

3 GEO. V. No. 9, 1912. *Drainage of Mines Act.*

Any manager who neglects or refuses to furnish any return as hereinbefore required, or who wilfully makes a false return, shall be liable to a penalty not exceeding fifty pounds.

17. The lessee or owner or manager of a mine shall keep proper books and accounts, from which may be ascertained the expenditure of money in pursuance of the covenant in his lease in that respect, and the amount of royalty, if any, payable in respect of the coal or mineral oil obtained from his mine, and also the correctness of any return, and, when required to do so, shall produce such books and accounts to any officer appointed by the Minister to examine them. Inspection of books, &c.

Any person who impedes or obstructs any such officer in the performance of his duty under this section shall be liable to a penalty not exceeding fifty pounds.

18. All the provisions of the Principal Act with respect to mineral leases shall apply to leases under this Act, except in so far as those provisions are negatived or modified by this Act. Application of general provisions as to mineral leases.

19. The power vested in the Governor in Council under the Principal Act to make Regulations shall extend to the making of all Regulations necessary for giving full effect to this Act. Regulations.

An Act to Make Better Provision for the Drainage of Mines.

3 Geo. V.
No. 9.
THE
DRAINAGE OF
MINES ACT
OF 1912.

[ASSENTED TO 24TH OCTOBER, 1912.]

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

1. This Act may be cited as "*The Drainage of Mines Act of 1912*," and shall be read as one with the Mining Acts. "*The Mining Act of 1898*"* is herein referred to as the Principal Act. Short title and construction of Act.

2. This Act shall commence and take effect on and from the first day of March, one thousand nine hundred and thirteen. Commencement of Act.

* 62 Vic. No. 24, *supra*, page 2178.

Repeal of
certain
enactments.

3. The definition of "Board" in section three of the Principal Act, and Part XII., comprising sections one hundred and eighty-four to one hundred and ninety-two, both inclusive, and subsections thirty-eight to forty-three, both inclusive, of section two hundred and forty-seven of the said Act, are repealed.

All existing Mining Drainage Areas constituted, and all existing Boards elected, under the enactments hereby repealed shall be deemed to have been respectively constituted and elected under this Act.

Interpreta-
tion.

4. In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively, that is to say,—

Board.

"Board"—A Drainage Board constituted or deemed to have been constituted under this Act;

Drainage
Area.

"Drainage Area"—A Mining Drainage Area constituted or deemed to have been constituted under this Act;

Mining Acts.

"Mining Acts"—"*The Mining Act of 1898*"* and all Acts amending or in substitution for the same, including this Act.

Constitution
of Mining
Drainage
Areas.
1898, s. 184.

5. If it is made to appear to the Governor in Council—

(a) That any mines within a specified area are so situated as to be liable to any influx of water, whether by flood water or the discharge or flow of water accumulated in any mine or other place, or by the percolation of water from any source, or in any direction, or in any other manner whatever, and whether from above or below ground; and

(b) That, in order to prevent injury to or hindrance to the operations or increase to the costs of any mine or mines within such area from such influx, it is desirable that common action should be taken by and at the joint expense of the owners of the mines within such area;

the Governor in Council may, by proclamation, constitute such area a Mining Drainage Area for the purposes of the Mining Acts. He may, by like proclamation, abolish any Mining Drainage Area or amend the boundaries thereof.

Drainage
Boards.
1898, s. 185.

6. For every Drainage Area there shall be a Drainage Board.

* 62 Vic. No. 24, *supra*, page 2178.

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The Board shall be elected by the owners of the mines within the Drainage Area, and shall consist of so many members as may be directed by the Governor in Council, from time to time, by proclamation.

At each election of a member or members of the Board each owner of a mine shall have one vote.

When a joint stock company or several persons are the owners of a mine, the directors of the company or such persons shall, from time to time, appoint some person to vote on behalf of such owners respectively at elections of members of a Drainage Board.

When a person, joint stock company, or several persons is or are the owner or owners of several mines, such person shall have a vote for each of his mines, and the person appointed by such company or several persons shall have a vote for each mine owned by such company or persons :

Provided that all ground which is worked together as one mining property shall for the purposes of this section be deemed to be one mine.

7. If within three months after a Drainage Area is constituted, the owners or a majority of the owners of the mines therein fail to elect members of the Board for such Area, the Governor in Council may appoint a Board therefor, and the members so appointed shall be deemed to have been duly elected under this Act. Failure to elect Board.

8. Every Drainage Board shall be a body corporate by the corporate name assigned to it by the Governor in Council, and shall have perpetual succession and a common seal, and shall be capable in law of suing and being sued, and shall have the power to purchase machinery and materials for raising or draining water, or constructing dams, barriers, pumping-engines, and other drainage works for preventing the influx of water into mines within the Drainage Area, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer. Corporation.

For all the purposes of this Act a Board may, on its own initiative or after default of any owner of a mine, construct, provide, or arrange for in any manner, maintain, and carry on any necessary works and appliances in or in connection with any mine, or on or in any place within the Drainage Area.

Board may
require
drainage
works.
1898, s. 186.

9. (1.) For preventing the influx of water into mines within the Drainage Area, a Board may require any owner of a mine within the Drainage Area—

(a) To raise or drain water from such mine continuously or otherwise with any machinery already erected or that may thereafter be erected upon his mine, and to use such machinery for raising or draining such water in such manner as the Board considers necessary; or

(b) To construct, maintain, or repair upon his mine any dam, barrier, pumping-engine, or other works, plant, or appliances which the Board considers necessary.

(2.) If such owner does not forthwith comply with the requirement of the Board or at any time makes default in such compliance, or if such owner cannot be found, the Board may, by its officers, agents, servants, and workmen, enter upon the mine and proceed to raise or drain water therefrom, and from time to time construct, maintain, and repair such works, plant, or appliances, and do such things as appear to it necessary.

Contribution
of cost of
works.
1898, s. 187.

10. (1.) The cost of raising or draining water as aforesaid and of the construction, maintenance, or repair of any works, plant, or appliances pursuant to the last preceding sections, and any other expenses necessarily incurred by the Board in carrying out this Act, shall be borne by the owners of the mines within the Drainage Area; and the total amount of such cost and other expenses shall be contributed by them respectively in proportion to the benefit derived from the raising or draining of the water, or from the construction, maintenance, or repair of the works, plant, or appliances.

(2.) The amount of such cost and other expenses shall be determined, and the contribution payable by each owner under this section shall be assessed and apportioned, by the Board.

W.A., 1904,
s. 170.

Each owner liable to contribute shall receive credit for the value of any work which he has performed in assisting to raise or drain water; but if the whole or any portion of the water raised or drained by such owner is used or sold by him, the value of such water so used or sold shall be determined by the Board and deducted from such credit.

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11. Any person who thinks himself aggrieved by the Board's assessment may, within one month after notice of the amount of contribution payable by him and of the amount of credit, if any, allowed him for assisting to raise or drain water, appeal to the warden.

Appeal
against
assessment.
1898, s. 187.

The warden shall hear the matter after notice to all other parties liable or alleged to be liable to contribute.

The warden may alter the Board's assessment and determine the amount of the contribution payable by such person.

The decision of the warden with respect to such contribution shall be final and conclusive in all respects, and shall not be set aside, reversed, altered, or varied by or questioned in any court upon any ground whatsoever.

12. (1.) The contribution payable by each owner shall be a debt due to the Board by the owner, and if not paid shall be recoverable by the Board by proceedings in the warden's court or in any other court of competent jurisdiction.

Contribution
due is a debt.
1898, s. 187.

(2.) When the contribution is payable by any owner, it shall, in case of default by such owner, be payable by any other person or body of persons to whom or to which such owner's interest in the mine comes by operation of law.

Contribution
from
successors in
interest.

(3.) Subject to prior encumbrances, the amount of every such contribution shall, after notification thereof by the Board to the warden, be a charge upon the mine and upon all plant, machinery, and effects the property of such owner or of any such person or body and used in connection with such mine; and such charge may be enforced by order of the warden for the sale of such mine, plant, machinery, and effects:

Contribution
a charge on
the mine.

Provided that no liability in respect of any such contribution shall attach to the Crown.

13. The Board may make rules prescribing the manner of assessing the contribution payable by each owner.

Rules as to
contribution.

Such rules shall be published by the Board in such manner as the Board thinks fit, and be available to all persons liable to contribute, and shall not be altered except by a majority of all the members of the Board.

Contribution by owners of mines towards expense of raising water by machinery. 1898, s. 190.

14. Where the operations of efficient machinery or appliances which are employed in raising or draining water from a mine are beneficial to another mine or other mines, or are rendered more onerous by reason of the influx of water from another mine or other mines, the owner of the machinery or appliances shall be entitled to receive contribution towards the working expenses of raising or draining water from the first-mentioned mine from the owner or owners of such other mine or mines.

The amount of such contribution shall be in proportion to the benefit conferred upon the last-mentioned mine or mines, or the amount of burden imposed by it or them, as the case may be, and may be recovered by action in the warden's court or in any other court of competent jurisdiction.

Notice of discontinuance by owner of machine. 1898, s. 191.

If the owner of such machinery or appliances who has claimed and received such contribution desires to discontinue such operations, he shall give at least three months' notice to all contributors, and also, if a Board has been constituted, to the Board; and, if such owner discontinues such operations without giving such notice, or, if a Board has been constituted without the express permission of the Board, he shall be liable to damages for any injury which any contributor sustains in consequence of the discontinuance:

Provided that such owner shall not be liable for any damages on account of the discontinuance of operations, if such discontinuance was caused by accidental injury to machinery or any other cause over which he had no control, and if due diligence was exercised in repairing such injury to machinery (if any).

W. A. 1904, s. 165.

For the purposes of this section, the expression "owner of the machinery or appliances" includes a mortgagee and any person in possession of or using such machinery or appliances, whether engaged in mining or in mining in conjunction with drainage or in drainage works only.

Compulsory bailing.

15. The owner of a mine in which water has accumulated, to the injury or probable injury of any adjoining mine, shall, upon a service of a notice calling upon him so to do by the party injured or likely to be injured or his agent, bail his mine or in some other manner effectually remedy the injury.

Or the party injured or likely to be injured may lodge a plaint in the warden's court, and the court may order

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the owner of such mine to bail the same and keep it continuously free from any injurious accumulation of water.

The court may also determine the amount of injury suffered from such accumulation of water by any person complaining, and order the owner of such mine causing the injury to pay the amount thereof.

16. The provisions of the two last preceding sections apply to all mines whatsoever, whether situated within a Drainage Area or not, and whether situated upon Crown land or upon private land or elsewhere, and upon whatsoever tenure any such mine is held. Application of two last sections.

17. Every Board shall provide and maintain plans of the Drainage Area showing the positions of all dams, flood gates, and other works constructed by the Board. Plans to be provided.

All known natural features likely to influence or permit of the flow or percolation of water, and all connections between mines, shall be clearly shown thereon.

All depths and levels marked on such plans shall refer to a common datum.

In the event of an appeal from the Board's assessment to the warden's court, the said plans shall be produced for its information if it so requires.

A copy of such plans shall be lodged with the warden, and shall be available for public inspection.

18. When the holder of a mining lease or of a claim fails to pay the amount of any contribution which he is lawfully ordered to pay under this Act, the Governor in Council may declare the lease or claim to be forfeited, and the same shall be forfeited accordingly. Enforcement of payment by forfeiture. 1898, s. 192.

19. No forfeiture, surrender, or abandonment shall operate as a release or discharge of any debt due to the Board which had been incurred under this Act or otherwise at the time of such forfeiture, surrender, or abandonment. Forfeiture, &c., not to affect debt to Board.

20. The Governor in Council may from time to time make Regulations for all or any of the matters following, that is to say,— Regulations. 1898, s. 247.

- (1) Securing the bailing of water from mines so as to prevent injury from such water to any mining workings;

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- (2) Prescribing the qualifications of members of Boards, the time and mode of election, their tenure of office, and the mode of conducting their proceedings ;
 - (3) Empowering the Board to grant an allowance to the chairman to cover his expenses ;
 - (4) Enabling the Board to enforce its orders or the orders of its chairman, or other authorised officer ;
 - (5) Empowering the Board from time to time to order all work to cease in any mine within its Drainage Area, when and for such time as it deems expedient ;
 - (6) Empowering the Board to compel the permanent or temporary shutting and closing of all doors, gates, and other appliances in any mines, whether constructed by the Board or not, for preventing flooding in any mines within its Drainage Area ;
 - (7) Empowering the Board to compel the bailing of water accumulating in mines, and the removal of any obstruction in mines hindering or likely to hinder the Board in viewing, repairing, or dealing with dams, gates, doors, or other appliances ;
 - (8) Regulating the carrying out of works ordered by the Board, and the mode of recovery of any expenses incurred by the Board in doing the same.
 - (9) Generally for carrying into effect the objects and purposes of this Act.
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