

1927.

Legislative Council.

Mine Subsidence Bill, 1927.

EXPLANATORY NOTE.

THE object of the Bill is to provide for insurance of improvements on the surface against damage by subsidence caused by the extraction of the underlying coal and shale. Provision is made for the establishment of Mine Subsidence Insurance Districts, and that the owner of land within a district may insure, with a Board to be established, at premiums and subject to such conditions and for such period as the Board may determine, his improvements against such damage.

The Board has discretion to lay down the conditions upon which improvements to be erected will be insured, including conditions as to the method of their construction.

The owner of minerals is to be exempted from all responsibility for subsidence, except such as is caused by negligent working of the mine, if he has paid the required contribution.

It is proposed that the Fund should be subsidised by such amount as may be voted by Parliament. The amount to be paid under any claim is to be fixed by the Board, which, in making such payments, is to have regard to the general state of the Fund and its outstanding contingent liabilities, and the decision of the Board as to the amount to be paid is to be final.

The Bill further provides that within a mine subsidence insurance district no subdivision is to be carried out except after reference to the Board and some determination by it as to the insurance on the improvements to be erected which the Board would be willing to undertake, and this determination of the Board must be disclosed to any purchaser of a lot in the subdivision.

The Bill further makes provision that the Board may impose certain restrictions upon the working of the minerals where in their opinion the national interests require that support should be left for any particular areas, and provision is made for compensation to be paid to the owner of the minerals out of the Fund of an amount fixed by the Board subject to an appeal to the Land and Valuation Court.

THE UNIVERSITY OF CHICAGO

EXPERIMENTAL

The following table shows the results of the experiments conducted on the effect of temperature on the rate of reaction between hydrogen peroxide and potassium iodide. The reaction is catalyzed by the presence of a small amount of potassium iodide. The rate of reaction was measured by the volume of oxygen gas evolved in a given time.

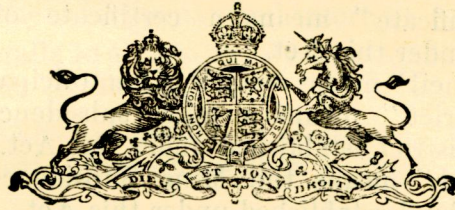
Temperature (°C)	Rate of Reaction (ml O ₂ /min)
10	0.5
20	1.0
30	2.0
40	4.0
50	8.0

It is seen that the rate of reaction increases rapidly with increasing temperature. This is due to the fact that the activation energy of the reaction is lowered by the presence of the catalyst, and the rate of reaction is therefore increased. The activation energy of the reaction is approximately 50 kJ/mol.

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

S. G. BOYDELL,
For Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 24 February, 1927.

New South Wales.



ANNO SEPTIMO DECIMO

GEORGII V REGIS.

Act No. , 1927.

An Act to provide for the insurance against damage to improvements on the surface due to subsidence caused by coal and shale mining operations; to further regulate the subdivision of land within certain areas; to provide for the restriction of the extraction of minerals in certain cases; to amend the Coal Mines Regulation Act, 1912, and certain other Acts; and for purposes connected therewith.

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 New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Mine Subsidence Act, 1927."

20027 232—A

(2)

Short title and commencement.

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(2) This Act shall come into operation on a date to be appointed by the Governor and notified by proclamation published in the Gazette.

2. In this Act, unless the context otherwise indicates Interpretation.
5 or requires—

“Board” means the board constituted under this Act.

“Certificate” means a certificate of insurance under this Act.

10 “Council” means council of a municipality or shire.

“District” means a mine subsidence insurance district established under this Act.

“Fund” means the Mine Subsidence Insurance Fund established under this Act.

15 “Improvements” means and includes the surface of land and any buildings, works, or things erected or constructed or growing on the land, but does not include any buildings, works, or things erected or constructed upon the land
20 and owned or leased by the owner of the minerals.

“Mine” means any mine opened under the provisions of the Coal Mines Regulation Act, 1912, or any Act amending the same.

25 “Mine owner” means any person who is the immediate proprietor, lessee, or occupier of any mine, and does not include a person merely receiving a royalty, rent, or fine from the mine.

30 “Minerals” means coal and oil-shale.

“Owner of land” includes a person in whom the right to obtain the fee-simple of land is vested, or a mortgagee or a person holding a lease, agreement for, or promise of a lease or a license to occupy, or a person in actual possession or occupation, or a trustee of land reserved temporarily or permanently or permanently dedicated for a public purpose under any Act relating to Crown lands.

35
40 “Owner of the minerals” includes a holder of the right to mine minerals, whether such are reserved to the Crown or not.

“Prescribed”

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“Prescribed” means prescribed by this Act or by the regulations.

