

15 GEO. VI. No. 39, 1951. *Coal Mining Industry, Etc., Act.*

An Act to constitute a Coal Mining Industry Long Service Leave Trust Fund ; to Provide for the Payment therefrom to Employers in the Coal Mining Industry of Amounts paid by them to Employees in respect of Long Service Leave accrued to such Employees under certain Awards ; to Validate certain matters, and for purposes connected therewith.

15 GEO. VI.
NO. 39.
THE COAL
MINING
INDUSTRY
LONG SERVICE
LEAVE
ACT OF 1951.

[ASSENTED TO 15TH NOVEMBER, 1951.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. (1.) This Act may be cited as "*The Coal Mining Industry Long Service Leave Act of 1951.*"

Short title,
commence-
ment, and
construction.

*(2.) Except as otherwise provided herein, this Act shall commence upon a day to be appointed by the Governor in Council and notified by Proclamation published in the *Gazette*.

(3.) This Act shall be read and construed subject to the *Commonwealth of Australia Constitution Act*, and so as not to exceed the legislative power of the State, to the intent that where any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

2. (1.) In this Act unless the context or subject-matter otherwise indicates or requires—

Interpreta-
tion.

“ Administrator ” means the Administrator appointed under this Act ;

Adminis-
trator.

“ Award ” means any award or variation of an award relating to long service leave benefits to employees in the coal mining industry in Queensland made by the Coal Industry

Award.

Tribunal or the Central Reference Board before the first day of August one thousand nine hundred and fifty-one and includes—

- (a) Any orders and interpretations made or given before the said day under or in relation to any such award or variation; and
- (b) Such awards, variations of awards, orders and interpretations made or given on or after the said day as the Governor in Council by Proclamation published in the *Gazette* declares to be included within this definition.

- Employer.** “Employer” means any employer bound by any award;
- Fund.** “Fund” means the Coal Mining Industry Long Service Leave Trust Fund constituted under section three of this Act;
- Minister.** “Minister” means the Secretary for Mines and Immigration or other Minister of this State for the time being administering this Act.

(2.) A reference in this Act to any Act of the Parliament of the Commonwealth shall include a reference to that Act as amended from time to time.

Coal Mining
Industry
Long Service
Leave
Trust Fund.

3. (1.) There shall be constituted an account in the Treasury to be called the “Coal Mining Industry Long Service Leave Trust Fund.”

(2.) The Fund shall consist of—

- (a) Such amounts as are from time to time advanced to the Fund by the Treasurer, and
- (b) All amounts received by the State from the Commonwealth under or in pursuance of the * *States Grants (Coal Mining Industry Long Service Leave) Act 1949* of the Parliament of the Commonwealth.

(3.) The Fund shall be applied—

- (a) To the reimbursement of any employer of the amounts paid by him under and in accordance with the provisions of any award and with the prior approval of the

1951.

Coal Mining Industry, Etc., Act.

Administrator to any employee or the personal representative of any deceased employee in respect of long service leave due to or shifts of entitlement accumulated by such employee or deceased employee under and in accordance with the provisions of any award ; and

- (b) In meeting the costs incurred in the administration of this Act.

4. (1.) An employer shall be entitled to be reimbursed the amount paid by him under and in accordance with the provisions of any award to any employee or the personal representative of any deceased employee in respect of long service leave due to or shifts of entitlement accumulated by such employee or deceased employee under and in accordance with the provisions of any award if he has obtained the approval of the Administrator prior to making such payment.

Payments to
employers
from Fund.

(2.) The Administrator shall not approve of any payment referred to in subsection one of this section unless he is satisfied that the employee or the personal representative of a deceased employee is entitled to such payment.

5. (1.) The Under Secretary, Department of Labour and Industry, the Corporation constituted by * "*The State Enterprises Repeal and "The Under Secretary, Department of Labour and Industry" Corporation Act of 1931,*" shall in respect of coal produced at a State coal mine which is not subject to duties of excise under the *Excise Tariff 1921-1949* of the Parliament of the Commonwealth, pay to the Commonwealth for the purposes of the † *States Grants (Coal Mining Industry Long Service Leave) Act 1949* of the said Parliament such amounts as would have been payable as duties of excise under the said Excise Tariff had such coal been subject to such duties of excise.

Payments to
Common-
wealth.

(2.) This section shall be deemed to have commenced upon the first day of November, one thousand nine hundred and forty-nine, and shall operate retrospectively accordingly.

* 22 G. 5 No. 47.

† No. 80 of 1949 of the Commonwealth.

Adminis-
trator.

6. (1.) There shall be an Administrator of the Fund, who shall be appointed and hold office under * “ *The Public Service Acts, 1922 to 1950* ” (including any Act passed hereafter in amendment of or substitution for those Acts).

The Administrator shall exercise and discharge the powers, authorities, duties, and functions conferred and imposed upon him by or under this Act.

(2.) The Governor in Council may, under and subject to the provisions of * “ *The Public Service Acts, 1922 to 1950* ” (including any Act passed hereafter in amendment of or substitution for those Acts), appoint such officers and employees as may be necessary for the administration of this Act.

Duties of
Adminis-
trator.

