

ACTS
PASSED BY
THE PARLIAMENT
OF THE
COMMONWEALTH OF AUSTRALIA
DURING THE YEAR
1944.

COAL PRODUCTION (WAR-TIME).

No. 1 of 1944.

An Act to secure increased Production of Coal, and to provide for Distribution of Coal, in the interests of the Defence of the Commonwealth and the effectual Prosecution of the present War, and for other purposes.

[Assented to 8th March, 1944.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Coal Production (War-time) Act* Short title. 1944.
2. This Act shall come into operation on the day on which it Commencement. receives the Royal Assent.
3. The objects of this Act are to secure that, for the purpose of Objects. aiding the defence of the Commonwealth and the effectual prosecution of the present war, the production of coal in Australia is increased and adequate supplies of coal are provided not only in those places supplied by local production but also in every place in Australia where coal is required and for the use of the Powers allied with His Majesty in the present war, and to that end to set up an authority

to govern and direct the production, treatment, handling, supply, distribution, marketing and consumption of coal, and this Act shall be administered accordingly.

Parts.

4. This Act is divided into Parts, as follows :—

Part I.—Preliminary.

Part II.—Administration.

Part III.—Powers and Functions of Commissioner.

Part IV.—Control of Coal Mines.

Division 1.—Power of Commissioner to take Control of Coal Mines.

Division 2.—Service in Controlled Mines.

Part V.—Industrial Matters.

Division 1.—Central Industrial Authority.

Division 2.—Local Industrial Authorities.

Division 3.—Production Committees.

Division 4.—General.

Part VI.—Miscellaneous.

Definitions.

5. In this Act, unless the contrary intention appears—

“authorized controller”, in relation to any coal mine, means a person authorized under section twenty-one of this Act to exercise functions of control with respect to that mine ;

“coal” includes coke ;

“controlled mine” means a coal mine in respect of which an authorized controller is exercising functions of control ;

“industrial dispute” means—

(a) any dispute as to industrial matters in relation to the wages, rates of pay or terms or conditions of employment of members of the Federation in the Coal Mining Industry (other than members of the Federation excepted by the Commissioner by order) ; or

(b) any threatened or impending or probable dispute as to any such industrial matter ;

“owner”, in relation to a coal mine, includes every person who is entitled to any estate or interest in possession in the coal mine or who is in actual possession or occupation or control of the coal mine or of any part of it or who is working the coal mine as a licensee or contractor, but does not include a person by reason only of the fact that he is in receipt of a royalty, rent or fine arising from the coal mine or from the winning of coal therefrom, or that he is entitled to an estate or interest in the land whereon the mine is situated which is subject to a reservation or exception of the coal therein or of minerals including coal or which for some other reason carries no interest in or right to win that coal or those minerals ;

“the Commissioner” means the Commonwealth Coal Commissioner appointed under this Act ;

“the Court” means the Commonwealth Court of Conciliation and Arbitration;

“the Federation” means the Australian Coal and Shale Employees’ Federation, an organization registered under the *Commonwealth Conciliation and Arbitration Act 1904-1934*.

PART II.—ADMINISTRATION.

6.—(1.) There shall be a Commonwealth Coal Commissioner who shall be appointed by the Governor-General and shall, subject to this Act, hold office during the continuance in operation of this Act.

Commonwealth
Coal
Commissioner.

(2.) The Commissioner shall be a corporation sole with perpetual succession and an official seal.

(3.) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Commissioner attached or appended to any document, and the production of a document purporting to bear the seal of the Commissioner shall be sufficient evidence that the document was duly sealed.

7. The Commissioner shall be paid remuneration by way of salary and allowances at such rates as the Governor-General determines.

Salary and
allowances of
Commissioner.

8.—(1.) The Governor-General may appoint two persons as advisers to the Commissioner.

Advisers.

(2.) An adviser appointed in pursuance of the last preceding sub-section shall receive such remuneration for his services, and travelling allowance at such rates, as the Governor-General determines.

(3.) Notwithstanding anything contained in this section, if an adviser is also a member of the Parliament of the Commonwealth or of a State he shall not be entitled to receive remuneration or travelling allowances in respect of his services as an adviser, but he shall be entitled to be reimbursed such expenses as he has actually incurred in or in connexion with the performance of his duties as an adviser.

9.—(1.) The Commissioner may, by instrument in writing and at his discretion, delegate to any person or body of persons all or any of his powers, functions and authorities of an administrative character under this Act (except this power of delegation) in relation to any matter or class of matters, or to any State, Territory or part of the Commonwealth, so that the delegated powers, functions and authorities may be exercised by the delegate with respect to the matters or class of matters, or the State, Territory or part of the Commonwealth specified in the instrument of delegation.

Delegation by
Commissioner

(2.) Every delegation by the Commissioner shall be revocable in writing at will, and no delegation shall prevent the exercise of any power, function or authority by the Commissioner.

(3.) Where under this Act the exercise of any power or function by the Commissioner is dependent upon the opinion or belief of the Commissioner in relation to any matter, that power or function may be exercised by the delegate upon the opinion or belief of that delegate.

Acting
Commissioner.

10. If the Commissioner is unable through illness or other cause to execute the duties of his office, or is suspended, the Governor-General may appoint a person to be Acting Commissioner who shall, during that inability or suspension, have and may perform and exercise all the duties, powers and functions of the Commissioner.

Suspension of
Commissioner.

11.—(1.) The Minister may suspend the Commissioner from office for misbehaviour or incapacity.

(2.) The Minister shall, within seven days after the suspension, if the Parliament is then sitting, or if the Parliament is not then sitting, within seven days after the next meeting of the Parliament, cause to be laid before both Houses of the Parliament a full statement of the grounds of suspension, and if within sixty days thereafter an address is presented to the Governor-General by the Senate and the House of Representatives praying for the restoration of the Commissioner to office, the Commissioner shall be restored accordingly ; but if no such address is so presented the Governor-General may confirm the suspension and declare the office of the Commissioner to be vacant and the office shall thereupon be and become vacant.

Commissioner
not to take
part in
management
of coal
mine, &c.

12.—(1.) The Commissioner shall not exercise, and shall forthwith relinquish, any power or authority vested in him (otherwise than by or under this Act) by reason of which he may influence the management or control of any coal mine or any company owning or controlling a coal mine or engaged in the handling or distribution of coal.

(2.) If the Commissioner is a shareholder in any such company, he shall not, as such, exercise any vote.

(3.) If the Commissioner acts in contravention of, or fails to comply with any obligation imposed on him by this section, then, without affecting his liability under this Act in respect of the act or failure, he shall be deemed to have vacated his office.

Vacation of
office of
Commissioner.

13.—(1.) The Commissioner shall be deemed to have vacated his office if—

(a) he engages, during his term of office, in any paid employment outside the duties of his office ;

(b) he becomes bankrupt ;

(c) he becomes in any way (otherwise than as Commissioner) concerned or interested in any contract or agreement entered into by or on behalf of the Commissioner or in any way (otherwise than as Commissioner) participates or claims to be entitled to participate in the profit thereof, or in any benefit or emolument arising therefrom ; or

(d) he resigns his office by writing under his hand addressed to the Governor-General and the resignation is accepted by the Governor-General.

(2.) The Commissioner shall not become in any way (otherwise than as Commissioner) concerned or interested in any such contract or agreement as is specified in paragraph (c) of the last preceding sub-section or in any way (otherwise than as Commissioner) participate or claim as is so specified.

14.—(1.) For the purposes of this Act, the Commissioner may appoint, in respect of any State or part of a State, a Coal Production Council consisting of such number of members as the Commissioner determines, and may appoint one of the members to be the Chairman of the Council. Coal Production Councils.

(2.) A Coal Production Council shall inquire into and advise the Commissioner on any matter relating to the production of coal or any question as to the means by which the production of coal may be increased which is referred to the Chairman of the Council by the Commissioner.

15.—(1.) For the purposes of this Act, the Commissioner may appoint in any State a Coal Committee consisting of such number of members as the Commissioner determines, and may appoint one of the members to be the Chairman of the Committee. Coal Committees.

(2.) A Coal Committee shall, subject to any directions of the Commissioner, control the distribution of coal in the State in respect of which it is appointed.

16.—(1.) The Commissioner may appoint such officers and employ such persons as he thinks necessary to assist him in the execution of his powers and duties. Appointment of officers.

(2.) Officers appointed or persons employed in pursuance of this Act shall not be subject to the *Commonwealth Public Service Act 1922-1943* and their remuneration and conditions of employment shall be such as are, subject to the approval of the Public Service Board, determined by the Commissioner.

(3.) Where an officer appointed, or a person employed, in pursuance of this Act was, immediately prior to his appointment, an officer of the Public Service of the Commonwealth, his service as an officer appointed or a person employed under this Act, shall, for the purpose of determining his existing and accruing rights, be taken into account as if it were service in the Public Service of the Commonwealth and the *Officers' Rights Declaration Act 1928-1940* shall apply as if this Act and this section had been specified in the Schedule to that Act.

PART III.—POWERS AND FUNCTIONS OF COMMISSIONER.

17.—(1.) The Commissioner is charged with the duty of making provision for securing an increase in the production of coal for the needs of Australia and of the Powers allied with His Majesty in the present war and is empowered to regulate and control the production, treatment, handling, supply, distribution, storage, marketing and consumption of coal, and for those purposes, and for the purpose of carrying out his duties and of exercising any of his powers and functions under this Act, is empowered to make such orders, and to take such measures, give such directions and do such things, as he thinks necessary or expedient. Powers of Commissioner.

(2.) In particular, but without affecting the generality of the last preceding sub-section, the Commissioner shall have the following powers and functions :—

