

New Zealand.



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1907, No. 35.

Title.

AN ACT to amend the Coal-mines Act, 1905.

[19th November, 1907.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. This Act may be cited as the Coal-mines Act Amendment Act, 1907 (No. 2), and shall form part of and be read together with the Coal-mines Act, 1905 (hereinafter referred to as the principal Act).

PART I.

COAL-MINING LEASES.

General provisions and rules as to applications.

2. (1.) The following general rules shall apply with respect to every application for a lease or license under the principal Act (including applications for leases and licenses under section five thereof):—

(a.) The application shall be made in the prescribed manner and form, and shall be filed in the office of the Warden or

Commissioner, as the case may be, or if there are more such offices than one in the district, then in the office situate nearest by practicable route to the land to which the application relates :

Provided that the application shall not be invalidated by reason merely of being filed in the wrong office, but in such case the Warden or Commissioner may either treat it as if duly filed or order it to be transferred to another office, on such terms as he thinks proper, having regard to the convenience of the parties and the circumstances of the case.

- (b.) When filing the application, or on the same day, the applicant shall lodge with the Receiver, to abide the disposal of the application, such sums in respect of rent, survey fees, license fees, and otherwise as are prescribed by regulations.
- (c.) The precise time of the filing of the application shall be recorded thereon by the officer receiving the same, and applications in respect of the same land shall have priority according to the priority of time of filing as evidenced by the aforesaid record thereof.
- (d.) In the event of its appearing from such record that two or more such applications were filed simultaneously, their respective priorities shall be decided by lot in such manner as the Warden or Commissioner thinks fit.
- (e.) Every application shall retain its priority until such application is finally disposed of by being granted, refused, or, by leave of the Warden or Commissioner, withdrawn.
- (f.) It shall not be lawful for any person not theretofore in lawful occupation of the land to which the application relates to enter or mine thereon whilst such priority continues.
- (g.) The land to which the application relates shall be surveyed by an authorised surveyor; and a plan thereof in duplicate shall, before the hearing of the application, and not later than six months after the date of the application, be filed in the office in which the application is filed or to which it is transferred as aforesaid.
- (h.) A copy of the application and of the said plan shall be sent to the Inspector for the district, who shall report to the Warden or Commissioner thereon.
- (i.) The application shall be heard at such time and place as the Warden or Commissioner appoints, and the hearing shall in every case be open to the public.
- (j.) The application shall be notified in such manner, within such time, and to such persons as are prescribed, including in every case all persons whose interests will be obviously affected.
- (k.) Any person desiring to object to the application shall, in the prescribed manner and within the prescribed time, give to the Warden or Commissioner and also to the applicant notice in writing of the nature of such objection, and (subject to the succeeding provisions of this section) no person shall be entitled to appear and object unless he has duly given such notice.

- (l.) The Warden or Commissioner in his discretion may, at any time before the application is finally disposed of, direct notice thereof or of any objection thereto to be given to any person, or any survey to be made, or other act to be performed.
- (m.) The Warden or Commissioner may, of his own motion and without notice, take any objection he thinks fit, and shall not grant the application if he is satisfied that any valid objection thereto exists.
- (n.) Any question or dispute that may arise as to whether or not the prescribed notices have been given shall be decided by the Warden or Commissioner.
- (o.) The Warden or Commissioner may adjourn the application from time to time or from place to place in such manner and on such terms as he thinks fit.
- (p.) On the hearing of the application the applicant and every objector shall appear in person or by solicitor:
 Provided that if the applicant does not desire to appear he may, at any time before the hearing, file in the office of the Warden or Commissioner a statutory declaration of compliance with this Act.
- (q.) Such declaration shall be exempt from stamp duty, and shall be in the prescribed form, and shall certify—
- (i.) That all the statements contained in the application are true; and also
 - (ii.) That the application has been duly notified as required by this section; and also
 - (iii.) That the applicant believes himself entitled to the grant of the application, and knows of no valid objection thereto; and also
 - (iv.) That, so far as the applicant is aware, no public or private rights will be prejudicially affected by the grant of the application; and
 - (v.) Such other particulars as are prescribed.
- (r.) The Warden or Commissioner, if satisfied with such declaration, may accept it as evidence in support of the application, and grant the application without requiring the applicant to appear.
- (s.) If, however, he is not satisfied with the declaration, or if any objection arises which in his opinion requires to be met, he shall adjourn the hearing, and notify the applicant to appear.
- (t.) If, on hearing of the application, any person appears and objects, the Warden or Commissioner may award to or against the applicant or the objector such costs and expenses as he thinks fit:
 Provided that no costs or expenses shall be awarded against any objector whose objections are based wholly and *bona fide* on purely public grounds.
- (u.) Such costs and expenses shall, as far as practicable, be according to the scale for the time being in use in a Warden's Court, and shall be recoverable in the same manner as if they were a judgment of that Court.

