

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1937.

A BILL

To make further provision for the management and regulation of mines; to amend the Coal Mines Regulation Act, 1912-1931; and for purposes connected therewith.

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:—

1. (1) This Act may be cited as the "Coal Mines Regulation (Amendment) Act, 1937.

Short title, citation, and commencement.

(2) The Coal Mines Regulation Act, 1912-1931, 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 Mines Regulation Act, 1912-1937.

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

2. (1) The Principal Act is amended—

(a) (i) by inserting in section three after the definition "Prescribed" the following definition:—

Amendment of Act No. 37, 1912.
Sec. 3.
(Interpretation.)

"Registered" means registered under this Act.

(ii) by omitting from the same section the definition of "Small mine";

(b) (i) by omitting subsection four of section four;

Sec. 4.

(ii) by omitting from subsection five of the same section the words "required to be under the control of a manager";

(Appointment of manager of mine.)

(c) (i) by omitting from subsection one of section five the words "required by this Act to be under the control of a certificated manager";

Sec. 5.

(Daily supervision of mine.)

(ii) by omitting from subsection two of the same section the word "hold" and by inserting in lieu thereof the words "be for the time being registered as the holder of";

(iii) by omitting from subsection four of the same section the words "required by this Act to be under the control of a manager holding a first-class certificate of competency";

(d) (i) by omitting from paragraph (c) of subsection two of section 5A the words "is a holder" and by inserting in lieu thereof the words "is for the time being registered as the holder";

Sec. 5A.

(Deputies and shot-firers.)

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

(5) Nothing in this section shall prevent—

(a) any person holding a position at any mine superior to that of deputy and

and being for the time being registered as the holder of at least a third-class certificate of competency or of service under this Act from observing and fulfilling the duties of a deputy or shot-firer at such mine; or

(b) a deputy in any mine being employed in firing shots in the district assigned to him.

(e) (i) by omitting from subsection one of section fifteen the words "or deputy" and by inserting in lieu thereof the words "deputy or shot-firer"; Sec. 15. (Inquiries into competency.)

(ii) by inserting in the same subsection after the word "deputy" wherever subsequently occurring the word "shot-firer";

(iii) by omitting from the same section the word "gross" wherever occurring;

(f) by inserting in paragraph three of section twenty after the word "deputy" the word "shot-firer"; Sec. 20. (Forgery of, or false declaration as to certificate.)

(g) by omitting subsection six of section twenty-two; Sec. 22 (6). (Employment of mine electricians.)

(h) (i) by omitting from subsection one of section twenty-eight all words after the word "remedied" where firstly occurring; Sec. 28. (Notice by inspector of causes of danger.)

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

(9) Where a notice under this section has been given to the owner, agent or manager, of any mine the Minister may, on the recommendation of the chief inspector, by instrument in writing direct the owner, agent or manager to withdraw the workmen from such mine or such part thereof as may be specified in such instrument.

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When any such direction has been given a workman shall not, except in so far as may be necessary for inquiring into the cause of the danger or for the removal thereof, or for exploration, be readmitted into the mine or part thereof until the matter referred to in the said notice has been remedied and the Minister has informed the owner, agent or manager that the workmen may be readmitted into the mine or part thereof or until the matter has been determined by the court.

If any workmen are employed in the mine in contravention of this subsection the owner, agent or manager of the mine shall be liable to a fine not exceeding *fifty* pounds and to a further fine not exceeding *twenty* pounds for every day during which workmen are so employed.

- (i) (i) by inserting next after subsection one of section thirty-three the following new subsection:—

Sec. 33.
(Court of
Coal Mines
Regulation.)

(1A) In any proclamation under subsection one of this section the Governor may declare that the court therein referred to shall have jurisdiction to hear and determine any inquiry, appeal or reference or any specified class of inquiries, appeals or references or all inquiries, appeals or references other than those of a specified class, without regard to any territorial limits within which the jurisdiction conferred upon that court by or under any other Act is exercisable, and such court shall have jurisdiction accordingly.

