

207

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1911.

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## A BILL

To consolidate and amend the Miners' Accident Relief Act, 1900, the Miners' Accident Relief (Amendment) Act, 1901, and the Miners' Accident Relief (Amendment) Act, 1910; to make further provision for allowances to persons injured by mining accidents and the relations of persons killed or injured by such accidents; for that purpose to provide for contributions by owners of mines and persons employed in or about mines, and out of the Consolidated Revenue Fund; to extend to sewer miners the benefits conferred by the said Acts; to amend the Workmen's Compensation Act, 1910; and for purposes incidental to or consequent upon those objects.

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**B**E 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:—

*Preliminary.*

**1.** This Act shall commence on the            day            , one Commencement and thousand nine hundred and            , and may be cited as the "Miners' short title. Accident Relief Act, 1911."

**2.** (1) The Miners' Accident Relief Act, 1900, the Miners' Accident Relief (Amendment) Act, 1901, and the Miners' Accident Relief (Amendment) Act, 1910, are hereby repealed. Repeal.

(2) Persons appointed and committees constituted under any Act hereby repealed, and holding office at the commencement of this Act, shall be deemed to have been appointed or constituted hereunder. Persons appointed and committees constituted under repealed Acts.

(3) Allowances granted under any Act hereby repealed may be continued in the same manner as if granted hereunder. Allowances under repealed Acts.

**3.** In this Act, unless the context otherwise indicates,—

“Committee” means committee constituted by this Act. Interpretation. No. 42, 1900, s. 2.

“Mine” means mine to which this Act applies, and includes every shaft or pit in the course of being sunk, and every adit, level, or inclined plane in the course of being driven, and all the shafts, pits, adits, levels, planes, works, machinery, tramways, and sidings, both below ground and above ground, in and adjacent to and belonging to any such mine, and any works in the neighbourhood of such mine where ore, coal, or shale from the mine is treated by any person on land held from the Crown for mining or for mining purposes, and any private railway or tramway used for transporting the products of the mine to any Government railway, or to any pier or jetty, and includes any pier or jetty used for the purposes of such railway or tramway. No. 71, 1901, s. 2. No. 16, 1910, s. 12.

“Minister” means Secretary for Mines. No. 42, 1900, s. 2.

“Owner of a mine” means person or body corporate, being the immediate proprietor, or lessee, or the occupier of a mine, and does not include a person or body corporate merely receiving a royalty, rent, or fine from a mine.

“Prescribed” means prescribed by this Act or the regulations.

“The board” means the New South Wales Miners' Accident Relief Board constituted by this Act.

“The fund” means the New South Wales Miners' Accident Relief Fund established by this Act.

“The regulations” means the regulations in force under this Act.

“Wages” includes all earnings by persons arising from any description of piece or other work, either above or below ground, in or about the mine, including such earnings by persons employed by a contractor, or employed by a person working the mine upon tribute. No. 16, 1910, s. 2.

*The committees for mines.*

**4.** (1) For each mine, in or about which fifteen or more persons are employed, there shall be a committee consisting of—

- (a) the inspector of mines for the district in which the mine is situated; and (b) (Constitution of committees. No. 42, 1900, s. 4. No. 16, 1910, s. 3.)

- (b) three persons employed in or about the mine and appointed for the prescribed period by the persons so employed; and
- (c) two persons who may be appointed by the owner of the mine, or his representative, if he thinks fit.

Such committee shall have the powers and duties prescribed, and may exercise those powers or perform those duties although the committee does not consist of the full number of members.

(2) The Minister, on the recommendation of the board, may, by notification in the Gazette, dissolve a committee or remove any member or officer of a committee for a mine; in which case any member of a committee so dissolved, or any member or officer so removed, shall not, for a period to be determined by the Minister, be eligible, except by special permission of the Minister, to be elected or appointed as member or officer of any such committee.

5. (1) Where the Minister is satisfied that a majority of those present at a meeting, convened as prescribed for each of two or more mines, of the persons employed in or about the same, desire that a joint committee be appointed for such mines the Minister shall so notify in the Gazette, and thereupon a joint committee for such mines shall be constituted, consisting of—

- (a) the inspector of mines for the district in which the mine is situated;
- (b) two persons in respect of each mine from among those employed in or about such mine and appointed for the prescribed period by the persons so employed; and
- (c) one person in respect of each mine appointed by the owner of such mine or his representative, if he thinks fit.

