

Serial Number 1942/293



**THE WAIKATO COAL-MINES CONTROL EMERGENCY
REGULATIONS 1942**

C. L. N. NEWALL, Governor-General.

At the Government Buildings at Wellington, this 10th day of
October, 1942.

Present:

THE RIGHT HON. P. FRASER PRESIDING IN COUNCIL.

PURSUANT to the Emergency Regulations Act, 1939, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

REGULATIONS.

1. These regulations may be cited as the Waikato Coal-mines Control Emergency Regulations 1942.
2. In these regulations, unless the context otherwise requires,—
 - “Board” means the Waikato Coal-mines Control Board established by these regulations:
 - “Coal-mine” means a coal-mine within the meaning of the Coal-mines Act, 1925:
 - “Controlled mine” means a coal-mine that is for the time being a controlled mine for the purposes of these regulations:
 - “Minister” means the Minister of Mines:
 - “Owner”, in relation to any coal-mine, has the same meaning as in the Coal-mines Act, 1925; and “owned” has a corresponding meaning.

CONTROLLED MINES.

3. (1) While these regulations continue in force, every mine that is at the commencement of these regulations or at any time thereafter owned by any of the companies specified in subclause (2) of this regulation shall be deemed to be a controlled mine for the purposes of these regulations, whether or not it is subsequently owned by any other person:

Provided that every such mine shall cease to be a controlled mine upon the termination of the present war.

(2) The companies referred to in subclause (1) of this regulation are the following:—

- (a) Glen Afton Collieries, Ltd.:
- (b) Pukemiro Collieries, Ltd.:
- (c) Renown Collieries, Ltd.:
- (d) Taupiri Coal Mines, Ltd.:
- (e) Wilton Collieries (1934), Ltd.

WAIKATO COAL-MINES CONTROL BOARD.

4. (1) There is hereby established for the purposes of these regulations a Board of Control, to be known as the Waikato Coal-mines Control Board.

(2) The Board shall consist of—

(a) The Minister of Mines, who shall be the Chairman of the Board

(b) Four persons to be appointed by the Minister as representing the owners of controlled mines :

(c) Two persons to be appointed by the Minister as representing the workers employed in controlled mines :

(d) One other person to be appointed by the Minister.

(3) Every appointed member of the Board shall hold office during the pleasure of the Minister.

(4) The powers of the Board shall not be affected by any vacancy in the membership thereof.

5. No member of the Board shall be personally liable for any act done or omitted by the Board or by any member thereof in good faith in pursuance or intended pursuance of the powers and authority of the Board.

6. (1) Meetings of the Board shall be held at such times and places as the Board or the Chairman from time to time determines.

(2) At all meetings of the Board four members shall constitute a quorum.

(3) The Chairman shall preside at all meetings of the Board at which he is present. In the absence of the Chairman from any meeting he may authorize any other person to act in his place, and that person shall, while so acting, be deemed to be the Chairman of the Board. If neither the Minister nor any person so acting for him is present at any meeting, the members present shall select one of their number to be the Chairman for the purposes of that meeting.

(4) The Chairman shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

(5) Subject to the provisions of these regulations, the Board may regulate its procedure in such manner as it thinks fit.

7. (1) There may be paid out of the War Expenses Account to the appointed members of the Board such remuneration by way of salary, fees, or allowances and such travelling allowances and expenses as may from time to time be directed or approved by the Minister of Finance.

(2) All such travelling allowances and expenses shall be payable in accordance with the Travelling-allowance Regulations 1941,* and those regulations shall for the purposes of this regulation be deemed to be incorporated in these regulations.

8. The Board may appoint such officers and servants as it thinks fit.

FUNCTIONS OF CONTROL BOARD.

9. (1) While any coal-mine is a controlled mine, the Board may exercise in respect of the undertaking of the owner of the mine such functions of control on behalf of His Majesty as the Board thinks fit, and the undertaking shall be carried on in accordance with any directions given by the Board, and the owner and all persons having any functions of management in relation to the undertaking shall comply with any such directions.

* Statutory Regulations 1941, Serial number 1941/149, page 486.

(2) Without limiting the generality of the foregoing provisions, it is hereby declared that any directions given by the Board under this regulation may relate to—

- (a) The methods of working the mine :
 - (b) The plant, machinery, rolling-stock, and equipment to be used, and the buildings and workers' accommodation to be provided :
 - (c) The employment or dismissal of specified persons as managers or other officers :
 - (d) The employment upon such work as may be specified, or the dismissal, of specified workers or classes or numbers of workers, and the terms and conditions of such employment.
- (3) No obligation or limitation imposed on the owner of the mine by or by virtue of any enactment or other instrument determining his or its functions or powers shall prevent or excuse the owner from complying with any directions of the Board.

(4) With a view to ascertaining whether any directions of the Board with respect to any undertaking are complied with, any person authorized in that behalf by the Board may at any time enter and inspect the mine and any premises used or appropriated for the purposes of the undertaking, and may inspect any books, accounts, or other documents relating to the undertaking.

10. The Board may from time to time, in respect of any controlled mine, by order—

- (a) Exclude from the mine any person whose presence in the mine is, in the opinion of the Board, prejudicial to the efficient and expeditious working of the mine :
- (b) Suspend for any period the Board may think fit or exclude from work in the mine any person for misconduct, or refusal or failure to comply with any reasonable demands, or for any other good reason.

CONTRACTS.

11. (1) Where the failure to fulfil any contract has been directly or indirectly due to compliance on the part of any person with any of the provisions of these regulations or with any direction or order given thereunder, or has been directly or indirectly due to the exercise by the Board of any of the powers or functions conferred by these regulations, proof of that fact shall be a good defence to any action or proceeding in respect of the failure.

(2) This regulation shall apply with respect to all contracts whether made before or after the commencement of these regulations.

LIMITATION OF PROFITS.

12. (1) Where any mine is a controlled mine during the whole or any part of any financial year of the owner's undertaking, the following provisions shall apply :—

- (a) Where the net profits of the undertaking for that year exceed the average net profits of the undertaking (as hereinafter defined), the amount of the excess shall be recoverable as a debt due to the Crown, and shall be paid into the War Expenses Account :
- (b) Where the net profits of the undertaking for that year are less than the average net profits of the undertaking, the amount of the deficiency shall be paid to the owner out of the War Expenses Account.

(2) For the purposes of this regulation—

- (a) The net profits of any undertaking for any year shall be deemed to be the net income thereof after providing for all proper charges (including depreciation at the rates usually adopted in the undertaking, but not including taxation or directors' remuneration), but increased by the amount or value of any special discounts, rebates, or other concessions granted to shareholders of the owner directly or indirectly in respect of purchases of coal made by them from the owner, not being discounts, rebates, or other concessions granted to purchasers generally in the ordinary course of business :
- (b) The average net profits of any undertaking shall be deemed to be the average of the net profits thereof for the three financial years immediately preceding the financial year in which the mine is declared to be a controlled mine :

Provided that for the purposes of any financial year in respect of which the amount recorded in the owner's books as the capital cost of the fixed assets employed in the undertaking exceeds the greatest amount so recorded in respect of any of the said three preceding years, the average net profits of the undertaking shall be deemed to be increased in proportion to the increase in the amount so recorded :

Provided also that for the purposes of any financial year in which the quantity of coal produced in the mine is by reason of any explosion, flood, or other natural disaster reduced below the greatest quantity so produced in any of the said three preceding years, the average net profits of the undertaking shall be deemed to be reduced in proportion to the reduction in the quantity of coal so produced.

(3) For the purposes of this regulation the Minister may from time to time direct the owner of any controlled mine to furnish such information and particulars in relation to the mine or to the owner's undertaking at such time and in such form and manner as the Minister thinks fit, and may give such directions as he thinks fit to the owner of any controlled mine in relation to the keeping, auditing, and checking of books, accounts, and other records.

13. If any question arises as to the amount to be paid into or out of the War Expenses Account in respect of any undertaking under these regulations and the owner and the Minister are unable to agree thereon, the question shall be referred to one arbitrator if the parties can agree upon one, and otherwise to two arbitrators, one to be appointed by the owner and the other by the Minister, under the provisions of the Arbitration Act, 1908.

AUTHENTICATION OF DOCUMENTS.

14. (1) Any notice, direction, order, or other instrument of the Board under these regulations shall be sufficiently authenticated if it is signed by any person on behalf of and by direction of the Board.

(2) Every instrument purporting to be signed on behalf of the Board shall, in the absence of proof to the contrary, be deemed to have been duly signed on behalf of and by direction of the Board.

NOTICES.

15. (1) The Board or the Minister may give public notice of the exercise of any power under these regulations or of any direction or order given under these regulations, and all persons shall be bound thereby.

(2) For the purposes of these regulations, except where otherwise specially provided, the term "public notice" means a notice published in the *Gazette* or in a newspaper circulating in the locality in which the matter of the notice arises or to which it relates.

(3) The Board or the Minister may, without public notice, give notice to any person of the exercise of any such power or of any such direction or order, and every person to whom the notice is given shall be bound thereby.

(4) Except where otherwise specially provided, any notice required to be given to any person for the purposes of these regulations may be given by causing it to be delivered to that person, or to be left at his usual or last known place of abode or business or at the address specified by him in any application, notice, or other document received from him by the Board or the Minister, or to be posted in a letter addressed to him at that place of abode or business or at that address.

(5) If any such notice is sent to any person by registered letter it shall be deemed to have been delivered to him when it would have been delivered in the ordinary course of post, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted.

(6) Every notice under these regulations shall take effect on the date when it is published or given, or on such later date as may be specified in that behalf in the notice.

(7) Any notice given under these regulations may be at any time varied or revoked by a subsequent notice.

OFFENCES.

16. (1) Every person commits an offence against these regulations who—

(a) Acts in contravention of or fails to comply in any respect with any provision of these regulations or any direction or order given under these regulations:

(b) With intent to deceive, makes any false or misleading statement or any material omission in any communication with or application to the Board or the Minister, or any person (whether in writing or otherwise) for the purposes of these regulations:

(c) Resists, obstructs, or deceives any person who is exercising or attempting to exercise any power or function under these regulations.

(2) Every person who commits an offence against these regulations shall be liable on summary conviction—

(a) In the case of an individual, to imprisonment for a term not exceeding three months, or to a fine not exceeding £50 and (if the offence is a continuing one) to a further fine not exceeding £5 for every day during which the offence continues:

(b) In the case of a body corporate, to a fine not exceeding £200 and (if the offence is a continuing one) to a further fine not exceeding £20 for every day during which the offence continues.

C. A. JEFFERY,
Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette*: 15th day of October, 1942.

These regulations are administered in the Mines Department.