

“(2.) For the purposes of this section, the Australian Capital Territory shall be deemed to form part of the State of New South Wales and the Northern Territory shall be deemed to form part of the State of South Australia.”.

Regulations.

18. Section one hundred and seven of the Principal Act is amended by omitting all the words after the words “and in particular” and inserting in their stead the following paragraphs:—

- “— (a) for varying or adding to the conditions governing the erection or operation of commercial broadcasting stations or an appliance for which a broadcast listener’s licence is required to be held; and
- (b) for prescribing matters relating to the making of agreements or arrangements by licensees of commercial broadcasting stations for the provision of programmes or the broadcasting of advertisements, or relating to such agreements or arrangements so made.”.

Appointments to service of the Commission.

19. Where, prior to the commencement of this section, the Australian Broadcasting Commission has purported to admit a person to the service of the Commission, that person shall be deemed to have been admitted to the service of the Commission.

COAL INDUSTRY.

No. 40 of 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 other purposes.

[Assented to 15th August, 1946.]

Preamble.

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 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, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Coal Industry Act 1946*.

Short title

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

Parts

Part I.—Preliminary.

Part II.—Administration.

Part III.—Powers of Joint Coal Board.

Part IV.—Finance.

Part V.—Industrial Matters.

Part VI.—General.

3. The several Parts and sections of this Act shall come into operation on such dates as are respectively fixed by Proclamation.

Commencement

4. In this Act, unless the contrary intention appears—

Definitions.

“ coal ” includes coke and such other by-products and derivatives of coal as are prescribed ;

“ 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 ;

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

“ the Commissioner ” means the Commissioner appointed under the *Coal Production (War-time) Act 1944* ;

“ the Court ” means the Commonwealth Court of Conciliation and Arbitration ;

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

- “ the State ” means the State of New South Wales ;
 “ the State Act ” means the *Coal Industry Act 1946* of the State and includes that Act as amended from time to time ;
 “ the Tribunal ” means the Coal Industry Tribunal constituted in pursuance of this Act.

PART II.—ADMINISTRATION.

Joint Coa
Board.

5.—(1.) The Governor-General may enter into an arrangement with the Governor of the State 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-General or the Governor of the State, he absents himself from duty for fourteen consecutive days or for twenty-eight days in any twelve months ;
- (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 ;
- (e) he resigns his office by writing under his hand addressed to the Governor-General or the Governor of the State and the resignation is accepted by the Governor-General or the Governor, 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 State 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.

(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.

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

Meetings of the Board.

(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 the regulations.

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.

Remuneration and allowances of members of the Board.

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 Australia specified in the instrument of delegation.

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.

Termination
of powers of
Commonwealth
Coal
Commissioner

10. Upon the coming into operation of this section the Commissioner shall cease to be charged with any duty, or to be empowered to exercise any power or function, under the *Coal Production (War-time) Act 1944* in respect of the coal industry, or of coal mines, or of coal produced, in the State :

Provided that nothing in this section shall be deemed to prevent the Commissioner from exercising any power or function under that Act in respect of coal which, having been produced in the State, is outside the boundary of that State and is not the subject of any continuing order, direction or requirement of the Board.

Savings.

11. Notwithstanding anything contained in this Act—

- (a) Where under the *Coal Production (War-time) Act 1944* the Commissioner has, in the exercise of any power or function which is terminated by the last preceding section, made any order, or requirement, given any direction, or taken any action and that order, requirement, direction or action is subsisting or in course immediately prior to the coming into operation of this section, that order, requirement, direction or action shall have effect as if made, given or taken by the Board.
- (b) Any right, power, obligation or liability conferred or imposed on the Commissioner by the *Coal Production (War-time) Act 1944* which has arisen out of anything done or omitted to be done by the Commissioner, in the performance by him or any duty or the exercise by him of any power or function vested or deemed to be vested in him by that Act and which was subsisting immediately prior to the date of the coming into operation of this section, shall, to the extent to which the right, power, obligation or liability is affected by section ten of this Act, be deemed to be vested in or imposed upon the Board.
- (c) Any liability due or deemed to be due or obligation owing, or deemed to be owing, to the Commissioner immediately prior to that date shall be deemed to be due or owing to the Board, and in any contract, agreement or other instrument to which the Commissioner was a party or deemed to be a party, or any reference in which to any other authority is deemed to be a reference to the Commissioner, any reference to the Commissioner or other authority shall be deemed to be a reference to the Board.
- (d) Any privilege or immunity conferred upon any person under the *Coal Production (War-time) Act 1944* arising out of any action taken by the Commissioner and existing immediately prior to the coming into operation of this

section shall, where the power of the Commissioner to take that action is terminated by section ten of this Act, continue for the period during which the effect of such action operates.

- (e) Any property in the State which, immediately prior to the coming into operation of this section, was vested in the Commissioner under the *Coal Production (War-time) Act 1944* shall, upon that date, become vested in the Board.