“Regulations” means regulations made under the authority of this Act.

5 “Subdivision” or “Subdivide” has the meaning ascribed thereto by the Local Government Act, 1919, as amended by subsequent Acts.

3. The Governor, upon the recommendation of the board by proclamation published in the Gazette, may 10 establish mine subsidence insurance districts for the purpose of this Act, and may from time to time in like manner vary the boundaries of any district. Districts establish-ment.

4. (1) Any owner of land within a district may 15 insure with the board the improvements on or to be erected on his land against damage by subsidence caused by the extraction of minerals. Insurance of improve-ments.

(2) Any council may insure with the board any bridge, public road or work within a district owned by, or the control or management of which is vested in, the 20 council against damage by subsidence caused by the extraction of minerals.

(3) Any person in whom any bridge, railway, pipe line, or other improvements within a district is vested may insure the same with the board against damage by 25 subsidence caused by the extraction of minerals.

(4) Any such insurance shall be applied for in the prescribed manner and shall only be effected by the board upon payment to it of the premium fixed by the board in respect of the particular risk sought to be 30 insured.

(5) A certificate of insurance in the prescribed form shall be issued by the board in respect of any insurance accepted and shall be issued upon such terms and conditions and for such a period as the board may 35 determine.

(6) The board may decline any application for insurance.

(7) In the case of improvements to be erected, the class of building, and the structural conditions to be 40 observed in the erection thereof, before any certificate of insurance in respect thereof shall be issued, shall be as prescribed. (8)

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(8) A certificate of insurance subject to notice to the board in the prescribed form and to the assent of the board may be transferred by endorsement.

5 **5.** (1) A mine owner who extracts from a mine within a district the minerals to such an extent that subsidence of the surface is occasioned thereby shall not if he has made all the contributions to the fund in accordance with this Act, be liable for any damage occasioned by such subsidence. Mine owner removing support, relieved of liability to safeguard surface.

10 (2) Nothing in this section shall be construed so as to absolve the mine owner from the observance or performance of any covenant or stipulation relating to the method or extent of the extraction of the minerals contained in any instrument through which the mine owner derives title to mine the minerals.

(3) Nothing in this section shall relieve a mine owner from liability for damage caused by subsidence where the subsidence is due to the negligence of the mine owner or his servants.

20 **6.** (1) For the purposes of this Act there shall be constituted a board to be called the Mine Subsidence Board, which board shall be the authority charged with the administration of this Act. Appointment and constitution of the board.

(2) The board shall consist of the persons for the time holding or acting in the following offices:— Members of board.

the Under Secretary of the Department of Mines, who shall be chairman;

the Chief Inspector of Coal Mines;

30 the Manager of the Government Insurance Office of New South Wales; and

two other members who shall be appointed by the Governor, one of whom shall be representative of mine owners, and the other representative of owners of improvements on land affected or likely to be affected by subsidence.

35 (3) The appointed members of the board shall hold office for a term not exceeding three years, and shall be eligible for reappointment. Term of appointment

40 On the occurrence of a vacancy, an appointment may be made for the remainder of the unexpired term of the vacant office.

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(4) The chairman shall have the right to vote on all occasions, and in the event of an equality of votes, shall have a second or casting vote. Chairman to have casting vote.

(5) Any three members of the board shall form a quorum, and may exercise all or any powers of the board. Quorum.

(6) Any act or proceeding of the board shall not be invalidated or prejudiced by reason only of the fact that at the time such act or proceeding was taken, done, or commenced, there was a vacancy in the office of any member, or that some informality or irregularity has occurred in the constitution of the board. Proceedings not invalidated by reason of vacancy.

(7) The Governor may remove or suspend any appointed member for sufficient cause, and appoint another person in his stead. Removal of member.

(8) If any member of the board absents himself from three consecutive meetings except on leave granted by the board or by the chairman (which leave he is hereby authorised to grant) his seat shall become vacant. Absence without leave.

(9) In case of the illness suspension or absence of any member of the board a deputy may be appointed by the Governor to act for such member during his illness, suspension, or absence. Appointment of deputy.

Every such deputy shall have the immunities and shall during the time he acts as deputy have all the powers and authority of such member.

(10) The remuneration and allowances of the members of the board shall be fixed by the Governor and shall be paid out of the fund. Remuneration.

Any such remuneration and allowances of any member who is in the Public Service may be retained by him for his own use.

7. (1) The board shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name; and shall for the purposes and subject to the provisions of this Act be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer. Body corporate.