- (a) To control the opening of new coal mines and the re-opening of coal mines which have been closed or abandoned ;
- (b) To fix, or make provision for or in relation to the fixation of, prices for the purchase and re-sale (whether by wholesale or retail) of all coals—
 - (i) at the pit ;
 - (ii) free on rail ;
 - (iii) free on board ;
 - (iv) free on wharf ; or
 - (v) at various points of distribution ;
- (c) To require owners of coal mines to make returns to the Commissioner as to the output of the coal mines owned by them and the working cost thereof and to furnish to the Commissioner such other information as is specified in the requirement ;
- (d) To investigate any system of wholesale and retail distribution of coal existing at the commencement of this Act and to control or alter any such system and to make provision for the marketing of coal ;
- (e) To erect or control such plant as is necessary for the purposes of this Act ;
- (f) To enter into and carry out such contracts as are necessary for the purposes of this Act ;
- (g) To terminate, suspend, vary or modify any existing contract or agreement relating to or affecting the supply or distribution of coal, including sale, transportation by land or sea, loading, discharge, delivery, storage and use ;
- (h) To set up such a system for the compulsory disposal of coal to or through the Commissioner as will, in his opinion, enable him effectively to control the distribution of coal and, will at the same time, give compensation on just terms to the owners or other persons supplying or delivering coal ;
- (i) To require any person to receive coal and to hold it at the disposition and subject to the direction of the Commissioner ;
- (j) To direct any owner of coal or other person to carry, convey, deliver or discharge coal from, to, or at any place or ship ;
- (k) To require any owner of a coal mine to modify the plant, machinery or equipment of the coal mine or to acquire, or to replace any existing plant, machinery or equipment at the coal mine by, new plant machinery or equipment ; and

- (l) To make, on behalf of the Commonwealth, on such conditions as he thinks fit, advances to owners of coal mines for the purpose of assisting them in the operation and development of their coal mines and, in particular, for acquiring, modifying, adding to or replacing plant, machinery or equipment.

(3.) The owner of a coal mine to whom a requirement made under paragraph (k) of the last preceding sub-section applies may require the Commissioner on behalf of the Commonwealth to make an advance to him of such moneys as are necessary to carry out the requirement, and the owner shall not be bound to comply with the requirement unless and until the advance is so made to him.

18.—(1.) For securing the defence of the Commonwealth and for the efficient prosecution of the present war, the Commissioner may—

Acquisition
and
requisition of
coal, &c.

- (a) declare that the whole or such part of the output of any coal mine as is specified in the declaration or any equipment of whatever kind (not being a fixture or part of the soil) used or capable of being used in the production, treatment, handling or distribution of coal and specified in the declaration, is acquired by the Commonwealth; or
- (b) require any person who is the owner (not being a State) of any equipment of whatever kind (whether as a fixture or part of the soil or not) used or capable of being used in the production, treatment, handling or distribution of coal, including railway trucks (not being the property of a State), to make the equipment available to the Commissioner,

and for any coal or equipment so acquired or required to be made available, or for the use of any equipment so made available, compensation shall be payable by the Commonwealth to the owner of the coal mine or equipment.

(2.) Any person on whom a requirement under paragraph (b) of the last preceding sub-section is served shall, within such time as is specified in the requirement, make the equipment available accordingly.

(3.) Where any coal or equipment is acquired or any equipment is made available under this section, the general or special property therein shall pass to the Commissioner freed from all mortgages, charges, liens, pledges, interests and trusts affecting the coal or equipment and the rights and interests of any person in that coal or equipment shall, by virtue of this section, be converted into a claim for compensation to be satisfied out of the compensation payable to the owner of the coal mine or equipment.

(4.) The compensation payable by the Commonwealth for any coal or equipment acquired or required to be made available, or for the use of any equipment made available, under this section, shall be determined by agreement between the Commissioner and the owner of the coal or equipment, or, in the absence of agreement, by action against the Commonwealth in any Court of competent jurisdiction.

Reserves and pooling.

19. The Commissioner may make provision for—

- (a) establishing reserve stores of coal ;
- (b) establishing a coal pool ; or
- (c) establishing schemes for the distribution of coal in any reserve store of coal or coal pool so established.

Exercise of powers.

20. Any exercise of any power of the Commissioner may be general or confined to any coal mine, port, place, locality or State or part of a State or to any person or class of persons, and shall be subject to any directions of the Minister as to matters of policy.

PART IV.—CONTROL OF COAL MINES.

Division 1.—Power of Commissioner to take Control of Coal Mines.

Control of coal mines.

21.—(1.) Where, in the opinion of the Commissioner, it is desirable in the interests of the defence of the Commonwealth or the effectual prosecution of the present war that, with a view of maintaining or increasing the production of coal from any coal mine, the coal mine should be operated under the control of the Commissioner, the Commissioner may, by written order, authorize any person (in this Act referred to as an “authorized controller”) to exercise such functions of control and to do such things, on behalf of the Commissioner, but subject to any directions of the Commissioner, with respect to that coal mine, as the authorized controller thinks necessary for the purpose of maintaining or increasing the production of coal at that coal mine, and the authorized controller may exercise those functions and do those things accordingly.

(2.) So long as there is in force an order under the last preceding sub-section with respect to the coal mine, the coal mine shall be operated in accordance with the provisions of the order, and the owner and every person concerned with the management or conduct of the coal mine shall comply with any directions given by the authorized controller.

(3.) Upon making any order under sub-section (1.) of this section the Commissioner shall cause notice of the effect of the order to be given as soon as practicable in such manner as he thinks necessary for bringing it to the notice of the owner of the controlled mine, and to the notice of such other persons, if any, as should, in the opinion of the Commissioner, have notice of the order.

Compensation in respect of controlled mine.

22. The owner of a controlled mine who suffers loss (including loss of profits) or damage, by reason of anything done in pursuance of an order under the last preceding section in respect of the mine, shall be entitled to such compensation as is determined by agreement between the Commissioner and the owner of the coal mine, or, in the absence of agreement, as is determined by an action by the owner against the Commonwealth in any Court of competent jurisdiction.