12.—(1.) Notwithstanding anything contained in any other section of this Act, where, in pursuance of Part IV. of the *Coal Production (War-time) Act 1944*, the Commissioner has issued an order authorizing any person (in this section referred to as "the authorized controller") to exercise functions of control in respect of a coal mine in the State and that order is subsisting immediately prior to the date of the coming into operation of this section, then, upon that date—

Powers, &c., in respect of controlled mines.

- (a) the order shall have effect as an order of the Board ;
 (b) the authorized controller shall hold office subject to removal by the Board ;
 (c) any power, function, right, privilege, obligation or liability of the Commissioner arising from the order shall be transferred to the Board ;
 (d) any power or function of the authorized controller shall be had or exercisable by him subject to the directions of the Board in pursuance of the State Act ; and
 (e) any persons who are employed in or about the mine to which the order relates and who, in pursuance of that Part have become officers or employees of the Commissioner, shall become officers or employees of the Board.

(2.) Nothing in this section shall affect any liability of the Commonwealth arising under section twenty-two of the *Coal Production (War-time) Act 1944*, in respect of anything done or suffered, prior to the date of the coming into operation of this section, under any order of the Commissioner under Part IV. of that Act.

13.—(1.) In pursuance of agreement between the Government of the Commonwealth and of the State 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 Constitution, those powers and functions are by this sub-section, and not otherwise, vested in the Board to the extent to which they are not in excess of the legislative power of the Commonwealth.

14.—(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—

Declared 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) 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 connexion with the production and distribution of coal, and the manufacture, procurement, improvement and standardization 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) 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 ;
- (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 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 of Railways of the State) ;

- (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 as prescribed, 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.

15.—(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 in operation in the mine, the Board is to have power to refer the question to an Inspector of Coal Mines of the State 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.

(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 of the State 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 sub-section (1.) 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.) In this section, the expression "Inspector of Coal Mines", in relation to the State, means any officer of the State who, under the law of the State, has the power or duty of inspecting coal mines.

16. 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. Insurance.

17.—(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. Appointment of officers.

(2.) Officers appointed or persons employed in pursuance of this Act shall not be subject to the *Commonwealth Public Service Act* 1922-1946 and their remuneration and conditions of employment shall be such as are determined by the Board.

(3.) Where an officer appointed, or a person employed, in pursuance of this Act was, immediately prior to his appointment, an officer of the Public Service of the Commonwealth, or an officer or employee of the Commissioner to whom sub-section (3.) of section fifteen of the *Coal Production (War-time) Act* 1944 applied, his service or employment under this Act shall, for the purpose of determining his existing and accruing rights, be taken into account as if it were service in the Public Service of the Commonwealth and the *Officers' Rights Declaration Act* 1928-1940 shall apply as if this Act and this section had been specified in the Schedule to that Act.

18.—(1.) The Board shall, as and when required by the Prime Minister or the Premier of the State furnish reports to the Prime Minister and to the Premier 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-organization, 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 stabilization. Directions on matters of policy.

(2.) The Prime Minister may, in agreement with the Premier of the State, 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 sub-section, 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.

No industrial
conscription.

19. Nothing in this Act shall be deemed to authorize any form of industrial conscription.

PART IV.—FINANCE.

Accounts.

20.—(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 Prime Minister and to the Premier of the State 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 the Parliament.

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

Coal Industry
Funds.

21.—(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.) 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.

(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 sub-section (1.) 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 sub-sections (2.), (4.) and (5.) of this section.

(8.) The moneys standing to the credit of any fund established under paragraph (d) of sub-section (1.) of this section shall be applied in meeting such expenditure under this Act and under the State Act (including any allocations to the Welfare Fund and the Workers' Compensation Fund) as is prescribed.

(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 State Act (including any allocations to the Welfare Fund and to the Workers' Compensation Fund) other than expenditure specified in sub-sections (3.) and (6.) of this section and expenditure prescribed under sub-section (8.) of this section.

22.—(1.) There shall be payable to the Board from time to time, subject to such conditions (if any) as are imposed by the Treasurer of the Commonwealth, such amounts as are appropriated by the Parliament to enable any authority constituted under this Act to exercise the powers and functions vested in it by this Act.

Payments by
Commonwealth.

(2.) There shall be payable to the State, on such terms and conditions as the Parliament thinks fit, by way of financial assistance, such amounts as are, from time to time, appropriated by the Parliament, to be applied by the State towards enabling any authority constituted under this Act to exercise the powers and functions vested in it by the State Act.

23.—(1.) The Board is to have power to borrow money on overdraft from the Commonwealth Bank of Australia upon the guarantee of the Treasurer of the Commonwealth.

Power of Board
to borrow
money.

(2.) The Treasurer may, for and on behalf of the Commonwealth, guarantee the repayment to the Commonwealth Bank of any loan (including interest thereon) made by the Bank under this section.

(3.) The Treasurer may, out of moneys appropriated by the Parliament for the purposes of this Act, make advances to the Board of such amounts and upon such terms as he thinks fit.