- (v.) For the purpose of hearing and disposing of the application, and of generally giving full effect to the provisions of this section, the Warden and Commissioner respectively shall have all the powers of a Warden exercising jurisdiction in a Warden's Court, and the practice and procedure of that Court (including the practice as to rehearings) shall apply, with such modifications, additions, and exceptions as are prescribed.
- (w.) The application may be granted in respect of either the whole of the land to which it relates or to such portion thereof as the Warden or Commissioner thinks fit.
- (x.) The application may be granted or refused by the Warden or Commissioner in his discretion.
- (y.) If any person considers himself aggrieved by the decision of the Warden or Commissioner he shall have the same right of appeal from the decision of the Warden or Commissioner as is granted under the principal Act against any decision of the Warden.

(2.) The proviso to subsection one of section six and section eight of the principal Act are hereby repealed. Repeal.

3. (1.) Subject to the provisions of the principal Act, the Warden in any mining district, and the Commissioner of Crown Lands outside of a mining district, may, with the consent of the Minister, grant licenses authorising the holder to prospect for coal on Crown lands. Licenses to prospect for coal on Crown lands.

(2.) With respect to such licenses and the application therefor the following provisions shall apply:—

- (a.) The application shall in each case be made in the prescribed manner, and shall relate only to such block or blocks of land as are specified therein.
- (b.) The applicant shall identify the land with reasonable particularity by reference to area, situation, and description, but no survey shall be necessary.
- (c.) The applicant shall mark out the land in such manner as may be prescribed.
- (d.) The application shall, in the prescribed manner, be notified to all persons whose interests may be obviously affected.
- (e.) The area of land to which such coal-prospecting license relates shall in no case exceed three thousand acres.
- (f.) A coal-prospecting license shall continue in force for two years, but may be renewed by the Warden or Commissioner of Crown Lands for a further period not exceeding one year on such Warden or Commissioner being satisfied that the conditions under which the license was granted have been complied with.
- (g.) A coal-prospecting license shall be granted on such conditions with respect to the vigorous and continuous prosecution of prospecting operations as may in each case be specified by the Warden or Commissioner respectively.
- (h.) Such prospecting license may at any time be cancelled by the Warden or Commissioner on being satisfied that the licensee has wilfully failed to reasonably comply with any of the conditions under which it was granted.

- (i.) The licensee may, with the consent of the Warden or Commissioner, surrender his license.
- (j.) At any time while a coal-prospecting license is in force the holder shall, on complying with the provisions of the principal Act, have the right to a coal lease over the land described in his license, or over any portion thereof.
- (k.) There shall be payable in respect of a coal-prospecting license an annual rent to be computed at the rate of six-pence per acre or fractional part of an acre per annum, payable half-yearly in advance.
- (l.) The application for such license shall be accompanied by a deposit sufficient to cover one year's rent.
- (m.) The Warden or Commissioner may, with the consent of the Minister, impose such further conditions in respect to coal-prospecting licenses as may be deemed necessary.

Deputy manager.

4. (1.) If any mine-manager is incapacitated from performing his duties, or is about to be absent from the mine for more than three days, he or the agent of the mine shall in writing appoint some person, approved by the Inspector, to act as deputy manager during such incapacity or absence; but no such deputy shall act for more than fourteen days, unless authorised so to do by the Inspector.

Repeal.

(2.) Subsection five of section twenty-three of the principal Act is hereby repealed.

Section 28 of principal Act amended.

5. Section twenty-eight of the principal Act is hereby amended by inserting, after the word "level" in subsection one, the words "or which is used in sinking any shaft."

Official inquiries in case of accidents.