23.—(1.) The Commissioner may make application to the Court for the determination of—

Additional profits arising from control of mine.

- (a) the question as to whether, by reason of the control exercised in pursuance of any order made under section twenty-one of this Act, the amount of the profits derived from the operation of any controlled mine during any period while the mine is or was a controlled mine exceeds the amount of the profits derived from the operation of the mine for the period last preceding the date on which the mine became a controlled mine corresponding, as to dates, to the first-mentioned period; and
- (b) the question as to the amount of any such excess.

(2.) Any such application shall as far as practicable be made in respect of a period corresponding to the usual accounting period in respect of the mine.

(3.) The Commissioner shall cause to be served on the owner a copy of the application endorsed by the proper officer of the Court with the place and time of hearing and the owner shall be entitled to be represented before the Court on the hearing.

(4.) The Court shall, on any such application, hear and determine the questions the subject of the application and the determination of the Court shall be final and conclusive and without appeal, and shall be binding on the owner of the mine whether he was represented before the Court on the hearing of the application or not.

(5.) The Commissioner may serve on the owner of the controlled mine notice of the determination of the Court specifying the amount determined by the Court, and specifying the date and place of payment.

(6.) Any amount so specified which remains unpaid after the date so specified may be sued for and recovered in any Court of competent jurisdiction by the Commissioner suing in his official name.

(7.) In this section the expression "the Court" means the High Court or the Supreme Court of a State.

24. It shall be the responsibility of the owner of a controlled mine to pay the remuneration of all persons employed in or about the mine as officers and employees of the Commissioner and the expenses incurred by the authorized controller of the mine with respect to the operation of the mine.

Payments to be made by owner of controlled mine.

Division 2.—Service in Controlled Mines.

25.—(1.) The manager of every controlled mine and all persons employed or usually employed in an administrative, executive or clerical capacity, and all persons otherwise employed or usually

Service in controlled mines.

employed, in or about the mine shall be officers and employees of the Commissioner and shall work in accordance with the directions of the Commissioner, under terms and conditions of employment determined by or in pursuance of this Act, until discharged or released from employment by or on behalf of the Commissioner.

(2.) For the purposes of any law relating to workers' compensation applying to persons employed by the Commissioner in or about the controlled mine, those persons shall be deemed to be employed by the owner of the mine.

Terms and conditions of employment by the Commissioner.

26. The terms and conditions of service of persons who are officers or employees of the Commissioner in pursuance of this Division shall, subject to this Act and subject to any variation in accordance with the provisions of this Act, be—

- (a) in the case of those persons who were prior to the coal mine becoming a controlled mine employed or usually employed in or about the mine by the owner of the mine—the terms and conditions on which they were employed immediately prior to the mine becoming a controlled mine ; and
- (b) in the case of those persons who are otherwise employed by or on behalf of the Commissioner—the same terms and conditions which would in accordance with any law, or any award, order or determination of any industrial tribunal, apply to them if they were employed by the owner of the mine, or, if the terms and conditions of employment are not prescribed by any such law, award, order or determination, such terms and conditions as the Commissioner determines.

Special conditions of employment.

27.—(1.) It shall be a condition of employment by the Commissioner of any person in or about a controlled mine that, if, in the opinion of the Commissioner or the authorized controller of the mine, that person—

- (a) wilfully disobeys or disregards any lawful direction or order made or given by any person having authority to make or give the order or direction ; or
- (b) fails, without leave or other reasonable excuse, to attend for work or to perform his duties on any day and at the times on and at which he is required so to attend and to perform his duties,

then, subject to any order of the Commissioner, there shall be deducted from any pay due or to become due to that person an amount in accordance with the scale contained in the Schedule to this Act.

(2.) The Commissioner may, if he thinks the circumstances of any case make it desirable so to do, remit any such deduction in whole or in part.

28.—(1.) For the purposes of this Act there shall be a Trust Account which shall be known as the Coal Mining Industry Trust Account, and shall be a Trust Account for the purposes of section sixty-two A of the *Audit Act* 1901–1934.

Coal Mining
Industry Trust
Account.

(2.) All amounts paid to or recovered by the Commissioner by reason of any determination made under section twenty-three of this Act and all amounts of pay deducted in accordance with the last preceding section shall be paid to the credit of the Trust Account.

(3.) All interest received from the investment of any moneys standing to the credit of the Trust Account shall form part of the Account.

(4.) The moneys standing to the credit of the Trust Account shall be applied for the advancement of the coal mining industry, including social welfare schemes for employees in the industry.

PART V.—INDUSTRIAL MATTERS.

Division I.—Central Industrial Authority.

29.—(1.) The Minister may appoint a person to be the Central Industrial Authority.

Central
Industrial
Authority.

(2.) The Central Industrial Authority shall be deemed to be an officer of the Commissioner appointed under section sixteen of this Act.

30. The Central Industrial Authority shall have cognizance of—

Cognizance of
disputes.

- (a) any industrial dispute between the Federation on the one hand, and employers or associations of employers on the other hand, referred to him by the Federation or the employers or associations parties thereto or by the Commissioner ;
- (b) any matter arising under any award of the Court relating to the coal mining industry referred to him by the Federation or the employers or associations affected by the matter or by the Commissioner ;
- (c) any industrial dispute or matter referred to him by a Local Industrial Authority ; and
- (d) any other matter affecting industrial relations in that industry which the Commissioner declares is, in the public interest, proper to be dealt with under this Act.