(4.) Except with the consent of the Treasurer of the Commonwealth, the Board shall not have power to borrow money otherwise than in accordance with this section.

24. 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.

Investment
of moneys.

Disposal of profits.

25. 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.

26.—(1.) The accounts of the Board shall be subject to inspection and audit at least once yearly by the Auditor-General for the Commonwealth.

(2.) The Auditor-General shall furnish his report on the accounts of the Board to the Prime Minister and to the Premier of the State.

(3.) A copy of each report by the Auditor-General shall be laid before both Houses of the Parliament.

Taxation.

27. The property, income and operations of the Board shall not be liable to income tax, pay-roll tax or land tax under any law of the Commonwealth or to taxation under any law of a State to which the Commonwealth is not subject.

PART V.—INDUSTRIAL MATTERS.

Repeal.

28. Part V. of the *Coal Production (War-time) Act* 1944 is repealed.

Saving.

29. Any award, order or determination made or given under Part V. of the *Coal Production (War-time) Act* 1944 and in force immediately prior to the commencement of this section shall continue in force until rescinded by competent authority and, while it so remains in force, may be varied by such authority.

Coal Industry Tribunal.

30.—(1.) The Governor-General may enter into an arrangement with the Governor of the State for the constitution, subject to this Act, of a Coal Industry Tribunal and for the appointment of a person to constitute that 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 or of the Supreme Court of a State 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-General or the Governor of the State 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-General or to the Governor of the State and the resignation is accepted by the Governor-General or the Governor as the case may be ; or
- (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.

31. 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.

Remuneration of person constituting the Tribunal.

32.—(1.) In pursuance of agreement between the Government of the Commonwealth and of the State 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.

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

(2.) Subject to the Constitution those powers and functions are by this sub-section, 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 Commonwealth.

33. The Tribunal is to have cognizance of—

Cognizance of disputes.

- (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) 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.

Powers of Coal
Industry
Tribunal.

34.—(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 State Act) all powers which are given to the Court or the Chief Judge of the Court as regards an industrial dispute of which the Court has cognizance.

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

Power to
appoint
assessors.

35.—(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.

36.—(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.

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

Establishment
of Local Coal
Authorities.

(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.) 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.

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

38.—(1.) Subject to this Act and to the State 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 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 sub-section (1.) 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 sub-section (3.) 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.

39. Subject to this Act, the provisions of sections thirty-four and thirty-six 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 sub-section (1.) of the last preceding section.

Board to
provide
assistance.

40. 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.

41.—(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.) If on that review, the Tribunal is of opinion 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.

Mine
Conciliation
Committees.

42.—(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.

(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.

Functions of
Mine
Conciliation
Committee.

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

- (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.

44. 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.

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

45. 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 State Act) shall be effective.

Awards of Court inconsistent with award of industrial authority.

46.—(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.

Witnesses.

(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.

47. 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 organization may be represented by a member or officer of the organization, and any party not being an organization 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.

Representation of parties at hearing.

48. 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.

Reporting officers.

PART VI.—GENERAL.

49. 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 sub-section (3.) of section fourteen of this Act, he

Compensation for loss resulting from suspension of contract.

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 the owner against the Board in any court of competent jurisdiction.

Manner of
serving order.

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

(2.) Any order, direction or requirement by, or made under, this Act may be made 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.

Access to
premises,
books, &c.

51. 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 connexion with such production, distribution or use.

Persons to
comply with
orders.

52. 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,

53.—(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.

54. 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. Offences.

Penalty: In the case of a company, One thousand pounds and, in addition One hundred pounds for each day during which the offence continues and, in the case of an individual, One hundred pounds or imprisonment for six months or both.

55. Orders made under this Act shall not be deemed to be Statutory Rules within the meaning of the *Rules Publication Act* 1903-1939 and sections forty-eight and forty-nine of the *Acts Interpretation Act* 1901-1941 shall not apply to any orders so made. Orders and by-laws not Statutory Rules.

56. The Governor-General may, upon the recommendation of the Prime Minister in agreement with the Premier of the State, make regulations not inconsistent with this Act prescribing all matters which 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. Regulations.

TRADESMEN'S RIGHTS REGULATION.

No. 41 of 1946.

An Act to make provision in relation to the Regulation of Tradesmen's Rights of Employment in certain Trades, and Employment of Members of the Forces in those Trades, and for other purposes.

[Assented to 15th August, 1946.]

WHEREAS regulations were made under the *National Security Act* 1939, or under that Act as amended, regulating the employment of persons, and providing for the temporary relaxation of certain customs favourable to recognized tradesmen, in the trades to which this Act applies: Preamble.

AND WHEREAS it is necessary—

- (a) to make provision for dealing with the abnormal industrial conditions directly resulting from the operation of those regulations; and
- (b) to make provision for the training and employment of members of the Forces, as defined in this Act, in the trades to which this Act applies, as a measure of rehabilitation of those members: