

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1923.

A BILL

To make better provision for the safe working of engines and boilers ; to amend certain Acts ; 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. This Act may be cited as the "Engine-drivers Short title. and Boiler Attendants Act, 1923."

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Engine-drivers and Boiler Attendants.

2

2. Paragraph (f) of subsection two of section eight, Repeal. and Part V of the Scaffolding and Lifts Act, 1912, and section forty-six and Form D of the Regulations in the Second Schedule to the said Act, are repealed. .

3. (1) This Act shall extend to and be binding on Application of Act. the Crown.

(2) This Act shall not apply to any engine or boiler—

- (i) used by or under the authority of the Railway Commissioners for New South Wales ;
- (ii) forming part of the propelling machinery of any ship, raft, punt, boat, or floating vessel ;
- (iii) used exclusively for domestic purposes in a private dwelling occupied by not more than one family ;
- (iv) used at or in connection with any mine within the meaning of the Mining Act, 1906, the Mines Inspection Act, 1901, the Coal Mines Regulation Act, 1912, or any Act amending the same.

(3) This Act shall not apply to—

- (i) any motor car, motor vehicle, or motor tractor ;
or
- (ii) any internal combustion engine having an area of cylinder or combined area of cylinders not exceeding one hundred and fourteen square inches ;
- (iii) any steam-engine or any internal combustion engine owned or hired by any person being a bona fide agriculturist or dairy-farmer and used exclusively by such person for his own agricultural or dairy-farming pursuits ;
- (iv) any pump not capable of pumping more than six thousand gallons per hour.

4. In this Act, unless the context otherwise Interpreta-
tion. requires,—

“ Board ” means engine-drivers’ board appointed under this Act.

“ Boiler ” means a closed vessel used for generating steam under pressure greater than atmospheric pressure, excepting such vessels as may be prescribed

prescribed and which are used for generating steam at a maximum pressure not exceeding five pounds per square inch above atmospheric pressure, and whose cubical contents do not exceed fifty cubic inches.

“Certificate” means certificate of competency or service granted under this Act.

“Chief Inspector” means the engineer of the Department of Labour or any person acting in that capacity.

“Engine” means a piece of mechanism used to convert heat or some other form of energy into mechanical work; or a machine for the development of power from some source of energy such as coal, gas, oil, compressed air, or electricity, but does not include—

(a) an electric motor which does not develop more than one hundred brake horse-power or any compressed air or hydraulic machine which does not utilise power in excess of one hundred horse-power unless the same is used for or in connection with—

(i) any cableway, sheerlegs, derrick crane, gantry bridge crane, cantilever crane, jib travelling crane, or locomotive crane; or

(ii) any hoisting or hauling appliance used in connection with the erection, demolition, alteration, renovation, or repair of buildings or structures or used in excavating, or for lifting or otherwise handling molten metal or which is provided with a lifting magnet; or

(iii) any other hoisting or hauling appliance not hereinafter excluded which has a rated lifting capacity exceeding five tons;

(b) any self-contained hoisting block unless the same be fitted with a motor-driven carriage and operated from a cab attached thereto, or any

Engine-drivers and Boiler Attendants.

- any whip, or any chain, rope or belt conveyer, as also any telpher, capstan, or hauling machines of a like kind; or
- (c) any dynamo or other electric generator, rotary converter, or rotary transformer whose rated output does not exceed 74·6 kilo-watts; or
- (d) any static transformer; or
- (e) any electric or compressed air locomotive or tractor, the draw-bar pull of which on a level rail track does not exceed two thousand pounds; or
- (f) any power machine, machine tool or other trade or industrial implement which is operated by a tradesman or craftsman in the performance of his trade or craft.

“ Minister ” means the Minister for Labour.

“ Premises ” means and includes any factory, mill, shop, yard, shed, building, and any farm, paddock, field, road, place, and any punt, raft, boat, ship, or floating vessel not propelled by its own motive power, upon or in which an engine or boiler is kept, used, worked, or in operation.

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

5. (1) For the purposes of this Act there shall be an engine-drivers' board, consisting of three members, one of whom shall be the chief inspector, who shall also be chairman of the board. Constitution of board.

