

Queensland



COAL INDUSTRY (CONTROL) ACT 1948

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(includes amendments up to Act No. 75 of 1996)**

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Information about this reprint

This Act is reprinted as at 27 June 1997. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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COAL INDUSTRY (CONTROL) ACT 1948

[as amended by all amendments that commenced on or before 27 June 1997]

An Act to provide means for securing and maintaining adequate supplies of coal throughout Queensland and for export and for providing for the regulation and improvement of the coal industry in the State of Queensland, and for purposes connected therewith

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Coal Industry (Control) Act 1948*.

This Act not to affect certain other Acts

3. This Act shall be read and construed and shall have operation and effect so as not to prejudice or limit—
 - (a) save in so far as is expressly provided in this Act, the operation and effect of the *Coal Mining Act 1925* or of any regulation, rule or special rule thereunder; or
 - (b) the operation and effect of the *Industrial Relations Act 1990* or any award within the meaning of that Act; or
 - (c) the operation and effect of the *Coal and Oil Shale Mine Workers (Pensions) Act 1941*; or
 - (d) the operation and effect of the *WorkCover Queensland Act 1996*; or

- (e) save in so far as is expressly provided in this Act, the operation and effect of the *Electric Supply Corporation (Overseas) Limited Agreement Act 1947* or the agreement authorised under that Act.

Meaning of terms

6. In this Act—

“**coal**” includes coke and such other by-products and derivatives of coal as are prescribed by the Governor in Council by order in council.

“**coal mine**” means any mine or opening in the earth which is a coal mine within the meaning of that term as defined in the *Coal Mining Act 1925*.

“**owner**” in relation to any coal mine means the owner of that mine within the meaning of the term as defined in the *Coal Mining Act 1925*.

“**the board**” means the Queensland Coal Board.

PART 2—ADMINISTRATION

Administration of Act

7. This Act shall be administered by the Minister and, subject to the Minister, by the Queensland Coal Board.

Constitution of board

8.(1) For the purposes of this Act there shall be constituted a board to be called “the Queensland Coal Board” (“**the board**”).

(2) The board shall consist of a chairperson and 2 other members each of whom shall be appointed by the Governor in Council.

(3) Subject to this Act, the chairperson and each other member of the board shall hold office during good behaviour for the respective term for which he or she is appointed or reappointed, but no such appointment or reappointment shall be for a term exceeding 7 years.

(4) There shall be payable to the chairperson and to each of the other members of the board respectively such salary or allowances as are fixed by the Governor in Council.

(5) The chairperson or any other member of the board shall, if thereunto required by the Governor in Council, devote the whole of his or her time and attention to the duties of his or her office as chairperson or, as the case may be such member.

(6) However, the chairperson or a member appointed by the Governor in Council to any other office by virtue of his or her position as chairperson or such member may devote to such other office so much of his or her time and attention as is necessary for the proper performance of such other office.

Board to be body corporate

9.(1) The board shall be a body corporate under the name and style of “the Queensland Coal Board,” and by that name shall have perpetual succession and an official seal, and subject to and for the purposes of this Act, shall be capable in law of suing and being sued in its corporate name and of acquiring, holding, and disposing of property, real and personal, moveable and immoveable.

(2) All courts, judges, justices, and persons acting judicially shall take judicial notice of the seal of the board affixed to any document or notice and shall presume that it was duly affixed.

Delegation of its powers by the board

10.(1) The board may, with the consent of the Minister (and shall if thereunto directed by the Minister), in relation to any matters or class of matters or in relation to any specified area, by writing under its seal, delegate such of its powers, functions, and authorities under this Act (other than this power of delegation) as it thinks fit, so that the delegated powers, functions, and authorities may, subject to this Act, be exercised by a delegate with respect to the matters or class of matters or area specified in the instrument of delegation.

(2) The board may make any such delegation subject to such terms, conditions, and limitations as it shall specify in the instrument of delegation

and, if thereunto required by the Minister, shall make any such delegation subject to such terms, conditions, and limitations as the Minister shall specify.

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

(4) Every delegation shall be revocable by the board at will, and shall be revoked by it if the Minister so directs, and no delegation shall prevent the exercise of the delegated power, function, or authority by the board.

Meetings of the board

11.(1) Meetings of the board shall be held at such times and places as the board from time to time determines.

(2) Meetings of the board shall be called in such manner as is prescribed.

(3) At all meetings of the board a majority of the members of the board shall form a quorum.

A member of the board shall not, otherwise than by this Act, exercise any power etc. with regard to any coal mine etc.

12.(1) A member of the board shall not exercise, and shall forthwith relinquish, any power or authority vested in the member of the board (otherwise than by or under this Act) by no reason of which he or she 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 a member of the board is a shareholder in any such company, he or she shall not as such exercise any vote.

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

Disqualifications from office of member

13. The chairperson or any other member of the board shall be deemed to have vacated his or her office if—

- (a) the chairperson or any other member of the board engages in any paid employment outside the duties of his or her office or of any office to which the chairperson or any other member of the board is appointed by the Governor in Council by virtue of his or her position as chairperson or such member unless the chairperson or any other member of the board is not required by the Governor in Council to devote the whole of his or her time and attention to the duties of his or her office; or
- (b) the chairperson or any other member of the board becomes bankrupt or insolvent, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the chairperson's or any other member of the board's creditors, or makes any assignment of his or her remuneration for their benefit; or
- (c) except on leave granted by the Governor in Council (power to grant such leave being hereby authorised), the chairperson or any other member of the board absents himself or herself from duty for 14 consecutive days or for 28 days in all in any 12 calendar months or, if the chairperson or any other member of the board is not required to devote the whole of the chairperson's or any other member of the board's time and attention to the duties of his or her office, the chairperson or any other member of the board absents himself or herself from 3 consecutive meetings of the board; or
- (d) the chairperson or any other member of the board becomes in any way (otherwise than as a member of the board) concerned or interested in any contract or agreement entered into by or on behalf of the board or in any way (otherwise than as a member of the board) participates or claims to be entitled to participate in the profit thereof, or in any benefit or emolument arising therefrom; or
- (e) the chairperson or any other member of the board resigns his or her office by writing under his or her hand addressed to the

Minister and the resignation is accepted by the Governor in Council; or

- (f) the chairperson or any other member of the board becomes permanently incapable of performing his or her duties; or
- (g) the chairperson's or any other member of the board's appointment is terminated by the Governor in Council for misbehaviour or incapacity; or
- (h) the chairperson or any other member of the board is convicted of a criminal offence for which he or she is liable to be punished by imprisonment for 12 months or more.

Deputy members

14.(1) If any member, including the chairperson, of the board is absent for any reason whatsoever, the Governor in Council may appoint a person to act as the member's deputy during such absence, and every deputy shall while so acting have the powers and perform the duties of the chairperson or other member for whom the person is such deputy.

(2) If a member of the board is so appointed to act as deputy for the chairperson, the Governor in Council may appoint some other person to act as deputy for such member while the member is acting as deputy for the chairperson.

(3) The person presiding at any meeting of the board (and whether the chairperson or the chairperson's deputy appointed as hereinbefore in this section provided) shall have a deliberate vote, and, in the event of an equality of votes, a casting vote as well.

Secretary and officers

15.(1) A secretary and other officers of the board are to be employed under this Act, and not under the *Public Service Act 1996*.

(2) The board may decide the terms of employment of its secretary and other officers.

(3) However, subsection (2) has effect subject to any relevant award or industrial agreement.

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(4) Where a person who is appointed the chairperson, a member, or the secretary or an officer of the board was immediately before the person's appointment an officer within the meaning of the *Public Service Act 1996* or an employee within the meaning of the *Public Service Superannuation Act 1912*—

- (a) the person shall retain any rights accrued or accruing under either of those Acts; and
- (b) the person shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension, or gratuity as if the person were an officer or employee within the meaning of the *Public Service Management and Employment Act 1988* or the *Public Service Superannuation Act 1912* as the case may be, and for such purpose his or her service as chairperson, a member, the secretary, or an officer of the board shall be deemed to be service for the purposes of such Acts; and
- (c) the person shall, in the event of his or her office as the chairperson, a member, the secretary or an officer of the board being discontinued or abolished before the person has attained the age of 65 years, be eligible for and be appointed to an office in the public service not lower in classification and salary than that which the person held at the date of his or her appointment under this Act.

Power to order stockpiling of coal

16A.(1) The Governor in Council is hereby empowered to make, either at any 1 and the same time or from time to time, all such orders in council as upon the recommendation of the board the Governor in Council deems necessary for the purpose of ensuring the provision and maintenance by users of coal of stocks thereof sufficient in the judgment of the Governor in Council to ensure the maintenance at all times, and in particular during periods of time during which supplies of coal may not be immediately available, of undertakings, services, and supplies of goods required for public use and consumption.

(2) The Governor in Council may, by such an order in council, order—

- (a) any user of coal to provide and maintain a stock of coal of not

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less than the quantity specified in the order; or

- (b) any owner of a coal mine to supply the quantity of coal specified in that order to a user thereof named therein.

(3) An order in council under this section—

- (a) shall specify the quantity of coal required thereby to be stocked by the user of coal or, as the case may be, supplied by the owner of a coal mine to whom that order is directed and the place where that quantity of coal is to be stocked or, as the case may be, delivered on supply; and
- (b) may specify the classes and grades of the quantity or any amount of the quantity of coal thereby required to be stocked or, as the case may be, supplied, or different such classes or grades with respect to different amounts of that quantity; and
- (c) may specify a period of time within which the user of coal or owner of a coal mine to whom it is directed is to provide or, as the case may be, supply the quantity of coal thereby directed to be stocked or supplied by him or her; and
- (d) may require a stock of coal to be accumulated during a period of time by specifying that the user of coal or owner of a coal mine to whom the order is directed shall provide or, as the case may be, supply specified amounts of that coal on or before specified dates during that period; and
- (e) may require the user of coal to whom the order is directed to purchase and take delivery of the quantity of coal specified in the order from the owner of a coal mine named therein or of different quantities of coal from different such owners so named or may specify different dates on each and every one of which that user shall purchase and take delivery from such an owner so named of an amount of coal specified in relation to the date in question; and
- (f) with respect to the maintenance of any stock of coal, may require an owner of a coal mine to supply periodically on or before specified dates, and either during a specified period or without limit of time, specified quantities of coal to the user of coal named in that order, and may specify the classes and grades of that coal or of any quantity thereof or different such classes and grades for

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different amounts of any quantity thereof; and

- (g) may contain such other directions as the Governor in Council deems necessary for ensuring compliance in every respect with the order.

(4) The power of the Governor in Council to make under this section an order in council directed to a user of coal or to an owner of a coal mine shall include power to make 1 or more such orders as appears to the Governor in Council necessary or expedient in the circumstances, and either at one and the same time or from time to time.

(4A) Subject to stating therein separately the matters and things which they respectively are thereby required to do and execute, an order in council under this section may be directed to a number of users of coal, or of owners of coal mines, or of both such users and owners.

(4B) The Governor in Council may by another order in council amend or rescind any order in council made by the Governor in Council under this section.

(4C) No misnomer or inaccurate description or omission in or from an order in council under this section shall in anywise prevent or abridge the operation of this Act with respect to the subject matter of that misnomer, inaccurate description, or omission provided the same is designated so as to be understood.

(5) The publication in the gazette of an order in council under this section shall be sufficient service of that order upon any and every person to whom it is directed or who is concerned therewith or affected thereby.

(5A) Upon publication in the gazette such an order in council shall be judicially noticed.

(5B) An order in council under this section may, in lieu of service by publication in the gazette, be served upon a person by delivering a copy thereof to the person by hand or by sending a copy thereof to the person by prepaid registered post letter.

(6) Any and every person to whom an order in council under this section is directed shall comply in every respect with the requirements of that order therein and thereby expressed to be binding upon the person, and, in respect of any failure to do so, shall be guilty of an offence against this Act and liable to the penalty prescribed by section 60 hereof.

PART 3—POWERS OF THE QUEENSLAND COAL BOARD

Vesting of powers in board

17. It is hereby declared that the board is to have all the powers and functions specified in this Act in relation to the board.

General powers and functions of board

18.(1) The powers and functions of the board are to include the taking of such action as, in the opinion of the board, is necessary or desirable—

- (a) to ensure that coal is produced in the State in such quantities and with such regularity as will meet requirements throughout Queensland and in trade with other States and Territories and other countries; and
- (b) to ensure that the coal resources of the State are conserved, developed, worked, and used to the best advantage in the public interest; and
- (c) to ensure that coal produced in the State is distributed and used in such manner, quantities, classes, and grades and at such prices as are calculated best to serve the public interest and secure the economical use of coal and the maintenance of essential services and industrial activities; and
- (d) to promote the welfare of workers engaged in the coal industry in the State; and
- (e) to encourage the highest degree of cooperation between management and workers so as to ensure maximum efficiency and production.

(2) In particular, without limiting the generality of the provisions of subsection (1), the board is to have power to make provision for or with respect to—

- (a) the working and getting of coal, including the introduction and operation of sound mining principles and practices and methods of stowage and haulage, and the regulation of output; and

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- (b) the conservation of coal, the development of any coal mine, seam, or field, and the opening, closing, or abandonment of any coal mine; and
- (c) the introduction, modification, replacement, and operation of machinery, plant, and equipment for use in connection with the production and distribution of coal, and the manufacture, procurement, improvement, and standardisation of such machinery, plant, and equipment; and
- (d) the classification, grading, washing and cleaning of coal and its preparation for market; and
- (e) the effective and economical distribution of coal, including its purchase, sale, marketing, acquisition, disposal, supply, storage, reservation, pooling, transport, carriage, conveyance, delivery, handling, loading, discharge, and reception; and
- (f) the efficient and economical use of coal, the development of uses or markets for coal, and the recovery of the by-products of coal; and
- (g) the regulation of prices for the sale, purchase, or resale of coal, the values at which coal is recorded in the accounts of any business, and of profits in the coal industry; and
- (h) the health and, subject to this Act, the safety of persons engaged in the coal industry, including the regulation of conditions in the industry with respect thereto, and the enforcement of measures for the abatement of dust in mines; and
- (i) the establishment of sound industrial welfare practices, including the provision of amenities for employees in the coal industry; and
- (j) collaboration and cooperation with the Commonwealth Government and other persons and authorities in the establishment and provision of amenities and of health, educational, recreational, housing, and other facilities for communities of persons in coal mining districts, and in the promotion of the development and diversification of industry and of town and regional planning in such districts; and
- (k) the regulation of employment in and recruitment to the coal industry, including the control of the manning of mines and the

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promotion of stability of employment; and

- (l) the training, efficiency, and competency of persons engaged in the coal industry; and
- (m) the publication of reports and information of public interest; and
- (n) the regulation and control of the opening, closing and abandonment of coal mines including the prohibition of the opening, closing or abandonment of any coal mine without the prior permission of the board; and
- (o) the regulation and control of the working of coal mines (including the developmental work preparatory to the mining of coal) which power shall include power to make such provision as the board deems necessary or desirable for or with respect to the principles and practices of mining and methods of working to be observed and carried out in coal mines generally, or in any coal mine included in a specified class of coal mines, or in any particular coal mine; and
- (p) requiring, in connection with the working of coal and the classification, grading, washing and cleaning coal and its preparation for market the installation and use by all owners of coal mines, or by owners of coal mines included in a specified class of coal mines, or by the owner of a particular coal mine, of any plant, machinery or equipment specified by the board and regulating and controlling the installation and use of that plant, machinery or equipment; and
- (q) any matter incidental to all or any of the foregoing matters.

(2A) The power of the board to make provision for or with respect to any of the matters specified in subsection (2) shall include power—

- (a) to take and do; or
- (b) by order or direction to require any person to take and do;

all such steps, acts, and things as in the opinion of the board are necessary or desirable for, or in connection with, or in relation to the making of that provision.

(2AA) Such of the provisions of the *Coal Mining Act 1925* as relate to the performance (including liability for the nonperformance) of the

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covenants of any coal mining lease or to the closing or abandonment of a coal mine (whether by surrender of the lease of the land in which the coal mine is comprised or otherwise howsoever) shall be read and have application subject to the powers conferred upon the board by subsection (2) in respect of the opening, or the closing or abandonment of coal mines.

(2B) The power and function of the board to take such action as in its opinion is necessary or desirable to promote the welfare of workers engaged in the coal industry in the State includes power to secure severance payments to such workers whose employment in the coal industry in the State is retrenched and to that end—

- (a) to make such agreements with owners of coal mines and other persons as it considers necessary or desirable and to vary such agreements from time to time; and
- (b) to establish, maintain and administer such funds as it considers necessary or desirable to secure performance of agreements made by it pursuant to this subsection and to secure the purposes of the exercise of power to which this subsection refers.

(3) The board is to have authority to make such orders, take such measures, give such directions and do such things as are, in the opinion of the board, necessary for, or incidental to, the effective exercise of its powers and functions, and, in particular, without limiting the generality of the foregoing—

- (a) to provide, and to assist others to provide or obtain, advice, technical services, equipment, and other facilities and aids to efficiency and economy; and
- (b) to undertake or arrange for research, inquiries, investigations, surveys, tests and inspections; and
- (c) to enter into and carry out contracts and transactions, to incur expenditure and make advances, and to acquire and dispose of any property or rights; and
- (d) to require the keeping and production of accounts, books, and records and the compilation and furnishing of statistics, returns, and other information in such form and relating to such matters as it may specify in the requirement; and

- (e) to acquire any coal, sell any coal acquired by or vested in it, impose conditions under which any other person or authority may acquire, purchase, sell, or dispose of coal, and enter into arrangements and agreements with other persons and authorities as to the sale or disposition of coal; and
- (f) to assume control of the management and operation of any coal mine; and
- (g) to acquire any coal mine and to operate any mine acquired by or vested in it; and
- (h) to acquire, procure, erect, construct, requisition the use of, and operate plant, machinery, and equipment (including railways, rolling stock, and sidings, not being the property of the State or of Queensland Rail); and
- (i) to establish and operate, or assist others to establish and operate, coal mines and other undertakings or enterprises; and
- (j) to terminate, suspend, vary, or modify any contract or agreement relating to or affecting the production, supply, or distribution of coal, including sale, transportation by land or sea, loading, discharge, delivery, storage, and use; and
- (k) to suspend or exclude from employment in the coal industry, subject to appeal to the Industrial Court in manner prescribed by rules of that court, any superintendent, manager, or other person employed in the industry, who acts in a manner prejudicial to the effective working of the industry.

(4) The board is to have power at any time to rescind, terminate, or vary any order, direction, or requirement made or given by it.

Safety in coal mines

19.(1) Where any question arises at a coal mine in the State as to whether the safety of employees at the mine is endangered, or is likely to be endangered, by any methods of working then in operation or proposed to be put in operation in the mine, the board is to have power to refer the question to an inspector of coal mines approved by the chief inspector of coal mines and to an officer of the board with a request that the question be at once considered and reported upon, so far as possible in cooperation with the

manager of the coal mine and with a miners' check inspector.

(2) Where any such question has been so referred to an inspector of coal mines and to an officer of the board, that inspector and officer are forthwith to make or cause to be made such inspections, investigations, and inquiries as they deem necessary and to furnish to the board a report setting out their opinion on the question referred to them and as to the relation of that question to the relevant provisions of any Act relating to safety in coal mines.

(3) If the board after receipt of the report is of opinion that the safety 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 subsection (1), it is to have power, by order, to 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.

(3A) However, no such order shall derogate from any provisions of the law of the State prescribing requirements to be observed for securing the safety 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) All persons having any duties, powers, or functions under the laws of the State relating to the regulation of coal mines shall act in aid of the board for the purpose of giving effect to any order made by the board.

(6) In this section—

“chief inspector of coal mines”, “inspector of coal mines” and “miners’ check inspector” respectively mean the chief inspector of coal mines, an inspector, and a miners’ check inspector as defined in or appointed under the *Coal Mining Act 1925*.

Employees

20.(1) The board may from time to time employ such and so many employees as it thinks necessary for the purposes of the execution of its powers and functions under this Act.

(2) The wages and other conditions of employment of every employee of the board shall be such as may be fixed or determined by the applicable

award or determination of the Industrial Court, tribunal, or authority having jurisdiction in that behalf or, if there is no such award or determination as respects an employee, as are fixed by the board.

Questions on matter of policy

21.(1) The board shall, as and when required by the Minister, furnish reports to the Minister with regard to the policy it is pursuing or proposes to pursue in the discharge of its powers and functions and, in particular, with respect to programs of proposed reorganisation, acquisition, or development involving substantial outlay of capital, and with respect to proposals affected by and affecting matters of policy including full employment and price stabilisation.

(2) The Minister may issue directions to the board on matters of policy and it is to be the duty of the board to observe and carry out any direction so given.

(3) Where, under this Act, the exercise of any power or function of the board is dependent upon the opinion or belief of the board in relation to any matter and the Minister, in accordance with subsection (2), issues to the board a direction in relation to that matter, the board is to have the power to exercise that power or function in accordance with that direction.

No industrial conscription

22. Nothing in this Act shall be deemed to authorise any form of industrial conscription.

PART 4—CONTROL OF COAL MINES

Control of coal mines

23.(1) Where, in the opinion of the board, it is desirable, with a view to maintaining or increasing the production of coal from any coal mine in the State, that the coal mine should be operated under the control of the board, the board may, by written order, authorise any person (an “**authorised**

controller”) to exercise such functions of control and to do such things, on behalf of the board, but subject to any directions of the board, with respect to that coal mine, as the authorised controller thinks necessary for the purpose of maintaining or increasing the production of coal at that coal mine, and the authorised controller may exercise those functions and do those things accordingly.

(2) So long as there is in force an order under subsection (1) 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 authorised controller.

(3) Upon making any order under subsection (1) the board shall cause notice of the effect of the order to be given as soon as practicable in such manner as it 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 board, have notice of the order.

Responsibilities of employees at controlled mine

24.(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 employed, in or about the mine shall be officers and employees of the board.

(2) A person employed by the board in or about the controlled mine is taken, for the *Coal and Oil Shale Mine Workers (Pensions) Act 1941*, to be employed by the owner of the mine.

(3) The owner of the mine must enter into a contract of insurance with WorkCover or another insurer for insurance for the persons employed by the board in or about the mine.

Conditions of employment at controlled mine

25. The terms and conditions of service of persons who are officers or employees of the board in pursuance of this part 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 board—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 board determines.

Owner of controlled mine to remunerate employees

26. 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 board and the expenses incurred by the authorised controller of the mine with respect to the operation of the mine.

Owner of controlled mine to be compensated for loss

27. 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 section 23(1) in respect of the mine, shall be entitled to such compensation as is determined by agreement between the board and the owner of the coal mine, or, in the absence of agreement, as is determined by an action by the owner against the board in any court of competent jurisdiction.

PART 5—ACQUISITION OF LAND, COAL AND EQUIPMENT

Division 1—Board may operate coal mines

Meaning of term “land”

28. In this division—

“**land**” includes (but without limiting its ordinary meaning or the meaning assigned to it by the *Public Works Land Resumption Act 1906*) not only an estate in fee simple in land, but also any other estate or interest in land (legal or equitable) and any easement, hereditament, right or privilege in, over, or affecting land.

Board may operate coal mines

29. The board may establish, maintain, manage, conduct and operate a coal mine or coal mines, and for those purposes may open a new coal mine, or may reopen a coal mine which has been closed or abandoned, or may acquire an existing coal mine.

Acquisition of land

30.(1) The board may, with the prior approval of the Governor in Council, acquire land for any of the purposes of this Act.

(2) The power to acquire land conferred by this part shall include power to acquire any particular estate or interest in land (legal or equitable) or any easement, hereditament, right or privilege in, over, or affecting land.

(3) The board shall make provision to the satisfaction of the Governor in Council for the payment of compensation for the land, together with interest and all necessary charges and expenses incidental to the acquisition of the land.

Power of board to take land

31. For the purposes of this Act the board shall be and be deemed to be a

constructing authority within the meaning of the *Acquisition of Land Act 1967*, and shall in addition to any further powers and authorities under this Act have and may exercise all the powers and authorities of a constructing authority under such lastmentioned Acts accordingly.

Taking by agreement

38.(1) The board may, with the prior approval of the Governor in Council, acquire by agreement any estate or interest of any person in any land required for any purpose of this Act, and in any such case the compensation to be made may be either agreed upon or left to be determined under the *Acquisition of Land Act 1967*.

(2) The board may execute all instruments and do and perform all acts necessary for the completion of the acquisition of any land acquired by agreement under this section.

When coal etc. deemed to be acquired with land

39.(1) Where any land upon or in which a coal mine is situated, or upon or in which any works used or capable of being used for or in connection with the operation of a coal mine are situated, is resumed by the board under the *Acquisition of Land Act 1967*, any plant, equipment, machinery, vehicles and other fixed or movable appliances or works of any description in or upon such land at the date of such resumption used or capable of being used for or in connection with the operation of a coal mine shall vest in the board.

(2) The compensation payable in respect of any such resumption shall include the value, as at the date of resumption, of plant, equipment, machinery, vehicles, appliances and works vested in the board pursuant to subsection (1).

(3) Such value shall be the value agreed upon between the board and the owner and in default of agreement the value determined by the Land Court in terms of the *Acquisition of Land Act 1967*.

Division 2—Acquisition and requisition of coal and equipment**Acquisition and requisition of coal and equipment**

40.(1) For all or any of the purposes specified in section 18(1)(a), (b) and (c) the board may—

- (a) issue a direction declaring that any coal specified or described in the direction is acquired by the board; or
- (b) issue a direction declaring that 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 board; or
- (c) require any person who is the owner of any equipment of whatever kind (whether as a fixture or part of the soil or not) which is specified or described in the requirement and is used or is capable of being used in the production, treatment, handling or distribution of coal, including any trucks or vehicles (not being the property of the Crown or of Queensland Rail) to make the equipment available to the board;

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 board as provided in this section to the owner of the coal or equipment.

(2) Any direction or requirement issued or made under subsection (1) shall be served in the manner prescribed by section 56(2) upon the owner of the coal or equipment specified or described in the direction or requirement, or where the owner is unknown and cannot with reasonable diligence be ascertained, shall be served upon the person for the time being in possession of the coal or equipment or upon the occupier of the land upon which the same is situated.

(3) Any person on whom a requirement under subsection (1)(c) is served shall, within such time as is specified in the requirement, make the equipment available accordingly.

(4) Where any coal or equipment is acquired or of any equipment is made available under this section, the general or special property therein shall pass to the board freed from all mortgages, charges, liens, pledges,

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interests and trusts affecting the coal or equipment and the rights and interests of any person in the 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 or equipment.

(5) The compensation payable by the board for any coal acquired under this section shall be a sum equivalent to the price payable for the coal as at the date of acquisition in accordance with the current price determination as made by the person or authority legally authorised to make such determination and applicable to the coal.

(6) The compensation payable by the board for any equipment acquired or required to be made available, or for the use of any equipment made available, under this section shall include compensation for loss of profits and other consequential losses and shall be determined by agreement between the board and the owner of the equipment, and in default of agreement shall be determined by the Land Court.

(6A) The Land Court shall have jurisdiction to hear and determine all matters of compensation arising under this section, and the Land Appeal Court shall have jurisdiction to hear and determine all such matters upon appeal and for such purposes all the provisions of the *Land Act 1910*, part 2, divisions 3 and 4, so far as the same are applicable shall extend to the hearing and determination of such matters in the first instance and upon appeal.

(7) The decision shall be final as regards the compensation awarded but shall not be deemed to be final as regards the right or title of the claimant or any other person to receive the compensation or any part thereof.

(8) Subject to subsection (7), the *Acquisition of Land Act 1967*, sections 24, 25 and 29 shall apply and extend to and in respect of compensation under this section to the same extent as such sections apply to and with respect to compensation for land.

(9) The power to make rules of court under the *Land Act 1910*, shall include power to make all such rules of court as may be deemed to be necessary or expedient for the purposes of this section.

PART 6—FINANCE

Accounts

41.(1) The board shall open and maintain an account or accounts at the Commonwealth Bank of Australia or such other bank as the Minister shall approve into which it shall pay all moneys received by it.

(2) The board shall, as soon as possible after the close of each financial year, submit to the Minister an annual report in the prescribed form of its financial accounts in respect of that year including a balance sheet, in the prescribed form, in respect of each fund kept in the books of the board.

(3) A copy of each annual report shall be laid before Parliament.

(4) The board shall keep accounts in such form as is prescribed.

Funds

42.(1) For the purposes of this Act there shall be kept in the books of the board—

- (a) a welfare fund; and
- (b) a coal industry fund; and
- (c) such other funds as are prescribed.

(2) There shall be credited to the welfare fund such moneys as are appropriated by Parliament to that fund and received by the board and such moneys as are allocated to the fund by the board or otherwise payable to the fund under this Act.

(2A) Moreover such other moneys as may from time to time be made available by the Commonwealth or otherwise for the promotion of the welfare of employees in the coal mining industry in the State, their dependants, and communities of persons in coal mining areas, shall, upon receipt by the board, be credited to the welfare fund.

(3) There shall be credited to any fund established under subsection (1)(c) such moneys becoming payable to the board as are prescribed.

(4) The moneys standing to the credit of the welfare fund shall be applied

in such manner as the board determines, so as to promote the welfare of employees in the coal mining industry in the State, their dependants and communities of persons in coal mining areas.

(5) There shall be credited to the coal industry fund all moneys becoming payable to the board other than moneys payable to the funds specified in subsections (2) and (3).

(6) The moneys standing to the credit of any fund established under subsection (1)(c) shall be applied in meeting such expenditure under this Act (including any allocations to the welfare fund) as is prescribed.

(7) The moneys standing to the credit of the coal industry fund shall be applied in meeting any expenditure incurred under this Act (including any allocations to the welfare fund) other than expenditure specified in subsection (4) and expenditure prescribed under subsection (6).

Subsidy or loan to local government by board

43.(1) Where in the opinion of the board the establishment or carrying out by any local government of any water supply, electricity, sewerage or other undertaking of, or any function of, local government or any extension of or addition to any such undertaking or function is necessary for, or incidental to, the effective exercise by the board of any of its powers and functions, or would enable the board to exercise any of its powers and functions effectively, the board may make to such local government such loan or grant by way of a subsidy for the purpose of assisting the local government to establish, carry out, extend or add to such undertaking or function as the Minister shall approve.

(2) The amount of any such grant or loan shall, according to the nature of undertaking or function in respect of which it is made, be made from the appropriate fund of the board.

Parliamentary appropriations

44.(1) There shall be payable to the board from time to time such amounts as are appropriated by Parliament.

(2) Any money so appropriated to a particular purpose of this Act shall be applied by the board to that purpose and not otherwise.

Board is statutory body

45.(1) Under the *Statutory Bodies Financial Arrangements Act 1982*, the board is a statutory body.

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the board's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*, including, for example, section 43 of this Act.

Annual contributions by mine owners

50.(1) The owners of coal mines shall in each year pay to the board such sum as may be fixed by the board and approved by the Governor in Council by order in council.

(2) The moneys payable by owners of coal mines under this section shall be paid in such manner and at such times as may be prescribed.

(2A) Without prejudice to the generality of the foregoing provisions of subsection (2) the regulations may prescribe the basis or bases upon which the contributions of individual owners may be assessed.

(2B) However, the provisions of subsection (1) and of the regulations shall apply so as not to require an owner of a coal mine to make any annual payment to the board in respect of any coal mined by the owner which is supplied or sold for export (whether in ships' holds or bunkers) from the Commonwealth.

(3) The regulations made under this section may make all such provision as is necessary or expedient to give effect to subsection (2B).

Board may allocate moneys

52. The board is to have power to allocate as it sees fit to the welfare fund, to the establishment of a reserve funds, or to other purposes of the board, the net profits (if any), after provision for interest and sinking fund charges, arising from the exercise of any of its powers and functions.

Audit of accounts of board

53.(1) The accounts of the board shall be subject to inspection and audit

at least once yearly by the auditor-general.

(2) The auditor-general shall furnish the auditor-general's report on the accounts of the board to the Minister.

(3) A copy of each report by the auditor-general shall be laid before Parliament.

Exemption from taxes and duties

54.(1) The property, income and operations of the board shall not be liable to taxation under any law of the State.

(2) Moreover no instrument to which the board is a party or receipt issued by the board shall be liable to stamp duty under any law of the State, but the provisions of this section shall not exempt from stamp duty any receipt issued by any other person to the board.

PART 7—GENERAL

Compensation for loss resulting from suspension of contract etc.

55.(1) If any person claims that the person has sustained any loss or damage by reason of an exercise by the board of the power referred to in section 18(3)(j), the person may, within 3 months after the exercise of the power, lodge with the board 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 that person and the board, or failing any such agreement, by an action by that person against the board in any court of competent jurisdiction.

(2) Any person who shall suffer loss or damage by reason of the wrongful act, neglect, or default of the board or of any person acting or purporting to act under this Act or in pursuance thereof, or by reason of any invalid or unauthorised order, provision, direction or determination made or given by the board, or anything done in pursuance of any such order, provision, direction or determination shall be entitled to such compensation

as is determined by agreement between such person and the board or in the absence of agreement as is determined by an action by such person against the board in any court of competent jurisdiction.

(3) Nothing in this section shall entitle any person to compensation by reason of the performance of any obligation imposed by or under any other Act.

Service of orders etc.

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

Access to premises, books etc.

57. Any person thereto authorised in writing by the board shall, for the purposes of this Act, at all times have full and free access to all coal mines in the State and to all buildings, places, books, documents and other papers in the State relating to the production, distribution or use of coal, and for those purposes may make extracts from or copies of any such books, documents and papers and may interview any person employed in or in connection with such production, distribution or use.

Persons to comply with orders

58. Any person who is affected by any order, direction or requirement made or given or deemed to be made or given by the board in the exercise of any power or function vested in it by this Act 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 board to perform work

59.(1) Where any person fails, wholly or in part to comply with any order, direction or requirement made or given by the board in the exercise of any power or function vested in it by this Act, the board is to have power, by its officers, employees or agents, to do all things which that person by the person's failure has omitted to do.

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

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

Offences

60.(1) Any person who refuses or fails to comply with any order, direction or requirement made or given by any authority in exercise of any power or function vested in it by this Act shall be guilty of an offence against this Act, and shall, in the case of a body corporate, be liable to a penalty not exceeding \$2 000 and, in addition, to a penalty not exceeding \$200 for each day during which the offence continues, and, in the case of an individual, be liable to a penalty not exceeding \$200 or 6 months imprisonment.

(2) Any offence against this Act may be prosecuted in a summary way under the *Justices Act 1886*.

