

COAL INDUSTRY.

No. 61 of 1951.

An Act to amend the *Coal Industry Act 1946*,
and for other purposes.

[Assented to 11th December, 1951.]

BE it enacted by the King's Most Excellent Majesty, the Senate,
and the House of Representatives of the Commonwealth of
Australia, as follows :—

Short title
and citation.

1.—(1.) This Act may be cited as the *Coal Industry Act 1951*.

(2.) The *Coal Industry Act 1946** is in this Act referred to as the
Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as
the *Coal Industry Act 1946–1951*.

Commencement.

2. This Act shall come into operation on a date to be fixed by
Proclamation.

Continuance of
awards, &c.,
under the
National
Security (Coal
Mining
Industry
Employment)
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*.

* Act No. 40, 1946.

(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 the last preceding sub-section, the provisions of the *Conciliation and Arbitration Act 1904-1951* under which awards and orders of the Commonwealth Court of Conciliation and Arbitration and of Conciliation Commissioners may be enforced apply in relation to the award, order, determination or agreement as if it were an award or order of the Commonwealth Court of Conciliation and Arbitration or of a Conciliation Commissioner.

4. Section four of the Principal Act is amended by omitting the definitions of "industrial dispute" and "industrial matter" and inserting in their stead the following definitions:—

" 'Conciliation Commissioner' means a Conciliation Commissioner holding office under the *Conciliation and Arbitration Act 1904-1951* ;

" '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) 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 organization ;
- (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 organizations or within an organization as to the rights, status or functions of the members of those organizations or of that organization or otherwise, in relation to the employment of those members ;
- (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 organizations,

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 ;

“ ‘ organization ’ 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 ; ”.

5. After section twenty-nine of the Principal Act the following section is inserted :—

Interpretation.

“ 29A. In this Part—

- (a) references to the coal mining industry include references to the shale mining industry ; and
- (b) in the application of the definition of ‘ industrial matters ’ to this Part, the reference to the coal mining industry shall be read as including a reference to the shale mining industry.”.

6. Section thirty of the Principal Act is amended by omitting from sub-section (3.) the words "that person" and inserting in their stead the words "the person appointed".

Coal Industry
Tribunal.

7. Section thirty-three of the Principal Act is repealed and the following section inserted in its stead:—

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

Exercise of
powers of
Tribunal.

(a) of its own motion ;

(b) on the application of—

(i) a party to an industrial dispute ;

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

(iii) the Board ; or

(iv) an organization 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 Act 1951* ; or

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

8. Section thirty-four of the Principal Act is amended—

Jurisdiction
and powers of
Tribunal.

(a) by omitting sub-section (1.) and inserting in its stead the following sub-sections:—

"(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) an industrial matter arising under an award, order, determination or agreement continued in force by section three of the *Coal Industry 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 the last preceding sub-section, the Tribunal is, subject to this section, to have (in addition to all other powers conferred on it by this Act or the State Act) all

powers which are given by the *Conciliation and Arbitration Act 1904-1951* to the Court or a Judge of the Court or to a Conciliation Commissioner in relation to an industrial dispute in respect of which the Court or a Conciliation Commissioner 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 organization of employees a class of work or classification for the time being described or specified in another award, order or determination (whether of the Tribunal or otherwise) which is subsisting and binding upon another organization of employees.

“(1c.) While an order under the last preceding subsection remains in force, the Tribunal shall not exercise the power excluded by the order except in accordance with the terms of the order.”;

- (b) by omitting from sub-section (3.) the words “any industrial dispute or matter or part thereof within the cognizance of the Tribunal” and inserting in their stead the words “an industrial dispute or industrial matter, or part of an industrial dispute or industrial matter,”;
- (c) by omitting from sub-section (4.) the words “any such industrial dispute or matter or part thereof” and inserting in their stead the words “an industrial dispute or industrial matter, or part of an industrial dispute or industrial matter”; and
- (d) by omitting sub-section (5.).

Power to
appoint
assessors.