(2) The other two members shall be appointed by the Governor, and shall be persons who, in the opinion of the Minister, are qualified and competent to perform the duties of the office, and to represent the interests of employers and employees respectively.

(3) The first members of the board shall hold office for a period not exceeding twelve months.

(4) Members subsequently appointed shall hold office for such periods as shall be prescribed, and must hold a first-class engine-drivers' certificate under this Act.

Engine-drivers and Boiler Attendants.

5

(5) Any two members of the board shall form a quorum.

(6) The board shall meet at such times and conduct their business in such manner as they may decide or as may be prescribed.

(7) The members of the board shall be paid such salaries or fees as may be prescribed.

6. The board shall have power to grant the following Classes of certificates. certificates of competency or service, namely :—

(1) First-class engine-driver's certificate.

(2) Second-class engine-driver's certificate.

(3) Third-class engine-driver's certificate.

(4) Locomotive and traction engine-driver's certificate.

(5) Crane and hoist driver's certificate.

(6) Internal combustion engine-driver's certificate.

(7) Electric motor-driver's and electric generator attendant's certificate.

(8) Boiler attendant's certificate.

7. (1) Certificates of competency shall be granted Examinations. only after examination by the board.

Examinations for certificates of competency shall be supervised by such persons as may be appointed by the board, and shall be held at such places and at such times as may be prescribed.

(2) On an applicant passing the prescribed examination, and upon the board being satisfied of his fitness in all other respects, the board may, upon payment of the prescribed fees, grant a certificate of competency of the appropriate grade or description and in the prescribed form.

(3) The board may without examination, and upon payment of the prescribed fees, grant a certificate to any person who before the expiration of six months from the passing of this Act makes application therefor, and produces evidence satisfactory to the board that he has had such experience as may be prescribed.

(4) The board may refuse a certificate on any grounds it deems advisable.

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Engine-drivers and Boiler Attendants.

8. (1) No person shall, after the expiration of six months from the passing of this Act, be employed or act in the capacity of engine-driver or attendant in charge of any engine or boiler, unless he is the holder of a certificate of the grade prescribed: Provided that any person who is not the holder of a certificate may be employed or act as a boiler attendant at a range of boilers so long as they are in the charge of a person who is the holder of a certificate of the grade prescribed.

Engine-driver or attendant in charge of engine or boiler to hold certificate.

(2) The chief inspector may, subject to such conditions as he thinks fit, exempt any engine or boiler from the requirement as to having a certificated driver or attendant for an engine or boiler, as the case may be, for such time as he may prescribe if it is proved to his satisfaction that compliance with such requirement is unnecessary or would unduly stop the working of the engine or boiler.

(3) If upon the report of an inspector the chief inspector is of opinion that it is impracticable or dangerous for any certificated engine-driver to take sole charge of any steam-engine and its boiler at the same time, he shall serve the owner, or user, or person in charge, or apparently in charge, or exercising control or supervision over the engine and boiler, or over the driver thereof, with notice in writing requiring him, on and after a date to be stated in such notice, to place the boiler in the charge of some person other than the certificated engine-driver in charge of the engine.

Any person upon whom such notice has been served who fails to comply therewith shall commit a breach of this Act.

9. (1) A first-class engine-driver's certificate shall entitle the holder thereof to drive and have charge of any stationary engine, including a steam turbine and its boilers, provided that such engine and boilers are so situated that the chief inspector is satisfied that the engine-driver can efficiently discharge his duties without danger to any person or liability of accident to such engine and boilers or the attendant plant.

Status of certificates.

(2) A second-class engine-driver's certificate shall entitle the holder thereof to drive and have charge of any

Engine-drivers and Boiler Attendants.

7

any stationary engine the area of cylinder or combined area of cylinders of which does not exceed five hundred square inches, and its attendant machinery and boilers, or of any stationary engine the area of cylinder or combined area of cylinders of which does not exceed seven hundred and fifty square inches, and its attendant machinery, but not also of its boilers.

(3) A third-class engine-driver's certificate shall entitle the holder thereof to drive and have charge of any stationary engine the area of cylinder or combined area of cylinders of which does not exceed one hundred and fourteen square inches, and of its boilers.

(4) A locomotive and traction engine-driver's certificate shall entitle the holder thereof to drive and have charge of any locomotive, traction engine, steam roller, steam waggon, or other steam driven road vehicle, and of its boiler (if any) propelled or moved from place to place by its own motive power, and of any stationary engine and its boilers of third-class requirements, as prescribed.

(5) A crane and hoist driver's certificate shall entitle the holder thereof to drive and have charge of any cableway, sheerlegs, crane, traveller, or hauling or hoisting appliance or other appliance of a like kind operated by power (other than hand or animal power) used for the purpose of lifting, lowering, hauling, or otherwise handling men or materials, and of such appliances operated by steam and of their boilers, as may be prescribed.

This subsection does not apply to any lift within or attached to any building or structure to which the provisions of the Scaffolding and Lifts Act, 1912, applies.

(6) An internal combustion engine-driver's certificate shall entitle the holder thereof to drive and have charge of any internal combustion engine.

(7) An electric motor driver's and electric generator attendant's certificate shall entitle the holder thereof to drive and have charge of any electric motor, dynamo, or other electric generator, rotary converter or rotary transformer, and in respect of which no other certificate issued under this Act is necessary.

(8)

(8) A boiler attendant's certificate shall entitle the holder thereof to take charge of any boiler, together with its accessories.

A certificate of any of the classes mentioned in subsections one to five inclusive of this section shall, if granted in respect of any engine directly operated by steam, entitle the holder thereof to have charge of any boiler.

10. Notwithstanding anything contained in this Act, the board may restrict or extend the privileges conferred by any certificate as they may deem advisable. Restriction or extension of certificates.

Such restriction or extension shall be endorsed on the face of the certificate and may be cancelled by the board upon production of satisfactory evidence and payment of the prescribed fees. No application for a higher grade certificate shall be entertained until such restriction has been cancelled.

11. (1) On payment of the prescribed fees the board may, without examination, grant a certificate to any person who satisfies the board that he is a resident in New South Wales, and is a person of good repute, and is the holder of a corresponding certificate of equal grade, granted after examination by any duly constituted and recognised authority within or without the State. Reciprocity.

The grant of any such certificate shall be made by endorsement of the original certificate or in such manner as may be prescribed.

(2) On payment of the prescribed fees the board may, without examination, grant to any person who satisfies the board that he is resident in New South Wales, and is a person of good repute, and is the holder of a certificate granted without examination by any duly constituted or recognised authority without the State, or is the holder of a naval discharge certificate of engine-room rating, a certificate of such class as the board thinks fit.

(3) Notwithstanding anything contained in this section, where any person the holder of a certificate without the State makes application to the board for a corresponding certificate, and such application is under consideration, the chairman of the board or deputy may,

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on payment of the prescribed fees, issue to him an interim certificate which shall be returned to the board at its next sitting.

12. On payment of the prescribed fees and on proof that the applicant is of good repute and is resident in New South Wales, and on production of a certificate granted after examination by the Board of Trade of the United Kingdom of Great Britain and Ireland, or by any board in His Majesty's dominions having authority from the said Board of Trade to grant certificates, the board shall grant, without examination, the following certificates of competency :—

Recognition
of marine
certificates.

To the holder of a first-class or second-class marine engineer's certificate—A first-class engine-driver's certificate.

To the holder of any other marine engineer's or a marine engine-driver's certificate, such engine-driver's certificate as may be prescribed.

13. Any person who is the holder of any certificate, and who drives or takes charge of any engine or takes charge of or attends to any boiler to which his certificate is not applicable, shall be liable to have his certificate suspended or cancelled.

Misuse of
certificate,
&c.

Any such person who has had his certificate suspended or cancelled, and any person who without holding a certificate drives or takes charge of any engine or takes charge of or attends to any boiler, shall be guilty of an offence.

14. Any person who obtains or attempts to obtain any certificate by fraud or fraudulent means shall be liable to a penalty not exceeding *twenty* pounds.

Obtaining
certificate
improperly.

Every certificate improperly obtained may be cancelled by the board, and the holder thereof shall, when called upon by the board, return such certificate.

Every person who uses any such certificate after notice by the board that the same has been cancelled shall be liable to a penalty not exceeding *twenty* pounds.