6. (1.) Where, in the opinion of the Inspector, an accident in a mine resulting in the death or injury of any person has been caused, directly or indirectly, by the non-observance by the mine-manager or engine-driver of the mine of any of the provisions of the principal Act or of any regulation thereunder, or by reason of his negligence, the Inspector shall apply to a Magistrate to hold an inquiry into the matter.

(2.) The Magistrate shall fix a time and place for the holding of such inquiry, and shall cause not less than seven days' notice thereof to be given to the person whose non-observance or negligence is to be inquired into.

(3.) Such notice shall require the person aforesaid to appear at the time and place so fixed, and then and there to produce his certificate to the Court.

(4.) The inquiry shall be held before a Court consisting of the Magistrate sitting with two Assessors (appointed by the Magistrate), one of whom shall be the holder of a first-class mining-manager's certificate, and the other an experienced miner working in some mine other than that in which the accident occurred.

(5.) The Court shall have all the powers of a Magistrate's Court.

(6.) If the Court finds that the accident was caused, directly or indirectly, by the non-observance by the holder of any certificate under the principal Act of any of the provisions of the principal Act or of any regulation thereunder, or by reason of his negligence, it may disqualify him by cancelling his certificate or by suspending it for such period as the Court thinks fit; and during the period

of such disqualification the person so disqualified shall, for all the purposes of the principal Act, be deemed not to be the holder of a certificate.

(7.) There shall be the like right of appeal against any order of the Court under this section as if it were an order of a Magistrate's Court.

(8.) Notice of every such disqualification shall be forwarded by the Magistrate to the Minister, and shall be published in the *Gazette*.

(9.) Section twenty-nine of the principal Act is hereby repealed.

7. Section thirty-nine of the principal Act is hereby amended by repealing paragraph (2) thereof, and substituting the following:—

Repeal.
General rules
amended.

“(2.) The use of gunpowder or other explosive or inflammable substance in a coal-mine shall be subject to the restrictions and provisions following:—

“(a.) It shall not be stored on the surface of or adjacent to the mine unless in such magazine and in such quantities as may be approved in writing by the Inspector.

“(b.) It shall not be stored in the mine in any quantity exceeding that which is required for use during six working-days for the purpose of the mine; and, whilst so stored, it shall be kept in a drive or chamber separated by a door fixed across such drive or chamber at least thirty feet from any travelling-road.

“(c.) It shall not be taken for use into the workings of the mine except in quantities actually required during the shift. Such quantities shall not exceed sixteen pounds of gunpowder or ten pounds of nitro-glycerine compounds in workings where drilling-machines are used, or eight pounds of gunpowder or five pounds of nitro-glycerine compounds in any other workings.

“(d.) It shall not be taken for use into the workings of the mine except in securely covered cases or canisters, and a workman shall not have in use at one time in any one place more than one of such cases or canisters.

“(e.) Detonators for blasting shall be kept stored on the surface of the ground in a covered box placed in a magazine specially provided for that purpose in which no other explosives are kept.

“(f.) Not more than one hundred detonators shall be kept for service in any mine at one time, and these shall be kept in a covered box in the drive or chamber set apart for the purpose, and shall be taken out in such quantities only as are required for immediate use. Detonators shall not, on any pretence whatever, be placed near any travelling-road, pass, or working-face.

“(g.) No person shall enter with a naked light a powder-magazine or any excavation in a mine where powder or other explosive or inflammable substance is stored.

“(h.) No iron or steel pricker shall be used in blasting, and no iron or steel tool shall be used in tamping or ramming, and no iron or steel pricker or tamping-bar shall be taken into any mine.

“(i.) The owner of the mine shall provide copper prickers.

“(j.) A charge which has missed fire may be drawn by a copper pricker, but shall not be visited until three hours have elapsed from the time of lighting the fuse of such charge. In no case shall an iron or steel drill be used for the purpose of drawing or drilling out such charge, nor shall any charge be drawn where nitro-glycerine compounds or detonators have been used: Provided that this paragraph shall not apply to charges fired by an electric current.

“(k.) No person under the age of eighteen years shall be allowed to charge a hole with explosives or to fire any charge.

“(l.) No drill-hole shall be bored within a distance of three feet directly below or within one foot in any other direction from the site of a previously exploded charge of any nitro-glycerine compound, and no drill-hole shall be bored in any remaining portion of a hole in which a charge of nitro-glycerine compound has been previously exploded.