7. The Administrator shall—

- (a) Be responsible for the prudent and efficient administration of the Fund ;
- (b) Determine all questions of fact arising in connection with payments out of the Fund ;
- (c) Maintain such records and accounts as may be necessary for the administration of this Act ;
- (d) As soon as practicable after the thirtieth day of June in each year prepare and transmit a report to the Minister exhibiting a true and correct view of the financial position of the Fund and of the transactions of the Administrator ; and
- (e) At such times and in respect of such matters as the Minister may require prepare and transmit to the Minister a true and accurate report.

Power of
Adminis-
trator to
summon
witnesses.

8. (1.) The Administrator may, for any purpose in connection with the administration of this Act—

- (a) Summon and administer oaths to witnesses ;
- (b) Receive evidence on oath ; and
- (c) Require the production of records, books, documents, papers, and writings.

1951.

Coal Mining Industry, Etc., Act.

(2.) A person who has been lawfully summoned to appear before the Administrator shall not fail to appear, and a person who appears, whether summoned or not, shall not—

- (a) Refuse to be sworn as a witness ;
- (b) Fail to answer any question he is lawfully required to answer ; or
- (c) Fail to produce any record, book, document, paper, or writing he is lawfully required to produce.

(3.) Any person who neglects or fails to comply with any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding fifty pounds.

9. (1.) For the purposes of this Act every employer shall keep and maintain such records, books, documents, papers, and writings and in such form as the Administrator may require, and shall at all times correctly record or enter therein such particulars as are required by the Administrator and shall when called upon so to do by the Administrator or any person authorised by him in that behalf produce all or any of the records, books, documents, papers, and writings for investigation by the Administrator or person so authorised.

Records to be kept by employers.

(2.) The Administrator or any person authorised by him in that behalf shall have full and free access to any place or places of business of any employer and may examine and take copies of or extracts from all or any of the records, books, documents, papers, and writings required to be kept and maintained by such employer.

(3.) Any person who neglects or fails to comply with any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding fifty pounds.

10. (1.) Any person who for the purpose of obtaining any payment under this Act for himself or for any other person makes any false statement to or misleads or attempts to mislead the Administrator, or any officer concerned in the administration of this Act, or any other person whomsoever or otherwise commits

of False or misleading statements.

any fraudulent act or omission shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding one hundred pounds or to imprisonment for twelve months.

(2.) Where a person is convicted of an offence under subsection one of this section and it is made to appear that, in consequence of such offence, he was wrongly paid any amount in respect of or purporting to be in respect of long service leave accrued under any award the court may, in addition to the penalty or punishment referred to in that subsection, impose a penalty or additional penalty not exceeding twice the amount so wrongly paid.

Recovery of penalties.

11. Any offence against this Act may be prosecuted in a summary way under * “*The Justices Acts, 1886 to 1949*,” or any Act passed hereafter in amendment of or substitution for those Acts.

Validation of awards.

12. (1.) Each award, in so far as it operates or purports to operate, in relation to employers or employees, or the personal representatives of deceased employees, resident or carrying on business in the State of Queensland, shall have the force of law, and shall be deemed always to have had the force of law, in accordance with its tenor.

(2.) In so far as any award which has the force of law by virtue of this section confers, or purports to confer, power on an authority, other than the Coal Industry Tribunal, to bring the award into operation, that power may be exercised by the Coal Industry Tribunal.

Regulations.

13. (1.) The Governor in Council may from time to time make regulations providing for all or any purposes, whether general or to meet particular cases, that may be necessary or expedient for the administration of this Act or for carrying out the objects and purposes of this Act.

(2.) In particular and without prejudice to the generality of subsection one of this section the regulations may—

(a) Prescribe the times within which and the manner and form in which applications for payments under this Act may be made ;

1951.

Coal Mining Industry, Etc., Act.

- (b) Prescribe the particulars to be furnished in support of such applications ;
 - (c) Require any person claiming a payment under this Act to make full and complete disclosure to the Administrator in relation to that claim ;
 - (d) Prescribe the manner in which any requirement of the Administrator under this Act may be generally notified ;
 - (e) Prescribe all matters and things required or permitted by this Act to be prescribed (except a matter or thing required by this Act to be prescribed otherwise than by the regulations) ;
 - (f) Prescribe forms under this Act and the respective purposes for which such forms shall be used ;
 - (g) Prescribe a penalty not exceeding twenty pounds for any breach of the regulations.
- (3.) Every regulation made under this Act—
- (a) Shall be published in the *Gazette* ;
 - (b) Shall, upon its publication in the *Gazette*, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein ;
 - (c) Shall take effect from the date of such publication or, if a later date is specified therein, from that later date ; and
 - (d) Shall be laid before Parliament within fourteen sitting days after such publication if Parliament is then sitting for the despatch of business and, if not, within fourteen days after Parliament next commences to so sit.

(4.) If Parliament passes a resolution of which notice has been given at any time within fourteen sitting days after any such regulation has been laid before Parliament disallowing such regulation or part thereof, that regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime.

For the purposes of this subsection the term “ sitting days ” shall mean days on which Parliament actually sits for the despatch of business.