Such joint committee shall, with respect to the said mines and the owners thereof, and the persons employed in or about the same, have the same powers and duties as a committee has under this Act with respect to a single mine, and the owner thereof and the persons employed in or about the same: Provided that two persons at least are employed in or about each such mine, and that in the aggregate fifteen or more persons are employed in or about such mines.

(2) If at any time it is desired that a joint committee for any mines be dissolved and other arrangements made as to separate or other joint committees; the Minister, on the application of a majority of those present at a meeting convened as prescribed for each of such mines of the persons employed in or about the same, may so notify in the Gazette, and such joint committee shall be dissolved and other joint or separate committees may be constituted in accordance with this Act.

6. Where the Minister is satisfied that the majority in number of the persons employed in or about a mine in which less than

No. 42, 1900, s. 4.

Power to dissolve committee or remove member.

No. 16, 1910, s. 4.

Joint committee for several mines.

No. 71, 1901, s. 3.

No. 16, 1910, s. 3.

No. 71, 1901, s. 3.

Contribution for mine in which less than fifteen persons are employed.

No. 16, 1910, s. 13.

than fifteen persons, but more than five, are so employed desire to become contributors to the fund, such mine shall, if the Minister so directs, be a mine to which this Act applies.

In such case there shall be no committee for such mine, but the amounts deducted from wages shall be paid to the committee of any neighbouring mine to be named by the Minister, and such committee shall have the same powers and duties as if it were the committee of the first-mentioned mine: Provided that if the Minister in his discretion so orders, one or more persons employed in or about the first-mentioned mine may be appointed for the prescribed period by the persons so employed to be additional members of such committee.

**7.** (1) The owner or manager of each mine, or contractor for work in or about a mine, shall, on pay day, deduct from the amount then payable for or on account of wages in respect of the employment at any time since the next preceding pay-day of any person in or about the mine the sum of fourpence halfpenny for each week of such employment, and shall when and as prescribed pay the aggregate of such sums to the committee for the mine.

(2) If any such owner, manager, or contractor fails to make any such deduction as above directed, he shall be liable to a penalty not exceeding *twenty* pounds.

(3) Any check-weighman or pickman employed by the miners at a mine may at each pay-day contribute to the committee for the mine the sum of sixpence three farthings for each week of his employment as aforesaid.

The said committee may, in the case of the death or disablement of any check-weighman or pickman so contributing caused primarily by any such accident as aforesaid, grant allowances as in the case of a person employed by the owner or manager of the mine.

(4) Where by reason of any failure to appoint a member or members of the committee for any mine or mines the committee is not constituted as required by this Act, the owner or manager of such mine or of each such mines shall when and as prescribed remit the aggregate of the sums deducted as aforesaid to the board, and the board shall pay the same into the fund.

**8.** (1) The committee for any mine may grant allowances in accordance with the Schedule to this Act, in case of the death or disablement of any person employed in or about the mine, or any check-weighman or pickman, caused primarily by any accident occurring after the first day of January, one thousand nine hundred and one, in or about the working of the mine, and may from time to time vary the amount so granted, but so that such amount does not exceed that specified in the Schedule, and may stop the payment of any such allowance, or reduce the amount of the same where the board and

70-2

and the committee are satisfied that the person to whom the allowance has been granted so misconducts himself that in their judgment he should be deprived of the benefit of the allowance in whole or in part.

Any such allowance shall be in addition to any payment under the rules of any friendly society; and the amount of any such payment shall not be affected by the grant or payment of an allowance under this Act, but a person shall not be granted any such allowance in respect of the death or disablement or more than one person.

(2) The committee shall pay any allowances so granted by it out of any moneys deducted as aforesaid from wages and paid under this Act to the committee, or paid as a contribution under this Act to the committee, and, so far as such payments are insufficient, out of any moneys paid for that purpose to the committee by the board constituted under this Act, and shall each fortnight pay any moneys in its hands not required for such allowances into the fund constituted by this Act.

Payment of allowances.  
No. 42, 1900, s. 6.  
No. 16, 1910, s. 5 (2).  
No. 42, 1900, s. 6.

(3) Any disposition, transfer, or assignment of the whole or any part of any such allowance shall be null and void.

Assignment of allowances void.

9. Where a committee has granted an allowance, the Minister, on the recommendation of the board, may remit the matter of such grant to the said committee for reconsideration, or may, whether such matter has or has not been so remitted, direct an inquiry to be held as to such matter by the board, or by a warden under the Mining Act, 1906, and may, on the receipt of the report of any such inquiry, disallow or amend any such grant.

Grant of allowance may be remitted to committee.  
No. 16, 1910, s. 7.

10. In the determination of the amount of compensation payable by the owner of a mine in any action under the Employers' Liability Act of 1897, no allowances granted under this Act in respect of the injury complained of shall be taken into consideration.

Compensation under Employers' Liability Act.  
No. 42, 1900, s. 7.  
No. 71, 1901, s. 11.

*The board.*

11. A board to be called "The New South Wales Miners' Accident Relief Board" is hereby constituted.

Constitution of board.  
No. 42, 1900, s. 8.

The board shall be a body corporate, and shall have perpetual succession and a common seal.

12. The board shall consist of six members, who shall be appointed by the Governor, of whom one shall be the chairman of the board, and the other five shall respectively, so far as practicable, be representative of—

Board to consist of six members.  
*Ibid.* s. 9.

- (a) the owners of coal and shale mines;
- (b) the owners of other mines;
- (c) the persons employed in or about coal or shale mines;
- (d) the persons employed in or about other mines; and
- (e) the Department of Mines.

**13.** Fees to such amount not exceeding four hundred pounds for any one year as the Governor may fix shall be paid out of the fund to the board; and such fees shall be apportioned among the members of the board as the Governor may think fit.

Fees to board.  
No. 42, 1900, s. 10.

**14.** The board—

Powers and duties  
of board.  
*Ibid.* s. 11.

- (a) shall administer the fund vested in it by this Act, and for that purpose may—
- (i) purchase securities of the Government of New South Wales or of the Commonwealth of Australia;
  - (ii) deposit money in any bank doing business in New South Wales and paying dividends; provided that not more than five thousand pounds shall be at any one time held by any one bank on fixed deposit; and
  - (iii) realise or vary any such investment.
- (b) shall pay to committees from the fund any moneys necessary for the payment of allowances granted by such committees;
- (c) shall in the month of January in each year make up accounts showing the particulars of payments into and out of the fund during the last preceding year, and shall forward such accounts, when audited, to the Minister.

**15.** (1) There is hereby constituted a fund vested in and to be administered by the board and called the "New South Wales Miners' Accident Relief Fund."

The fund.  
*Ibid.* s. 12.

(2) There shall be paid into the fund—

- (a) by the owner of every mine a sum equal to one-half of the aggregate of the sums deducted under section seven of this Act from the amount of the wages in respect of the mine.
- (b) out of the Consolidated Revenue Fund an amount equal to the aggregate payments by owners of mines under this section;
- (c) by the committees the moneys in their hands not required for allowances granted by them respectively under this Act.

Payments into fund.  
No. 71, 1901, s. 6.

No. 42, 1900, s. 12.

Such payments shall be made at the times and in the manner prescribed.

(3) If at any time the committee for a mine ceases to exist, or a mine is closed down, the board may continue any allowance granted before such time by the committee for the mine, and may vary the amount of such allowance, but so that it does not exceed that specified in the Schedule, and may stop payment of any such allowance or reduce the amount of the same where the board is satisfied that the person to whom the allowance has been granted so misconducts himself that in the judgment of the board he should be deprived of the benefit of the allowance in whole or in part.

Board may continue  
payment of  
allowances.  
No. 16, 1910, s. 8.

(4) The board may, at the request of the committee for a mine, pay out of the fund any allowances granted by such committee.

**16.** (1) There shall be paid out of the fund the amount necessary— Payment out of fund. No. 71, 1901, s. 7.

- (a) for the payment of allowances granted by the committees respectively under this Act or any Act hereby repealed;
- (b) for the expenses incurred by the committees before or after the commencement of this Act in remitting moneys to be paid into the fund;
- (c) for the payment of any additional expenses incurred before or after the commencement of this Act by committees or by any member or officer of the board under the directions or with the approval of the Minister;
- (d) for the payment of the fees of the board.

(2) For the purpose of remunerating its officers and of paying local expenses under this Act and the regulations not otherwise provided for, each committee shall be paid from the fund an amount equal to five per centum on the moneys received by it in pursuance of section seven of this Act, but not being greater than twenty-five pounds nor less than four pounds per annum. Payment to committees for expenses. Ibid. s. 5. No. 16, 1910, s. 14.

The times of making the payments and the mode of ascertaining their amounts shall be as prescribed.

**17.** Where any allowance granted before or after the commencement of this Act is payable to any person for or in respect of a child, the committee, if it considers that such allowance would not be or is not being properly expended or used by the said person for the benefit of the child, may pay such allowance to such other person as it may think fit. Allowances granted for the benefit of children, &c. No. 71, 1901, s. 9.

**18.** The Minister may appoint for a mining district two legally qualified medical practitioners, who shall, at the request of the committee for a mine situate in such district, and, with the approval of the Minister, examine any applicant for an allowance under this Act. The fees of such medical practitioners shall be paid out of the fund. Examination of applicants by specially appointed medical practitioners. No. 16, 1910, s. 10.

**19.** The accounts of the board shall be audited by the Auditor-General or some person duly authorised by him. Audit of accounts of board. No. 42, 1900, s. 13.

The Auditor-General shall have the power to demand any information he deems necessary for the purpose of audit.

Such accounts when audited and forwarded by the board to the Minister shall be laid before both Houses of Parliament.

**20.** (1) The Minister shall once in every five years, and may at such other times as he thinks fit, cause an actuarial examination to be made as to the solvency of the fund. Actuarial examination of fund. Ibid. s. 14.

(2) If the person making such examination certifies that the state of the fund warrants that course, the Governor may, by proclamation in the Gazette, increase the allowances for such period and to such rate as he may deem expedient. Allowances and rate of contribution.

(3) If the said person certifies that the said payments and deductions are insufficient for the maintenance of the scale of allowances specified in the Schedule of this Act the Governor may, by proclamation in the Gazette, reduce pro rata all allowances granted and to be granted from such date for such period and to such extent as he may deem expedient. But the Governor may, by proclamation as aforesaid, increase pro rata such allowances so reduced, but so that they do not exceed those prescribed.

When contributions insufficient.

*Supplemental.*

- 21.** The Governor may make regulations—
- (a) for the appointment, by persons employed in or about any mine, of members of the committee for such mine, and prescribing the periods for which such members shall be so appointed; Regulations,  
No. 42, 1900, s. 15.
  - (b) prescribing the applications and inquiries to be made before allowances are granted, and regulating the procedure at such inquiries;
  - (c) prescribing the notification by the owner or manager of a mine of accidents occurring in or about the working of the mine; No. 16, 1910, s. 9.
  - (d) prescribing rules as to the conduct of persons in receipt of allowances.
  - (e) prescribing and regulating the furnishing of returns of persons employed in or about a mine, and of deductions made under this Act out of the wages of such persons; No. 42, 1900, s. 15.
  - (f) prescribing and regulating the production and inspection of, and the taking of extracts from, such returns;
  - (g) regulating the receipt, custody, and payment of moneys by the committees, and prescribing the accounts to be kept by the committee;
  - (h) prescribing the returns, accounts, and reports to be furnished to the board by committees;
  - (i) regulating payments under this Act by the owner or manager of a mine to a committee, and by the owner of a mine into the fund;
  - (j) regulating the payments into and out of the fund, and prescribing the accounts to be kept by the board;
  - (k) prescribing the forms to be used in administering this Act and the regulations;
  - (l) regulating the times and places of meeting, and the summoning of meetings, and procedure of the board and of committees, prescribing the quorum at such meetings, and regulating the appointment of chairmen of the committees and of a temporary chairman of the board; (m)



- (m) prescribing the duties of officers employed in the administration of this Act, and regulating the performance of their duties, and prescribing the security to be given by such officers;
- (n) imposing any penalty not exceeding five pounds for any breach of the regulations;
- (o) providing for all matters of detail not expressly enacted in this Act, and generally for the purposes of carrying out the provisions of this Act.

All such regulations shall be published in the Gazette, and laid before both Houses of Parliament within fourteen days after such publication if Parliament is sitting, or if Parliament is not sitting, within fourteen days after the commencement of the next session of Parliament.

**22.** The officers of the board shall be appointed by the Governor; and the salaries of such officers and, except where otherwise provided, the expense of carrying out the provisions of this Act shall be paid out of moneys appropriated by Parliament for that purpose.

**23.** If the owner or manager of any mine fails to pay, within the period prescribed, any money which he is liable to pay under this Act to the fund or a committee, he shall, in addition to such money, pay to the fund or such committee a fine of twenty per centum of the amount of such money.

**24.** Any member of the board or a committee who, without lawful excuse, fails to comply with any of the requirements of this Act shall be liable to a penalty not exceeding twenty pounds.

**25.** All moneys payable under this Act by the owner or manager of a mine to the fund or a committee, together with all fines for non-payment of the same, may be recovered by the board or any member of the committee appointed by the committee in that behalf in any Court of competent jurisdiction.

**26.** All penalties provided by this Act or the regulations may be recovered before any court of petty sessions.

Regulations to be published in Gazette. No. 42, 1900, s. 15.

Appointment of officers and payment of salaries and expenses. *Ibid.* s. 16.

Fine for failing to pay money to board or committee. *Ibid.* s. 17.

Penalty on members of board or committee. *Ibid.* s. 18.

Recovery of moneys payable under Act. *Ibid.* s. 19.

Recovery of penalties. *Ibid.* s. 20.

SCHEDULE.

No. 42, 1900,  
Schedule.

*Scale and conditions of allowances.*

THE allowances under the Act shall be as follows:—

1. *Where death results from the accident—*

(a) if the deceased was married—

- (i) a weekly sum of eight shillings payable to the widow, if any, while unmarried;
- (ii) a weekly sum of two shillings and sixpence in respect of each child, if any, of the deceased until such child attains the age of fourteen years, or dies, payable to the widow, if any, during her life; or, if there is no widow, or the widow dies while any such sum is payable, to the guardian or person having the care of such child;
- (iii) a weekly sum of eight shillings per week payable to the guardian of the motherless children of the deceased, until no child is below the age of fourteen years;
- (iv) a sum of twelve pounds in respect of the expenses of the funeral of the deceased, payable to any person approved by the committee;

(b) if the deceased was unmarried—

- (i) a weekly sum of eight shillings, payable to the father of the deceased during No. 71, 1901, his life if, in the opinion of the committee, the father was at the time of s. 10 (1) his son's death dependent on the deceased for support; and where any such No. 16, 1910, s. 15. allowance has been granted to such father, and he dies or has at any time died, a weekly sum of eight shillings payable to the mother of the deceased during her life, and while she is unmarried, if, in the opinion of the committee, she was at the time of the death of the father dependent upon him for support, and if the board approves of such grant;
- (ii) a weekly sum of eight shillings payable to the mother of the deceased during No. 42, 1900, her life and while she is unmarried, if, in the opinion of the committee, she Schedule. was at the time of his death dependent on the deceased for support;
- (iii) a weekly sum of two shillings and sixpence for each child of the father or of No. 16, 1910, the mother of the deceased, or of the sister or sisters of the deceased, payable s. 16. to the father or to the mother or to the sister or sisters, as the case may be, until such child attains the age of fourteen years, if in the opinion of the committee such father or mother, or such sister or sisters, was or were at the time of his death dependent on the deceased for support;
- (iv) a weekly sum of two shillings and sixpence for each child of the mother of No. 42, 1900, the deceased, or of the sister or sisters of the deceased, payable to the mother Schedule. or to the sister or sisters, as the case may be, until such child attains the age of fourteen years, if in the opinion of the committee such mother or such sister or sisters was or were at the time of his death dependent on the deceased for support;
- (v) a sum of twelve pounds in respect of the expenses of the funeral of the deceased payable to any person approved by the committee.

2. *Where disablement results from the accident—*

a weekly sum of twelve shillings payable to the person disabled.

A person shall be deemed to be disabled when he is wholly incapacitated from No. 16, 1910, s. 11. attending to his ordinary occupation; but a person may be deemed to be disabled within the meaning of this Schedule, although he is able to undertake work of a light nature.

Where the disablement has continued for a period of not less than six months, and the committee reports to the Minister that, in its opinion, the disablement will probably be continued for a further period of six months, and that it is desirable to grant allowances in respect of any children of the person disabled, and the Minister approves, the committee may grant an allowance of two shillings and sixpence a week in respect of any such child who is under fourteen years of age. Such allowance shall be paid from the date of the Minister's approval as aforesaid.

3. *Where permanent disablement results from the accident—*

- (a) A weekly sum of twelve shillings payable to the person disabled;
- (b) a weekly sum of two shillings and sixpence in respect of each child, if any, of the person disabled until such child attains the age of fourteen years, or dies, payable to the person disabled.

No. 71, 1901,  
s. 10 (3).