31.—(1.) The Central Industrial Authority shall have power to consider and determine any industrial dispute or any matter of which he has cognizance, and for that purpose shall have (in addition to any other powers conferred on him by this Act) all powers which are given to the Court or the Chief Judge of the Court as regards an industrial dispute of which the Court has cognizance.

Powers of
Central
Industrial
Authority.

(2.) In exercising his powers under this Act, the Central Industrial Authority shall act according to equity, good conscience and the substantial merits of the case, without regard to technicalities or legal forms, and shall not be bound by any rules of evidence, but may inform his mind on any matter in such manner as he thinks just.

(3.) The Central Industrial Authority may refer to a Local Industrial Authority for investigation and report any industrial dispute or matter or part thereof within the cognizance of the Central Industrial Authority and any Authority to which the reference is made shall, as soon as may be, make the investigation and report.

(4.) The Central Industrial Authority may refer to a Local Industrial Authority for settlement any such industrial dispute or matter or part thereof.

(5.) The Central Industrial Authority shall not exercise, with respect to any matter which he determines is a local matter, any of the powers conferred by this section, but shall refer that local matter to the appropriate Local Industrial Authority for settlement.

(6.) The Central Industrial Authority may make his own rules of procedure.

Enforcement
of awards
and
agreements.

32.—(1.) Any award or order made by the Central Industrial Authority shall be binding on the parties, shall be filed in the Court and shall thereupon have effect in all respects and be enforceable as if it were an award or order of the Court.

(2.) Where, at the hearing before the Central Industrial Authority, an agreement as to the whole or part of any industrial dispute or any other matter is made in writing between the parties thereto, the agreement shall be filed in the Court, and shall thereupon have effect in all respects and be binding on the parties and enforceable as if it were an award of the Court.

Division 2.—Local Industrial Authorities.

Establishment
of Local
Industrial
Authorities.

33.—(1.) The Minister may, on the recommendation of the Commissioner, appoint persons to be Local Industrial Authorities.

(2.) Any person so appointed shall be deemed to be an officer of the Commissioner appointed under section sixteen of this Act.

(3.) The conditions and terms of employment (other than as to tenure of office) of a Local Industrial Authority shall be such as the Minister, by order, determines.

(4.) A Local Industrial Authority may exercise his power under this Act, within such limits as to locality or otherwise as are specified by the Commissioner.

(5.) The term of office of a Local Industrial Authority shall be for a period specified in the instrument of appointment (not exceeding two years from the date of appointment), or for the period during which this Act continues in operation, whichever is the shorter.

(6.) The Minister may, on the recommendation of the Commissioner, remove a Local Industrial Authority from office for misbehaviour or incapacity.

Cognizance of
disputes.

34.—(1.) Subject to this Act, a Local Industrial Authority may—

(a) settle disputes as to any local industrial matters likely to affect the amicable relations of employers in the Coal Mining Industry and their employees who are members of the Federation (other than those employees who are excepted by the Commissioner by order);

- (b) investigate and report upon any industrial dispute or matter or part thereof referred to him by the Central Industrial Authority ;
- (c) settle any local industrial dispute or matter or part thereof referred to him by the Central Industrial Authority for settlement ; and
- (d) inquire into and report to the Central Industrial Authority on industrial matters not covered by any award of the Court or award or order of the Central Industrial Authority.

(2.) If any industrial dispute or matter affecting persons outside the limits of power of a Local Industrial Authority, not being a matter, or an industrial dispute with respect to a matter, determined by the Central Industrial Authority to be a local matter, is referred to or brought before him, the Local Industrial Authority shall refer the industrial dispute or matter to the Central Industrial Authority.

(3.) At any time before a decision has been made, or a settlement has been effected, by a Local Industrial Authority in relation to any matter before him in pursuance of paragraph (a) of sub-section (1.) of this section, the Local Industrial Authority may, if he thinks fit, but subject to the regulations, request the Central Industrial Authority to determine whether any of the matters in dispute is or is not a local matter.

(4.) A determination made by the Central Industrial Authority in pursuance of a request made under sub-section (3.) of this section shall be binding upon the Local Industrial Authority, and any decision of, or settlement effected by, the Local Industrial Authority inconsistent with that determination may be set aside or varied by the Central Industrial Authority.

35. Subject to this Act, the provisions of sections thirty-one and thirty-two of this Act shall, so far as applicable, apply, with such alterations as are necessary, in relation to matters before a Local Industrial Authority in pursuance of sub-section (1.) of the last preceding section.

Powers of
Local
Industrial
Authorities.

36.—(1.) The Commissioner may, in pursuance of section sixteen of this Act, appoint industrial officers to inquire into or investigate, and report to Local Industrial Authorities on industrial disputes or matters before Local Industrial Authorities.

Industrial
officers.

(2.) A Local Industrial Authority may, after consideration of the report of an industrial officer with respect to any industrial dispute or matter before him (which report in the case of an industrial dispute shall set out the views of all parties to the dispute) forthwith deal with the industrial dispute or matter in accordance with the provisions of this division without further inquiry or investigation.

Review of
decisions, &c.,
of Local
Industrial
Authorities.

37.—(1.) Where, in the opinion of the Commissioner, any decision or settlement given or effected by a Local Industrial Authority is likely to lead to industrial unrest in localities other than that in respect of which the decision was given or the settlement effected, he may, within one month after the date on which the decision was given or the settlement effected, order that the decision or settlement be reviewed by the Central Industrial Authority.

(2.) The operation of the decision or settlement shall, if the Commissioner by order so directs, be stayed pending the review of the decision or settlement.

(3.) If, on that review, the Central Industrial Authority is of opinion that the decision or settlement is likely to lead to any such industrial unrest, the Central Industrial Authority may re-hear the whole or any part of the industrial dispute or matter in respect of which the decision or settlement was given or effected, but, if not of that opinion, the Central Industrial Authority shall certify to the Commissioner to that effect and any stay of the operation of the decision or settlement shall thereupon cease.

Division 3.—Production Committees.

Production
Committees.

38. The Commissioner may appoint at any coal mine a Production Committee consisting of an equal number of members representing the persons engaged in the management and conduct of the coal mine, and of members representing the Federation.

(2.) The Commissioner may appoint in addition a person to represent him on any Production Committee.

Functions of
Production
Committees.

39. A Production Committee shall, in respect of the coal mine at which it is appointed—

- (a) advise the persons concerned with the management and conduct of the coal mine or, in the case of a controlled mine, the Commissioner, with respect to means by which the production of coal at the coal mine may be increased, and make recommendations accordingly ;
- (b) deal with all industrial disputes arising at the coal mine and with any matters so arising which in the opinion of the Committee affect or are likely to affect the production of coal at the coal mine ; and
- (c) endeavour by conciliation to maintain harmonious relations between the persons engaged in the management and conduct of the coal mine and the persons engaged in the working of the coal mine.

Division 4.—General.

40. An award, order or determination of the Central Industrial Authority or a decision of a Local Industrial Authority shall not be challenged, appealed against, quashed or called into question, or be subject to prohibition, mandamus or injunction, in any court on any account whatever.

Award, order, determination or decision not to be challenged or questioned.

41. During the currency of any award or order made by the Central Industrial Authority or of a decision of any Local Industrial Authority under this Act, no award or order made by the Court or by any tribunal having jurisdiction in industrial matters in the Coal Mining Industry dealing with the same subject-matter and inconsistent with the award or order made by the Central Industrial Authority or Local Industrial Authority (except an award, order or decision made under this Act) shall be effective.

Awards of Court inconsistent with a award of Industrial Authority.

42. Allowances payable to persons attending as witnesses before the Central Industrial Authority or a Local Industrial Authority shall be as prescribed.

Witnesses.

43. On the hearing, determination or decision of any dispute, industrial dispute, or matter by the Central Industrial Authority or a Local Industrial Authority an organization may be represented by a member or officer of the organization, and any party not being an organization may be represented by an employee of that party, but no party shall (except by leave of the person who is hearing, determining or deciding the dispute, industrial dispute or matter and consent of all parties) be represented by counsel or solicitor or paid agent.

Representation of parties at hearing.

PART VI.—MISCELLANEOUS.

44. Subject to such exceptions as the Commissioner specifies, a person shall not sell or dispose of any coal except to or through or with the consent of the Commissioner, which consent may be given subject to such conditions (if any) as the Commissioner thinks fit to impose.

Coal not to be disposed of except with consent of Commissioner.

45. If any person claims that he has sustained any loss or damage by reason of an exercise by the Commissioner of the power conferred upon him by paragraph (g) of sub-section (2.) of section seventeen of this Act, he may, within three months after the exercise of the power, lodge with the Commissioner a claim in writing setting out full particulars of the loss or damage and the question whether any and, if any, what amount of compensation should in all the circumstances of the case be paid to that person shall be settled by agreement between him and the Commissioner, subject to the approval of the Minister, or, failing any such agreement, by an action by the owner against the Commonwealth in any Court of competent jurisdiction.

Compensation for loss resulting from suspension of contract.

Protection of lessees under Crown leases against forfeiture for non-observance of conditions.

46. Notwithstanding anything contained in any law of a State or Territory of the Commonwealth, or in any Crown lease or other instrument, the holder of a lease from the Crown of any land on which he is prevented by any order, direction or refusal of the Commission from carrying on coal mining operations shall not be liable, in relation to the period during which he is so prevented, to any forfeiture, cancellation, re-entry, ejection, penalty or damages by reason of the breach of, or failure to comply with, any obligation or condition contained in, or applicable in relation to, the lease.

Provisions as to opening or re-opening coal mines.

47.—(1.) Notwithstanding anything contained in any law of a State or Territory of the Commonwealth, where the Commissioner has directed or authorized any person to open or re-open a coal mine, that person shall not be liable to any action, suit or other proceeding by reason only of his compliance with the direction or his acting in pursuance of the authority.

(2.) The Commissioner may acquire land for the purpose of opening or re-opening a coal mine, or causing a coal mine to be opened or re-opened, on the land.

(3.) The provisions of the *Lands Acquisition Act* 1906–1934 shall apply, with such modifications, adaptations, exceptions and additions as are prescribed, in relation to land acquired or to be acquired under this section.

Order to supply coal.

48.—(1.) The Commissioner may require any owner of a coal mine or any person owning or having in his possession or under his control any coal to supply to such person as is named in the requirement, such quantity of coal, of such quality, and within such period of time, as is specified in the requirement.

(2.) Upon service or notification of a requirement under the last preceding sub-section, the owner of a coal mine affected by the requirement or the person owning or having in his possession or under his control any coal shall take proper measures to ensure that the supply of the coal specified in the requirement is given priority to any other order.

(3.) The period of time specified in the requirement shall be a period of time within which, in the opinion of the Commissioner, it is possible for the coal to be delivered, having regard to all the relevant circumstances, and the requirement may provide that the obligation to comply therewith, within the period specified, shall be conditional upon the happening or continuance of circumstances specified in the requirement.

Order to accept delivery of coal.

49. The Commissioner may, or the Chairman of a Coal Committee, with the approval of a majority of the members of the Committee, may, by order, require any consumer of coal to accept delivery of coal of such a quality or nature as is specified in the requirement.

Safety and health questions.

50.—(1.) Where any question arises or has, whether before or after the commencement of this section, arisen at a coal mine in any State, as to whether the safety or health of employees at the coal

mine is endangered or is likely to be endangered by the continued working of the coal mine or by any methods of working then in operation or proposed to be put into operation in the coal mine the Commissioner may refer the question to an Inspector of Coal Mines of the State with a request that the question be at once considered and reported upon so far as possible in co-operation with the manager of the coal mine and with the person appointed or elected by the persons employed in the coal mines in the State or district in which the coal mine is situated to inspect coal mines on their behalf.

(2.) Where any such question has been so referred to an Inspector of Coal Mines that Inspector shall forthwith make or cause to be made such inspections, investigations and inquiries as he deems necessary and shall furnish to the Commissioner a report setting out his opinion on the question referred to him and as to the relation of that question to the relevant provisions of any Act of the State in which the coal mine is situated relating to safety and health in coal mines.

(3.) If the Commissioner after receipt of the report from the Inspector of Coal Mines is of opinion that the safety or health of employees at the coal mine is, or is not, or is or is not likely, to be endangered by all or any of the matters referred to in sub-section (1.) of this section, he may, by order, direct the owner of the coal mine and any other person to do or refrain from doing all such matters or things in relation to the operation of coal mines as are specified in the order:

Provided that no such order shall derogate from any provisions of the law of any State prescribing requirements to be observed for securing the safety or health of persons engaged in or about coal mines.

(4.) The owner of the coal mine and any such other person shall forthwith comply with the directions contained in the order.

(5.) An Inspector who, in pursuance of a request under this section, inspects a coal mine or does any other act or thing, shall be deemed to do so in pursuance of the duties or power imposed or conferred upon him by the law of the State.

(6.) All persons having any duties, powers or functions under the laws of a State relating to the regulation of coal mines shall act in aid of the Commissioner for the purpose of giving effect to any order made by the Commissioner under this section.

(7.) In this section, the expression "Inspector of Coal Mines", in relation to any State, means any officer of the State who, under the law of the State, has the power or duty of inspecting coal mines.

51. The Commissioner may, or the Chairman of a Coal Committee, with the approval of a majority of the members of the Committee, may, by order, require any person being an owner, consumer, distributor or transporter of coal, to furnish as and when required, to the Commissioner or a Coal Committee at the address specified in the requirement, particulars in relation to—

- (a) the quantity and nature of coal in his possession and the name and address of the person from whom, or the manner in which, it was obtained ;

Returns to be furnished.

- (b) the place at which the coal is stored ;
- (c) the quantity of coal consumed by him during a period specified in the order ;
- (d) the quantity of coal likely to be required by him—
 - (i) weekly for consumption ; and
 - (ii) to establish three months' stocks ; and
- (e) such other particulars as are specified in the requirement.

Access to
premises,
books, &c.

52. Any officer appointed under this Act thereto authorized in writing by the Commissioner shall, for the purposes of this Act, at all times have full and free access to all coal mines and to all buildings, places, books, documents and other papers in connexion with any coal mine, and for those purposes may make extracts from or copies of any such books, documents and papers.

Manner of
serving order.

53.—(1.) Where any order, direction or requirement by or under this Act is published in the *Gazette*, the order, direction or requirement shall be deemed to have been sufficiently served upon, or brought to the notice of all persons concerned or affected thereby.

(2.) Any order, direction or requirement under this Act may be made so as to apply to any particular person and may be served upon that person by delivering a copy thereof to him by hand or by sending it to him by registered post, or in the case of a direction or requirement may be given orally or by telegram.

Persons to
comply with
orders, &c.

54. A person who is affected by any order, direction or requirement made or given or deemed to be made or given by the Commissioner or an Authorized Controller or the Chairman of a Coal Committee, or who falls within the intended application or operation of any such order, direction or requirement shall observe and comply with the order, direction or requirement or shall cause it to be observed and complied with.

Power of
Commissioner to
perform work.

55.—(1.) Where any person fails, wholly or in part, to comply with any order, direction or requirement the Commissioner may by his officers, employees or agents do all things which that person by his failure has omitted to do.

(2.) Anything done by the Commissioner in pursuance of this section shall, so far as necessary, be deemed to have been duly authorized by the person who failed to comply with the order, direction or requirement.

