

**COAL MINING INDUSTRY LONG SERVICE
LEAVE ACT.**

Act No. 23, 1950.

An Act to constitute a Coal Mining Industry Long Service Leave Trust Fund; to provide for the payment therefrom to employers in the coal mining industry of amounts paid by them to employees in respect of long service leave accrued to such employees under certain awards; to validate certain matters; and for purposes connected therewith. [Assented to, 16th May, 1950.]

**George VI,
No. 23, 1950.**

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Coal Mining Industry Long Service Leave Act.

No. 23, 1950.

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,
commence-
ment and
construc-
tion.

1. (1) This Act may be cited as the "Coal Mining Industry Long Service Leave Act, 1950."

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

(3) 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.

Interpre-
tation.

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

"Administrator" means the Administrator appointed under this Act.

"Award" means any award made by the Coal Industry Tribunal or the Central Reference Board on the fourteenth day of October, one thousand nine hundred and forty-nine and the twenty-fifth day of October, one thousand nine hundred and forty-nine, respectively, relating to long service leave benefits to employees to whom any such award applies and includes any order made pursuant to subclause ten of clause two or clause three of any such award, but save as aforesaid does not include any variation of any such award.

"Employer" means any employer bound by an award.

"Fund" means the Coal Mining Industry Long Service Leave Trust Fund constituted under section three of this Act.

"Prescribed" means prescribed by this Act or the regulations under this Act.

(2)

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(2) A reference in this Act to any Act of the Parliament of the Commonwealth shall include a reference to that Act as amended from time to time. No. 23, 1950.

3. (1) There shall be constituted an account in the Special Deposits Account in the Treasury to be called the Coal Mining Industry Long Service Leave Trust Fund. Coal Mining
Industry
Long
Service
Leave Trust
Fund.

(2) The Fund shall consist of—

- (a) such amounts as are from time to time advanced to the Fund by the Colonial Treasurer, and
- (b) all amounts received by the State from the Commonwealth under the States Grants (Coal Mining Industry Long Service Leave) Act 1949 of the Parliament of the Commonwealth.

(3) The Fund shall be applied—

- (a) to the reimbursement of any employer of the amounts paid by him under and in accordance with the provisions of any award and with the prior approval of the Administrator to any employee or the personal representative of any deceased employee in respect of long service leave due to or shifts of entitlement accumulated by such employee or deceased employee under and in accordance with the provisions of any award;
- (b) in meeting the costs incurred in the administration of this Act.

4. (1) An employer shall be entitled to be reimbursed the amount paid by him under and in accordance with the provisions of any award to any employee or the personal representative of any deceased employee in respect of long service leave due to or shifts of entitlement accumulated by such employee or deceased employee under and in accordance with the provisions of any award if he has obtained the approval of the Administrator prior to making such payment. Payments
to
employers.

(2) The Administrator shall not approve of any payment referred to in subsection one of this section unless he is satisfied that the employee or the personal representative of a deceased employee is entitled to such payment.

5.

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**Payments
to Common-
wealth.**

5. (1) The State Mines Control Authority constituted under the State Coal Mines Act, 1912-1948, shall in respect of coal produced at a State coal mine which is not subject to duties of excise under the Excise Tariff 1921-1949 of the Parliament of the Commonwealth, pay to the Commonwealth for the purposes of the States Grants (Coal Mining Industry Long Service Leave) Act 1949 of the said Parliament such amounts as would have been payable as duties of excise under the said Excise Tariff had such coal been subject to such duties of excise.

In this subsection "State coal mine" means a State coal mine within the meaning of the State Coal Mines Act, 1912-1948.

(2) This section shall be deemed to have commenced upon the first day of November, one thousand nine hundred and forty-nine.

**Adminis-
trator.**

6. (1) There shall be an Administrator of the Fund, who shall be appointed by the Governor.

The person to be so appointed shall be an officer within the meaning of the Public Service Act, 1902, as amended by subsequent Acts.

The Administrator shall exercise and discharge the powers, authorities, duties and functions conferred and imposed upon him by or under this Act.

(2) The Governor may, under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint such officers and employees as may be necessary for the administration of this Act.

**Duties of
Adminis-
trator.**

7. The Administrator shall—

- (a) be responsible for the prudent and efficient administration of the Fund;
- (b) determine all questions of fact arising in connection with payments out of the Fund;
- (c) maintain such records and accounts as may be necessary for the administration of this Act;
- (d) as soon as practicable after the thirtieth day of June in each year prepare and transmit a report to the Minister exhibiting a true and correct view of the financial position of the Fund and of the transactions of the Administrator;

(e)

- (e) at such times and in respect of such matters as the Minister may require prepare and transmit to the Minister a true and accurate report. **No. 23, 1950.**

8. (1) The Administrator may, for any purpose in connection with the administration of this Act,— **Power of Administrator to summon witnesses.**

- (a) summon witnesses;
- (b) receive evidence on oath; and
- (c) require the production of documents or records.

(2) A person who has been lawfully summoned to appear before the Administrator shall not fail to appear, and a person who appears, whether summoned or not, shall not—

- (a) refuse to be sworn as a witness;
- (b) fail to answer any question he is lawfully required to answer; or
- (c) fail to produce any document or records he is lawfully required to produce.

(3) Any person who neglects or fails to comply with any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding fifty pounds.

9. (1) For the purposes of this Act every employer shall maintain such records and in such form as the Administrator may require, and shall at all times correctly record the particulars required by the Administrator and shall when called upon so to do by the Administrator or any person authorised by him in that behalf produce such records for investigation by the Administrator or person so authorised. **Records to be kept by employers.**

(2) Any person who neglects or fails to comply with any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding fifty pounds.

10. (1) Any person who for the purpose of obtaining any payment under this Act for himself or for any other person makes any false statement to or misleads or attempts to mislead the Administrator, or any officer concerned in the administration of this Act, or any other person. **False or misleading statements.**

No 23, 1950. person whomsoever or otherwise commits any fraudulent act or omission shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for twelve months.

(2) Where a person is convicted of an offence under subsection one of this section and it is made to appear that, in consequence of such offence, he was wrongly paid any amount in respect of or purporting to be in respect of long service leave accrued under any award the court may, in addition to the penalty or punishment referred to in that subsection, impose a penalty or additional penalty not exceeding twice the amount so wrongly paid.

**Recovery
of
penalties.**

11. (1) Any penalty imposed by or under this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

(2) Any magistrate or justices may in any proceedings for a penalty under this Act or the regulations make such order as to the payment of costs as may be thought just and may assess the amount of such costs.

**Validation
of awards.**

12. (1) Each award, insofar as it operates or purports to operate, in relation to employers or employees, or the personal representatives of deceased employees, resident or carrying on business in the State of New South Wales, shall have the force of law, and shall be deemed always to have had the force of law, in accordance with its tenor.

(2) Insofar as any award which has the force of law by virtue of this section confers, or purports to confer, power on an authority, other than the Coal Industry Tribunal, to bring the award into operation, that power may be exercised by the Coal Industry Tribunal.

**Regula-
tions.**

13. (1) The Governor may 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 for carrying out or giving effect to this Act.

(2)

(2) In particular and without prejudice to the generality of subsection one of this section the regulations may—

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- (a) prescribe the times within which and the manner and form in which applications for payments under this Act may be made;
- (b) prescribe the particulars to be furnished in support of such applications;
- (c) require any person claiming a payment under this Act to make full and complete disclosure to the Administrator in relation to any such claim.

(3) The regulations may impose a penalty not exceeding twenty pounds for any breach of the regulations.

(4) Any regulations made under this Act shall—

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