powers, duties, authorities and obligations conferred or imposed upon the board by this Act, the board upon such terms and conditions as are approved by the Minister of the department concerned may make use of the services of any of the officers and employees of the Public Service.

15. (1) The Minister shall upon 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 board.

Mine to be vested in board.

(2) Upon publication of such notification the board shall—

(a) exclusively have and may exercise in respect of the mine described in such notification all the powers conferred by section twelve of this Act upon the Minister;

(b) in the case of the State coal mine which prior to the commencement of this Act was operated by the Commissioner for Railways or his predecessors, assume all liabilities and obligations of the said Commissioner or his predecessors including the capital indebtedness to the State incurred in connection with such mine as certified to the Governor by the Auditor-General.

(3)

State Coal Mines (Amendment) Act.

No. 36, 1932.

(3) The board may appoint a manager and such under managers, engineers, surveyors, agents, workmen and servants as may be necessary for each mine.

A person appointed in pursuance of this subsection shall not be deemed an officer within the meaning of the Public Service Salaries Act, 1931-1932.

(4) The board may in the prescribed manner delegate to the manager or other fit person any of its powers or functions, but such delegation shall not interfere with its own execution or performance of these powers or functions. Any such delegation may be revoked or varied in the like manner.

4. (1) The Principal Act is further amended—

- (a) (i) by inserting in subsection one of section sixteen after the word "Minister" the words "and the board";
- (ii) by omitting from subsection two of the same section the word "Minister" and by inserting in lieu thereof the word "board";
- (iii) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection:—

(4) (a) The accounts of the board shall be audited by the Auditor-General, who shall have in respect thereof all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of public accounts; and the Audit Act, 1902, and Acts amending the same, shall apply to the board and its officers in the same manner as it applies to accounting officers of public departments.

(b) The Auditor-General shall report to the board—

(i) whether or not in his opinion—

- (a) due diligence and care have been shown in the collection and banking of income; and

(b)

Further
Amendment of
Act No. 70,
1912.

Sec. 16.

(Accounts to
be kept and
balance-
sheet
prepared.)

(b) the expenditure incurred has been ^{No. 36, 1932.} duly authorised, vouched and supervised; and

(c) any of the moneys or other property of the board has been misappropriated or improperly or irregularly dealt with; and

(ii) as to any other matters which in his judgment call for special notice or which are prescribed by the regulations.

(c) Towards defraying the costs and expenses of such audit the board shall pay into the Consolidated Revenue Fund such sums at such periods as the Colonial Treasurer may decide;

(b) (i) by omitting subsection five of section seven ^{Sec. 7.} and by inserting in lieu thereof the following subsection:—

(5) Such appeal shall be heard and determined by the Land and Valuation Court. ^{Appeal from valuation.}

(ii) by omitting from subsection seven of the same section the words “said judge and one of such assessors” and by inserting in lieu thereof the words “land and valuation court”;

(iii) by omitting subsection eight of the same section;

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

(c) (i) by omitting from paragraph (c) of subsection one of section eight the figures “1900” and by inserting in lieu thereof the figures and words “1912, as amended by subsequent Acts”; ^{Sec. 3 (Provisions of Public Works Act applied.)}

(ii) by omitting from subsection three of the same section the figures “1900” and by inserting in lieu thereof the figures and words “1912, as amended by subsequent Acts”;

(d)

State Coal Mines (Amendment) Act.

No. 36, 1932.

Sec. 17.

(Coal for railways and tramways.)

(d) (i) by omitting from section seventeen the words "Chief Commissioner for Railways and Tramways" and by inserting in lieu thereof the words "Commissioner for Railways and the Commissioner for Road Transport and Tramways respectively";

(ii) by omitting from the same section the words "said Chief Commissioner" and by inserting in lieu thereof the words "said Commissioners";

(iii) by omitting from the same section the words "that the Chief Commissioner" and by inserting in lieu thereof the words "that the Commissioner requiring the coal";

Sec. 19.

(Public account.)

(e) (i) by inserting in section nineteen after the word "Minister" the words "or the board";

(ii) by omitting from the same section all words following the word "Revenue";

Sec. 20.

(Mines subject to Coal Mines Regulation Acts.)

(f) by omitting from section twenty the words and figures "Coal Mines Regulation Act, 1902," and by inserting in lieu thereof the words and figures "Coal Mines Regulation Act, 1912-1931";

Sec. 21.

(Prohibition of residences within half a mile of coal shafts.)

(g) by omitting from section twenty-one the word "Minister" and by inserting in lieu thereof the word "board";

Sec. 22.

(h) by omitting section twenty-two and by inserting in lieu thereof the following section:—

Regulations.

22. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters, forms and fees which by this Act are required or authorised to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act. The regulations may prescribe a penalty not exceeding fifty pounds for any breach thereof or of any provision of this Act, and any such penalty shall be recoverable in a summary manner before a stipendiary or police magistrate or before two justices.

(2) The regulations shall—

- (a) be published in the Gazette; and
- (b) take effect from the date of publication thereof, 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 then 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 the regulations have been laid before such House disallowing any regulation or part thereof, the regulation or part shall thereupon cease to have effect.

(2) Any regulations in force at the commencement of this Act which were made under the authority of the Principal Act shall continue in force until amended or repealed by regulations made by the Governor in pursuance of the amendment made by paragraph (h) of subsection one of this section.

5. The lands in the Land District of Lithgow acquired by the Railway Commissioners for New South Wales as leases for mining and mining purposes either from the Crown or from any individual by virtue of the authority of section 17A of the Government Railways Act, 1912, as inserted by the Government Railways (Amendment) Act, 1920, and used, occupied, or held in connection with the State coal mine, together with all holdings, plant, and machinery used in connection therewith are hereby vested in the board for the purposes of this Act for the like estate and interest which was formerly held by the said Railway Commissioners for New South Wales, and subject to the like rents, royalties, wayleaves, terms and conditions.

Vesting of
State coal
mine at
Lithgow.