“(m.) In all cases where the fumes arising from the explosion of any nitro-glycerine compound cannot be effectively dispersed by ventilation or spray of water from the mine, such fumes shall be neutralised or rendered innocuous by the person in charge of the blasting operations by the use of a spray of solution of sulphate of iron before the miners are permitted to return to the sites of such blasting operations.

“(n.) Miners employed in blasting with nitro-glycerine compounds shall be supplied by their employer with the means of thawing such compounds, and with the means of producing sulphate-of-iron spray.”

General rules
further amended.

8. Section thirty-nine of the principal Act is further amended as follows:—

(a.) By repealing paragraph (1), and substituting therefor the following:—

“(1.) Ventilation shall be constantly maintained in every mine at the rate of not less than one hundred and fifty cubic feet of air per minute for every person and six hundred cubic feet of air per minute for every horse or other animal while employed underground:

“Provided that where the Inspector is satisfied that such rate is insufficient to provide adequate ventilation, he may from time to time require the rate to be increased to such extent as he thinks reasonable, either throughout the underground workings or in any specified part thereof.”

(b.) By omitting the words “not less than three nor more than four feet” in paragraph (7), and substituting therefor the words “three feet.”

(c.) By adding thereto the following paragraph to follow paragraph (26):—

“(26A.) Wherever there is no sufficient travelling-road, no haulage shall be permitted while men are travelling to or from shift.”

(d.) By adding thereto the following paragraph to follow paragraph (32):—

“(32A.) Where compressed air is used as the motive power for any machinery, the air-receiver or air-pipe shall have a pressure-gauge fixed upon it in such a way that the engine-driver shall have an uninterrupted view of the pressure-gauge.”

(e.) By inserting, after the word “additional” in paragraph (37), the word “shafts.”

(f.) By inserting, after the words “shafts in the mine, and” in paragraph (39), the words “the manager”; and by inserting, after the words “of such mine, and” in the same paragraph, the words “every such manager and person, forthwith after every such examination.”

(g.) By omitting all words in paragraph (44) after the words “a person shall not,” and substituting therefor the words “have in his possession any lucifer-match or apparatus of any kind for striking a light, or any tobacco-pipe or contrivance for smoking, or, unless he is appointed for the purpose, any key or contrivance for opening the lock of any safety-lamp.”

9. Subsection three of section forty-six of the principal Act is hereby amended by omitting the word “ten” before the word “persons,” and substituting therefor the word “six.” Repeal.

10. Section fifty-one of the principal Act is hereby amended by omitting the words “a duly qualified mining engineer” in subsection one, and substituting therefor the words “a mining engineer being a licensed surveyor.” Section 51 of principal Act amended.

11. (1.) Where in the opinion of the Inspector a mine or any part thereof is found to be exceptionally dangerous, he may require the owner or agent to withdraw the workmen from such mine or dangerous part thereof, excepting such workmen as are required to effect the necessary work to put the mine in safe condition; and mining operations shall not be resumed until the mine or dangerous part thereof is made safe to the satisfaction of the Inspector. Power to close dangerous mine.

(2.) The provisions of section fifty-six of the principal Act shall extend and apply to a requisition under this section.

12. Section fifty-seven of the principal Act is hereby amended by omitting the words “or underground manager,” and substituting therefor the words “or underviewer”; and also by omitting all words after the words “for each offence.” Section 57 of principal Act amended.

13. (1.) The mine-manager shall forthwith after the occurrence of any accident attended with serious injury to any person give notice thereof by telegraph to the Minister and to the Inspector, and shall also at the same time send written notice thereof to the Inspector and to the workmen’s inspector. Inspection of mine after serious accident.

(2.) Every manager who omits to give such notice shall be guilty of an offence.

(3.) As soon as practicable after any such accident the Inspector shall visit the mine, and shall give to the mine-manager and to the workmen’s inspector appointed under paragraph (46) of section thirty-nine of the principal Act notice of the time when such visit is to be made.

(4.) The workmen's inspector shall be permitted to accompany the Inspector of Mines on such visit, and shall report the result thereof in the manner provided by the said section.

(5.) The part of the mine where the accident occurred shall not be interfered with until inspected by the Inspector or by some other person appointed for the purpose by the Minister, or by the Coroner's jury, unless with the view of saving life or preventing further injury.

Repeal.

(6.) Section sixty of the principal Act is hereby repealed.