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

The powers, authorities, duties and functions of such officers may, in any case in which

which a declaration under subsection (1A) of this section has been made, be exercised and performed without regard to any territorial limits with respect to which the exercise or performance of those powers, authorities, duties or functions would otherwise be subject.

- (iii) by inserting at the end of subsection six of the same section the words "except in cases where, by this Act, the Court is required to make a report or recommendation to the Minister";
- (iv) by inserting in subsection nine of the same section after the word "Act" the words "and in any case in which a declaration under subsection (1A) of this section has been made";

(j) by omitting from subsection one of section thirty-four the words "Provided that in the case of any mine which is not required by this Act to be under the control of a certificated manager, a return shall not be required of the particulars contained in Part B of the said form, unless or until the Minister otherwise prescribes";

Sec. 34.
(Returns by owners, agent, or manager of mine.)

(k) by inserting in section 36A after the word "otherwise" the words "any indication of the development of self heating of the coal underground";

Sec. 36A.
(Certain occurrences to be reported.)

(l) by omitting section thirty-seven and by inserting in lieu thereof the following new section:—

Substituted sec. 37.

37. (1) After the commencement of the Coal Mines Regulation (Amendment) Act, 1937, no person shall commence any working for the purpose of opening a shaft for or the seam of any new mine of coal or of shale or shall recommence the working of any shaft or seam in a mine of coal or of shale which has been abandoned or the working of which has been discontinued for a period exceeding two months whether

Restriction as to opening of new mine and as to recommencement of working of abandoned mine.

whether or not such coal or shale is reserved to the Crown, except with the consent in writing of the Minister first had and obtained.

If any person fails to comply with this subsection he shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding *fifty* pounds and to a further penalty not exceeding *five* pounds for every day during which the mine is worked.

(2) In any of the following cases, Notice of opening, abandonment, etc., to be given to inspectors, namely,—

- (a) where any working is commenced for the purpose of opening a new shaft for or a seam of any mine;
- (b) where a shaft or seam of any mine is abandoned, or the working thereof discontinued;
- (c) where the working of a shaft or a seam of any mine is recommenced after any abandonment or discontinuance for a period exceeding two months; or
- (d) where any change occurs in the name of any mine, or in the name of the owner, agent, manager, under-manager, or mine electrician of any mine to which this Act applies, or in the principal officers of an incorporated company which is the owner of a mine,

the owner, agent or manager of the mine shall give notice thereof to the inspector of the district within fourteen days after the commencement, abandonment, discontinuance, recommencement, or change; and if such notice is not given, the owner, agent, or manager shall be guilty of an offence against this Act.

- (m) (i) by inserting in subsection one of section 39A after the word "competency" the words "or a surveyor's certificate of service"; Sec. 39A. (Accuracy of plans to be certified.)
- (ii)

- (ii) by inserting in subsection three of the same section after the words "experience in" where lastly occurring the word "surveying";
- (iii) by omitting subsection five of the same section and by inserting in lieu thereof the following new subsections:—

(5) A surveyor's certificate of service may be granted by the Minister to every person who—

- (a) satisfies him that during the period extending from the first day of January, one thousand nine hundred and twenty-one, to the first day of January, one thousand nine hundred and thirty-one, he had for at least five years in the aggregate satisfactorily performed the duties of a mine surveyor at a mine which was, during the whole of the period within which he performed such duties, under the control of a certificated manager; and
- (b) produces satisfactory evidence of his sobriety and good conduct; and
- (c) makes application to be granted a certificate under this subsection within two years after the commencement of the Coal Mines Regulation (Amendment) Act, 1937.

(6) Every such certificate of service shall contain particulars of the name, and of the place and date of birth, and the length and nature of the previous service of the person to whom the same is granted.

A certificate of service may be refused to any person who fails to give a full and satisfactory account of the particulars aforesaid, or to pay such registration fee as may be prescribed.

(7)

(7) For all other purposes relating to the cancellation and suspension of surveyors' certificates of service and the registration of the holders of such certificates, the provisions of this Act relating to managers' certificates of competency shall, mutatis mutandis, apply and have effect.

(n) by omitting subsection four of section forty-five;

Sec. 45.
(Payment of persons employed in mines by weight.)

(o) by inserting at the end of section 53A the following new subsection:—

Sec. 53A.
(Contractors.)¹

(4) When any part of the operations in a mine is carried on by a contractor a copy of the instrument, if any, evidencing the contract, or where there is no such instrument a memorandum stating the terms of the contract shall be lodged with the Under-Secretary, Department of Mines, if and when required by a notice in writing given personally or by post to the owner, agent or manager of the mine or to the contractor by the Under-Secretary.

Any owner, agent, manager or contractor who neglects or fails to comply with the requirements of a notice under this subsection shall be guilty of an offence against this Act.

This subsection applies to and in respect of contracts in existence immediately before as well as to contracts made after the commencement of the Coal Mines Regulation (Amendment) Act, 1937.

(2) Where, immediately before the commencement of this Act, a person was acting as manager of a small mine and qualified so to act by reason of the fact that he was, for the time being, registered as the holder of at least a third-class certificate under the Principal Act and of a permit to be manager from the chief inspector, such person

person may, after such commencement, continue to act as manager of such mine for a period terminating on the day upon which his then current permit from the chief inspector expires or for a period of six months from the commencement of this Act, whichever is the shorter period.

3. The Principal Act is further amended—

Further amendment of Act No. 37, 1912. New Division 11.

- (a) by inserting next after section 53A the following new Division:—

DIVISION 11.—*Special provisions as to methods or systems of working mines and as to mines working seams of coal liable to self heating.*

53B. (1) Notwithstanding anything contained elsewhere in this Act, where the Minister is satisfied on the report of the chief inspector that the method or system of working employed in the development of or in any subsequent operations in any mine is such as to tend to the bodily injury of any person or result in undue loss of coal he may give notice in writing to the owner, agent or manager of the mine—

System of working may be prohibited.

- (a) stating the particulars in which it is considered the method or system of working is dangerous or defective, or tends to undue loss of coal; and
(b) requiring that such method or system of working be immediately abandoned or so modified as to remedy the dangers, defects, or undue loss of coal,

and the owner, agent, or manager shall forthwith comply with such requisition.

(2) Where evidence of self heating of coal has been detected underground in any mine and the circumstances have, in pursuance of the provisions of section 36A of this Act, been reported to the inspector of the district in which the mine is situated, such inspector may, after examination

examination of the mine or part of the mine affected, require the manager to remove or otherwise effectively deal with the heated material, or by notice in writing served on the manager, require him to seal off in a manner approved by the inspector such part of the mine as may be specified in the notice.

The manager shall forthwith give effect to any requirement of an inspector made under this subsection.

An appeal shall lie to the court from any such requirement, but the fact that an appeal has been lodged or is pending shall not exonerate the manager from the obligation to comply with any such requirement.

Any such appeal shall be made in the manner and within the time prescribed.

(3) Where any part of a mine has been sealed off on account of heating or fire such part shall not be re-entered or any seal removed or broken unless notice of intention to do so has been given to the inspector of the district at least forty-eight hours before any such re-entry, removal or breaking is effected.

(4) In any mine where the coal is liable to self heating adequate measures shall be taken to prevent access of air to the underground workings or goaf areas through surface falls.

(5) Any owner, agent or manager who neglects or fails to comply with any requirement made under this section or with any of the provisions of this section shall be guilty of an offence against this Act.

(b) by inserting in subsection three of section one at the end of the matter relating to Part I the following words:—

Sec. 1 (3).
(Division into
Parts.)

DIVISION 11.—Special provisions as to methods or systems of working mines and as to mines working seams of coal liable to self heating—s. 53B.

4.

4. The Principal Act is further amended—

Further amendment of Act No. 37, 1912, s. 54. (General rules.)

(a) by omitting from paragraph (d) of general rule one in section fifty-four the words "In the case of mines required by this Act to be under the control of a certificated manager";

Rule 1.