9. Section thirty-five of the Principal Act is amended—

- (a) by omitting from sub-section (2.) the words “the Federation” and inserting in their stead the words “such of the parties to the dispute as, in the opinion of the Tribunal, have interests in common with the employees”; and
- (b) by adding at the end thereof the following sub-section:—

“(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.”.

10.—(1.) Section thirty-six of the Principal Act is repealed and the following section inserted in its stead :—

“ 36.—(1.) An award or order made by the Tribunal by virtue of the powers and functions vested in the Tribunal by sub-section (2.) of section thirty-two of this Act— Enforcement of awards and agreement.

(a) has effect in all respects as if it were an award or order of the Court or of a Conciliation Commissioner ; and

(b) is binding on—

(i) the parties ; or

(ii) the persons upon whom it is expressed to be binding, including an organization if it is expressed to be binding on an organization,

and the provisions of the *Conciliation and Arbitration Act 1904–1951* under which awards and orders of the Court and of Conciliation Commissioners may be enforced apply in relation to such an award or order made by the Tribunal as if it were an award or order of the Court or of a Conciliation Commissioner.

“ (2.) Where, at the hearing before the Tribunal, an agreement as to the whole or part of an industrial dispute (being an industrial dispute in relation to which powers and functions are vested in the Tribunal by sub-section (2.) of section thirty-two of this Act) is made in writing between the parties to the dispute, the agreement shall be filed in the Court and thereupon—

(a) the agreement has effect in all respects as if it were an award or order of the Court or of a Conciliation Commissioner ;

(b) the agreement is binding on the parties to the agreement ; and

(c) the provisions of the *Conciliation and Arbitration Act 1904–1951* under which awards and orders of the Court and of Conciliation Commissioners may be enforced apply in relation to the agreement as if it were such an award or order.”.

(2.) The Principal Act as amended by this section extends to awards and orders of the Coal Industry Tribunal made before the date of commencement of this Act and to agreements made before the Coal Industry Tribunal before that date.

11. After section thirty-seven of the Principal Act the following section is inserted :—

“ 37A.—(1.) When exercising its powers under the next succeeding section 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 Constitution of Local Coal Authorities when dealing with disputes, &c., not affecting the Federation

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.

“(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.”.

Jurisdiction of
Local Coal
Authorities.

12. Section thirty-eight of the Principal Act is amended—

- (a) by omitting from paragraph (a) of sub-section (1.) the words “who are members of the Federation”;
- (b) by omitting from paragraph (e) of sub-section (1.) the words “affecting members of the Federation (other than members excepted by the Board by order)”;
- (c) by omitting from sub-section (3.) the words “not being a matter, or an industrial dispute with respect to a matter, determined by the Tribunal to be a local matter”.

Powers of
Local Coal
Authorities.

13. Section thirty-nine of the Principal Act is amended by inserting before the word “thirty-four” the word “thirty-three”.

14. Section forty-one of the Principal Act is repealed and the following section inserted in its stead:—

Review of
decisions, &c.,
of Local Coal
Authorities.

“41.—(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.”.

15. Section forty-two of the Principal Act is amended—

Mine
Conciliation
Committees.

- (a) by omitting from sub-section (1.) the words “ a Mine Conciliation Committee ” and inserting in their stead the words “ one or more Mine Conciliation Committees ” ; and
- (b) by omitting from sub-section (1.) the words “ the Federation ” and inserting in their stead the words “ the members of one or more organizations engaged in the working of the coal mine ”.

16. Section forty-three of the Principal Act is amended by omitting from paragraph (c) the words “ affecting members of the Federation (other than members excepted by the Board by order) ”.

Functions
of Mine
Conciliation
Committees.

17. Section forty-eight of the Principal Act is amended by omitting the words “ of which any authority established under this Part could have cognizance ” and inserting in their stead the words “ in respect of which an authority established under this Part could have jurisdiction ”.

Reporting
Officers.

18. After section forty-eight of the Principal Act the following section is inserted :—

“ 48A. A person shall not—

Protection of
Tribunal.

- (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.

Penalty : One hundred pounds.”.