Power of certain officers to enter and inspect mine.

14. The Inspecting Engineer or any other officer of the Mines Department duly authorised in writing by the Minister may enter and inspect any mine.

Half-yearly returns to specify dividends declared.

15. The half-yearly return prescribed by section seventy-six of the principal Act shall, where the owner of the mine is a limited company, specify the total amount of dividends declared and the total amount of dividends paid by the company during the preceding six months.

Wages to be paid at or near the mine.

16. All wages payable to the workmen employed at any mine shall, if so requested by a majority of such workmen, be paid either at the mine or at some place not more than two miles from the mine.

Manager may institute proceedings in certain cases.

17. Notwithstanding anything in section ninety-one of the principal Act, proceedings for the recovery of a fine in respect of the breach of any of the general, special, or additional rules prescribed by the principal Act may be instituted by the mine-manager of the mine at which the breach was committed.

Regulations

18. The Governor may from time to time, by Order in Council gazetted, make regulations prescribing the form and manner of making applications for leases or licenses, and the survey fees, license fees, and other fees payable on any lease or license.

Section 97 of principal Act amended.

19. Section ninety-seven of the principal Act is hereby amended by adding thereto the words "or during such time as the mine is required by the Inspector to be closed down."

Pay-sheet to be supplied.

20. The owner of a coal-mine shall, if requested by the secretary of the local coal-miners' union, supply him with a copy of the latest issue of dockets given to each of those employees of the mine who are subject to an award of the Arbitration Court, showing in respect of each such employee the hours worked, the amount of work performed, and the amount earned.

Qualification for appointment as shift-boss, &c.

21. (1.) No person shall be appointed to the position of shift-boss, deputy, or foreman in a mine unless he has had three years' experience in coal-mining, and has passed an examination by the Inspector of Mines in gases, ventilation, and timbering.

(2.) The Governor may from time to time, by Order in Council gazetted, make regulations prescribing the nature of the examination and the method of conducting the same.

Coal under road or public work.

22. The provisions of Part I of the principal Act shall, so far as applicable, apply in any case where coal is removed under the authority of the Governor as provided by section one hundred and twenty-two of the Public Works Act, 1905.

Allowance to widow when miner killed by accident.

23. When a coal-miner dies from the effects of an injury by accident arising out of and in the course of his employment, there may be paid to his widow and his children (if any) who are under the age of sixteen years at the date of his death any sum not

exceeding fifty pounds out of the Sick and Accident Fund or the Coal-miners' Relief Fund, as the case may be, in such shares as the persons having the management of such fund decide.

PART II.

STATE COAL-MINES.

24. (1.) The Governor may from time to time, by Order in Council gazetted, make regulations applying any of the provisions of any Act for the time being in force affecting or regulating the Civil Service to any of the persons or classes of persons appointed under section one hundred and two of the principal Act. Persons appointed under principal Act not Civil servants.

(2.) Except as provided by any such regulations, the provisions of any such Act shall not apply to any person appointed under the said section, unless at the time of such appointment he was a Civil servant within the meaning of such Act.

25. (1.) Notwithstanding anything in section one hundred and twenty-eight of the Industrial Conciliation and Arbitration Act, 1905, any society of workers employed in a State coal-mine may be registered as an industrial union of workers under that Act. Industrial disputes in State coal-mines.

(2.) The Minister may from time to time enter into an industrial agreement with any industrial union so registered in like manner in all respects as if the management of the mine were an industry and he were the employer of all workers employed therein.

(3.) If any industrial dispute arises between the Minister and any such union it may be referred to the Court of Arbitration for settlement in the manner provided by section one hundred and nineteen of the Industrial Conciliation and Arbitration Act, 1905, in the case of an industrial dispute between the Minister for Railways and the Amalgamated Society of Railway Servants, and all the provisions of that section shall, *mutatis mutandis*, apply.

(4.) Section one hundred and fifteen of the principal Act is hereby repealed. Repeal.

26. The Governor may from time to time set apart for the purposes of Part II of the principal Act any portion of the lands described in the First, Second, and Third Schedules to the Westland and Nelson Coalfields Administration Act, 1877, as in the case of unalienated Crown lands, and such of the said lands as have heretofore been set apart for the purposes aforesaid shall be deemed to have been validly set apart. State coal-mines on Westland and Nelson coalfields.