Regulations

61. The Governor in Council may, from time to time, make all such regulations as the Governor in Council deems necessary or convenient for the purpose of carrying this Act into execution, and, in particular but without limiting the generality of the Governor in Council's power to make regulations, may make regulations prescribing all matters which by this Act are required or permitted to be prescribed (excepting any such matter required by this Act to be prescribed otherwise than by regulation) or which are necessary or convenient to be prescribed in relation to any matter within

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the powers and functions vested by this Act in the board, and generally for regulating and carrying into effect any action taken by the board in the exercise of any such power or function.

ENDNOTES

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 27 June 1997. Future amendments of the Coal Industry (Control) Act 1948 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 97 of 1991	1 March 1996
1A	to Act No. 75 of 1996	6 March 1997

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Corrected minor errors	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Coal Industry (Control) Act 1948 12 Geo 6 No. 18

date of assent 6 April 1948

commenced 1 January 1949 (proc pubd gaz 12 April 1948 p 1153)

as amended by—

Coal Industry (Control) Act Amendment Act 1952 1 Eliz 2 No. 9

date of assent 17 April 1952

commenced on date of assent

Coal Industry (Control) Acts Amendment Act 1954 3 Eliz 2 No. 8

date of assent 27 April 1954

commenced on date of assent

Coal Industry (Control) Acts Amendment Act 1965 No. 55

date of assent 16 December 1965

commenced on date of assent

Acquisition of Land Act 1967 No. 48 s 3(2) sch 1

date of assent 22 December 1967

commenced 23 March 1968 (proc pubd gaz March 1968 p 1206)

Coal Industry (Control) Act Amendment Act 1978 No. 2

date of assent 5 May 1978
 commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1991 No. 97 s 1–3 sch 2

date of assent 17 December 1991
 commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch

date of assent 20 November 1996
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 June 1997 (1997 SL No. 128)

WorkCover Queensland Act 1996 No. 75 ss 1–2, 535 sch 2

date of assent 12 December 1996
 ss 1–2 commenced on date of assent
 remaining provisions commence 1 February 1997 (1996 SL No. 442)

7 List of annotations

Short title

s 1 amd R1 (see RA s 37)

Parts of Act

s 2 om 1991 No. 97 s 3 sch 2

This Act not to affect certain other Acts

s 3 amd 1996 No. 75 s 535 sch 2

Construction of Act

s 4 om 1991 No. 97 s 3 sch 2

Repeals

s 5 om 1991 No. 97 s 3 sch 2

Meaning of terms

s 6 amd 1991 No. 97 s 3 sch 2; R1 (see RA s 39)
 def “**Industrial Court**” om 1991 No. 97 s 3 sch 2
 def “**Minister**” om 1991 No. 97 s 3 sch 2
 def “**Person**” om 1991 No. 97 s 3 sch 2
 def “**Prescribed**” om 1991 No. 97 s 3 sch 2
 def “**Regulations**” om 1991 No. 97 s 3 sch 2
 def “**This Act**” om 1991 No. 97 s 3 sch 2

Secretary and officers

s 15 amd 1996 No. 37 s 147 sch 2

Appointments to be made on the passing of Act

s 16 om 1996 No. 37 s 147 sch 2

Power to order stockpiling of coal

s 16A ins 1954 3 Eliz 2 No. 8 s 2

General powers and functions of board

s 18 amd 1952 1 Eliz 2 No. 9 s 2; 1978 No. 2 s 2

Responsibilities of employees at controlled mine

s 24 amd 1996 No. 75 s 535 sch 2

Power of board to take land

s 31 amd 1967 No. 48 s 3(2) sch 1

Procedure as to taking of land modified

s 32 om 1967 No. 48 s 3(2) sch 1

Limit of time for making claim for compensation

s 33 om 1967 No. 48 s 3(2) sch 1

Amount of compensation payable to trustees

s 34 om 1967 No. 48 s 3(2) sch 1

Taking not to enhance value of land

s 35 om 1967 No. 48 s 3(2) sch 1

Costs

s 36 om 1967 No. 48 s 3(2) sch 1

Construction of Act

s 37 om 1967 No. 48 s 3(2) sch 1

Taking by agreement

s 38 amd 1967 No. 48 s 3(2) sch 1

When coal etc. deemed to be acquired with land

s 39 amd 1967 No. 48 s 3(2) sch 1

Acquisition and requisition of coal and equipment

s 40 amd 1967 No. 48 s 3(2) sch 1

Board is statutory body

s 45 amd 1965 No. 55 s 2
sub 1996 No. 54 s 9 sch

Repayment of Treasury loans

s 46 om 1996 No. 54 s 9 sch

Debentures

s 47 om 1996 No. 54 s 9 sch

Defaults in repayment

s 48 om 1996 No. 54 s 9 sch

Brokerage

s 49 om 1996 No. 54 s 9 sch

Board may invest its funds

s 51 om 1996 No. 54 s 9 sch

Offences

s 60 amd 1954 3 Eliz 2 No. 8 s 3

Regulations

s 61 amd 1991 No. 97 s 3 sch 2