(b) by omitting from general rule two in the same section all words after the word "air-way" and by inserting in lieu thereof the following paragraphs:—

Rule 2.

No fire shall be used for ventilation in any mine or seam newly opened after the thirty-first day of December, one thousand nine hundred and twenty-six.

The Minister may, in any case where, in his opinion, the circumstances so warrant, grant exemption from all or any of the provisions of this rule in respect of any mine.

(c) by omitting from general rule twelve in the same section all words after the words "Schedule Five to this Act" and by inserting in lieu thereof the words—

Rule 12.

"The said Schedule may be amended by regulations made under section 56B of this Act."

(d) by omitting from general rule 14A in the same section the words "This rule shall not apply in the case of a small mine" and by inserting in lieu thereof the words "The Chief Inspector may for such reasons as appear to him to be sufficient exempt any mine from the provisions of this rule";

Rule 14A.

(e) by omitting paragraph three of general rule forty-four in the same section and by inserting in lieu thereof the following new paragraph:—

Rule 44.

(Bath and change house accommodation at mines.)

(3) The Minister may for such reasons as appear to him to be sufficient grant exemption from all or any of the provisions of this rule.

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5. The Principal Act is further amended—

- (a) by omitting subsection three of section 54A and by inserting in lieu thereof the following new subsection:—

Sec. 54A.
(Bath and change house accommodation at coke works.)

(3) The Minister may, for such reasons as appear to him sufficient, grant exemption from all or any of the provisions of this section.

- (b) by omitting paragraph (iii) of the proviso to subsection one of section 56A.

Sec. 56A.
(Travelling on haulage roads.)

6. The Principal Act is further amended—

- (a) by omitting sections 56B and 56C and by inserting in lieu thereof the following new section:—

Further amendment of Act No. 37, 1912. Substituted sec. 56B and repeal of sec. 56C.

56B. (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 to carry this Act into effect.

Regulations.

(2) Without prejudice to the generality of the power conferred by subsection one of this section the Governor may—

- (a) make such regulations for the conduct and guidance of persons acting in the management of mines or employed in or about mines as may appear best calculated to prevent dangerous accidents and to provide for the safety, health, convenience and proper discipline of persons employed in or about mines;
- (b) make regulations dealing with—
- (i) the care and treatment of horses or other animals used in or about mines;
- (ii) the ventilation of mines and the regulation of the use of mechanical ventilating appliances;

(iii)

- (iii) the nature, maintenance, examination and inspection of all machinery used in or about mines;
- (iv) the installation and use of electricity;
- (v) the precautions to be taken against coal dust;
- (vi) the form of any notice, requisition, or document required by or under this Act, and for which express provision is not made in this Act;
- (vii) the method of service of any notice, requisition or document required to be served on or sent to any person by or under this Act and for which express provision is not made in this Act;
- (viii) any other matter dealt with in the general rules set out in section fifty-four of this Act;
- (ix) any other matter whatsoever involved in or connected with the control and working of mines and of works in which coal is carbonised or otherwise treated where such works are adjacent to and belonging to the mine.

(3) The regulations may apply to all mines or to any specified class or description of mines or to all mines other than mines of a specified class or description, and may provide for the exemption of any specified class or description of mines either absolutely or subject to conditions specified in the regulations.

(4) The regulations 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;

(c)

(c) be laid before both Houses of Parliament within fourteen sitting days 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.

(b) by omitting subsections five and six of section fifty-seven.

Sec. 57.
(Special rules.)

7. The Coal Mines Regulation (Amendment) Act, 1926, is amended—

Amendment of Act No. 19, 1926.
(Revision.)

(a) (i) by omitting subsection one of section two;
(ii) by omitting subparagraph (ii) of paragraph (a) of subsection two of the same section;

Sec. 2.

(b) by omitting paragraph (c) of section eight;

Sec. 8.

(c) by omitting paragraph (b) of subsection two of section nine.

Sec. 9.