(3.) The Commissioner may recover, in any Court of competent jurisdiction, as a debt due to him, from the person who so failed to comply with the order, direction or requirement, the cost incurred by him in doing anything in pursuance of this section.

Offences.

56.—(1.) Any person who contravenes, or fails to comply with, any provision of this Act shall be guilty of an offence against this Act.

(2.) Subject to the regulations, the punishment for an offence against this Act shall be a fine not exceeding One hundred pounds or imprisonment for a term not exceeding six months, or both.

57. Subject to this Act—

Savings.

- (a) any right, power, obligation or liability conferred or imposed on the Commonwealth Coal Commission established under the National Security (Coal Control) Regulations, as amended immediately prior to the date on which the Commissioner first appointed under this Act takes office, which has arisen out of anything done or omitted to be done by that Commission, or was deemed to be vested in or imposed on that Commission, and which was subsisting immediately prior to that date, shall be deemed to be vested in or imposed upon the Commissioner, and any liability due or deemed to be due or obligation owing, or deemed to be owing, to that Commission immediately prior to that date, shall be deemed to be due or owing to the Commissioner, and in any contract, agreement or other instrument to which that Commission was a party or deemed to be a party or any reference in which to any other authority is deemed to be a reference to that Commission, any reference to that Commission or other authority shall be deemed to be a reference to the Commissioner ;
- (b) any order, direction or requirement made or given by the Commission under those regulations and in force immediately prior to that date, shall continue in force as if made or given by the Commissioner under this Act and shall have effect accordingly ;
- (c) all persons appointed by the Minister or employed by that Commission and all Committees appointed by the Commissioner under those regulations and holding office or so employed immediately prior to that date shall continue to hold office and to be employed as if they had been appointed or employed by the Commissioner under this Act ; and
- (d) all awards and orders made by the Central Coal Authority under the National Security (Coal-mining Industry Employment) Regulations, as amended immediately prior to the commencement of this Act, which were in force immediately prior to the date of the appointment of the Central Industrial Authority shall continue in force and shall be subject to revocation or variation by the Central Industrial Authority.

58. Where power is conferred by or under this Act to give directions or make requirements, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to revoke or vary those directions or requirements.

Power to
revoke
or vary
directions or
requirements.

Orders not
Statutory
Rules.

59.—(1.) Orders made under this Act shall not be deemed to be Statutory Rules within the meaning of the *Rules Publication Act* 1903–1939.

(2.) Section forty-eight (except paragraphs (a) and (b) of sub-section (1.) and sub-section (2.)) and section forty-nine of the *Acts Interpretation Act* 1901–1941 shall apply to orders made under this Act which are of a legislative and not an executive character, in like manner as they apply to regulations.

Specified
persons not
to be
employed.

60. The Commissioner may direct that a person shall not be employed in the coal-mining industry and, so long as the direction continues in force—

- (a) a person shall not employ that person in the coal-mining industry ; and
- (b) that person shall not accept employment, or continue in employment, in the coal-mining industry.

Regulations.

61. The Governor-General may make regulations not inconsistent with this Act prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing matters providing for or in relation to—

- (a) the employment of persons in or about coal mines ;
- (b) requirements incidental or supplementary to the exercise of the powers and functions of authorized controllers ;
- (c) the prevention of absences from, or stoppages of, work at coal mines ;
- (d) the prevention of interruptions of, or interferences with, the operation of coal mines ;
- (e) the prevention of acts, conduct or omissions prejudicially affecting or likely prejudicially to affect the maintenance or increase in the production of coal in Australia ;
- (f) the payment of fees or allowances to the members of any council or committee established under this Act ; and
- (g) penalties, not exceeding the penalties specified in section fifty-six of this Act, for offences against this Act or the regulations and for the recovery of those penalties.

Duration of
Act.

62.—(1.) This Act shall continue in operation until a date to be fixed by proclamation, and no longer, but in any event not longer than six months after His Majesty ceases to be engaged in the present war.

(2.) Notwithstanding the provisions of the last preceding sub-section, this Act shall continue in operation for the purposes of the enforcement of any right to compensation arising under this Act and the making of any application, and the determination of any question, under section twenty-three of this Act :

Provided that no such right to compensation shall be enforceable unless the claim for the compensation is made within twelve months after this Act ceases to be in operation for purposes other than those specified in this sub-section.

THE SCHEDULE.

Section 27.

SCALE OF DEDUCTIONS FROM PAY FOR DISOBEDIENCE OF ORDERS
OR UNAUTHORIZED ABSENCE FROM WORK.

Occasion.	Deduction from pay.
	£
On the first occasion on which the condition of employment specified in section 27 of this Act becomes applicable ..	2
On the second such occasion	4
On the third such occasion	8
On the fourth or any later such occasion	10

COAL MINES PROFITS (WAR-TIME).

No. 2 of 1944.

An Act to provide for the payment by the Owners of Controlled Coal Mines of Additional Profits which have accrued as a result of the exercise of Control by the Commonwealth Coal Commissioner.

[Assented to 8th March, 1944.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Coal Mines Profits (War-time) Act 1944.* Short title.
2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.
3. Expressions used in this Act shall, unless the contrary intention appears, have the same meanings as in the *Coal Production (War-time) Act 1944.* Interpretation.