15. (1) If at any time it appears to the board that the holder of a certificate has been guilty of any offence, misconduct, or negligence, or has developed any symptom of epilepsy or other serious complaint which would

Cancellation
or suspension
of certificate.

would render him unfit to be trusted to efficiently perform his duties, he may be called upon by the board to show cause why his certificate should not be cancelled, suspended, or reduced.

(2) The board or other authority appointed by the Minister shall inquire into the matter.

If the inquiry is not made by the board, the evidence shall be taken in writing, and shall be forwarded to the board for consideration.

(3) At any such inquiry evidence shall be taken upon oath, and for the purposes of holding such inquiry the board or other such authority shall have the power of a magistrate sitting in a court of petty sessions.

(4) If the holder of the certificate does not appear, or if the board finds that he has been guilty of any offence, misconduct or negligence, or that he is suffering from any such complaint as aforesaid, the board may disqualify him by cancelling or suspending his certificate for such period as the board thinks fit; and during the period of such disqualification the person so disqualified shall be deemed to be without a certificate. The order of the board shall be final.

16. If any certificate is lost or destroyed the holder shall make a statutory declaration with respect thereto; and the board, if satisfied with such declaration, may issue a fresh certificate to the person entitled to hold the same on payment of the prescribed fees.

Duplicate certificate in case of loss.

Such certificate shall be endorsed, setting out the reasons for the issue thereof, and shall be as effective as if it were the original certificate.

17. Notwithstanding anything to the contrary in this Act, every applicant for a certificate shall satisfy the board that his knowledge of the English language is sufficient to enable him to perform the duties required of the holder of a certificate.

Knowledge of English language necessary.

18. A register shall be kept of all certificates issued in which the prescribed particulars shall be recorded.

Register to be kept.

19. (1) All penalties and fees imposed by or payable under the provisions of this Act or any regulation made thereunder may be recovered before a stipendiary or police magistrate or any two justices in petty sessions.

General provisions as to penalties.

(2)

(2) Every person guilty of an offence against this Act for which no other penalty is provided shall be liable to a penalty not exceeding *twenty* pounds.

(3) No prosecution for any breach or contravention of this Act shall be instituted without the authority of the Minister.

20. An inspector under any Act which is administered by the Minister, and any employee of the Crown who is authorised by the Minister, either generally or specifically, shall have power—

Powers of
inspectors.

- (1) to enter and inspect at all reasonable hours by day or night any premises where there is, or where he has reasonable cause to believe there is, any engine or boiler, to ascertain whether the provisions of this Act are being complied with ;
- (2) to take with him any constable or other person ;
- (3) to require the production of any certificate which is by this Act required to be held by any person employed as, or acting in the capacity of, engine-driver or boiler attendant, and to inspect, examine, and copy the same ;
- (4) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are complied with ;
- (5) subject to section nineteen, to conduct prosecutions in connection herewith, whether the information be laid in his name or not, to take proceedings for the punishment of offences against this Act, and to attend and examine witnesses at any inquest into the cause of the death of any person following upon an explosion of or accident to an engine or boiler, or any part thereof ;
- (6) to exercise such other powers as may be necessary or expedient for carrying out the provisions of this Act, and are prescribed.

21. Any person who—

- (a) wilfully obstructs an inspector or other person duly authorised to exercise any powers or functions under this Act in the execution of any part of his duty under this Act ; or

Penalty for
obstructing
inspector.

(b)

- (b) fails or refuses to give any information which an inspector or other person duly authorised as aforesaid, is entitled to require; or
 - (c) fails or refuses to produce any certificate when lawfully required to do so,
- shall be liable to a penalty not exceeding *twenty* pounds, and not less than *five* pounds.

22. (1) The Governor may make such regulations ^{Regulations.} as may be necessary or expedient for carrying into effect the provisions of this Act, and may by such regulations impose penalties not exceeding *twenty-five* pounds for any breach thereof.

(2) Regulations made under this Act, on being approved by the Governor and published in the Gazette, shall, if not disallowed as hereinafter provided, and if not repugnant to this Act, have the force of law.

(3) All such regulations on being gazetted shall be laid before both Houses of Parliament within fourteen days if Parliament is then sitting, and if not sitting, then within fourteen days after the next meeting of Parliament. But 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, such regulation shall thereupon cease to have effect.