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- (2) For the purpose of carrying out the powers, duties, authorities, and obligations conferred or imposed upon the board by this Act the board upon such terms and conditions as are approved by the Minister of the Department concerned, may make use of the services of any of the officers and employees of the Public Service. Appointment of officers and employees.
- (3) No action or suit shall be brought or maintained against any person who is or at any time has been a member of the board for anything done or omitted by him pursuant to the duties imposed upon him by this Act, nor shall any action, suit, or other proceeding lie against him nor any costs be payable by him in respect of any proceeding before the board. No action or suit against members of board.
- (4) The board shall cause minutes of its decisions to be kept upon the official papers and cause minutes to be kept of the proceedings at formal meetings and an annual statement of accounts to be prepared and presented to Parliament. Minutes of meetings, &c.
- (5) Notwithstanding anything to the contrary contained in the Coal Mines Regulation Act, 1912, the board shall for the purposes of this Act have access to any plans or records of a mine deposited in the Department of Mines. Access to plans and records.
- (6) Every person appointed or employed under this Act who without lawful excuse reveals any matter or thing which has come to his knowledge in his official capacity shall be guilty of an offence against this Act, and shall be liable on summary conviction to a penalty not exceeding fifty pounds. Secrecy.
8. The powers and duties of the board shall extend to— Powers and duties of board.
- (a) the issue of certificates of insurance;
 - (b) investigation of all claims made under such certificates;
 - (c) ascertaining the nature and assessing the damage to any improvements insured under this Act;
 - (d) determining the amount to be paid out of the fund to the holder of a certificate of insurance;
 - (e)

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- (e) carrying out the work of repairing or making good any damage caused to improvements insured under this Act;
- 5 (f) determining the conditions upon which the right to insure improvements may be granted upon land being subdivided;
- (g) securing support to improvements when deemed expedient in the national interest;
- 10 (h) generally to all matters relating to the administration of the Act.

9. (1) The amount payable in respect of any claim under a certificate of insurance shall be that determined by the board. Amount payable under claims.

(2) The board may decide what sum if any should be paid to the occupier on account of the loss occasioned by damage to the improvements. Payment to occupier.

Such sum shall be paid out of the amount which the board determines to be payable in respect of the claim by the holder of the certificate.

20 **10.** (1) The board in the exercise of any of its powers under this Act and the chairman of the board shall have the powers conferred by the Royal Commissions Act, 1923, on a commissioner and the chairman of a commission respectively, appointed under Division 1 of Part II of that Act and the said Act, section 13, and Division 2 of Part II excepted, shall Powers of board. mutatis mutandis apply to any witness or person summoned by or appearing before the board.

30 (2) No determination of the board in respect to the amount payable under a certificate of insurance shall be liable to be challenged, appealed against, reviewed, quashed, or called into question by any court. Determination of board final.

(3) For the purposes of conducting an inquiry or investigation under the authority of this Act at which it may be inconvenient for all or any of the members to be present the board may delegate any of its powers or functions to any one member of the board or to any fit person, but the final decision of any matter in dispute shall be made by the board. Delegation of powers.

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(4) The board may reconsider any matter which has been dealt with by it, or may rescind, alter, or amend any decision previously made by the board. Board may reconsider decision.

11. (1) There shall be constituted a fund to be called the Mine Subsidence Insurance Fund. Mine Subsidence Insurance Fund.

(2) All moneys expended or advanced under or for the purposes of this Act shall be paid out of such fund. Moneys to be paid to fund.

All moneys received under this Act shall be paid into such fund.

The fund shall be under the direction and control of the board, and shall be applied for the purpose of the administration and execution of this Act, and for no other purpose whatsoever.

15 (3) Every mine owner within the boundaries of a district shall make such contribution to the fund in respect of his mine as the board may fix. Contributions by mine owners.

The board shall from time to time in respect of each district fix a rate upon which the contribution shall be calculated.

Such rate shall not exceed one-third of one penny for every ton of coal or shale won from the mine during the preceding year ending the thirty-first day of December.

25 The first payment shall be made on or before a date to be fixed by the board and notified in the Gazette, and thereafter within the first twenty-one days of January in each year.

Any sum fixed by the board as the contribution to the fund by a mine owner if not paid to the board within the time and after service of the notice prescribed shall be recoverable from the mine owner by the board by action in any court of competent jurisdiction.

35 (4) There shall be paid to the credit of the fund out of the Consolidated Revenue Fund such sums as may from time to time be provided by Parliament. Grant from Consolidated Revenue.

(5) All moneys received by the board under this Act shall be paid to an account in Special Deposits Account in the Treasury, and such moneys and interest allowed thereon shall be made available to the board for the purposes of meeting any claims made in pursuance of this Act or any costs or expenses payable out of the fund. Financial provisions.

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(6) Interest at a rate to be determined by the Colonial Treasurer shall be allowed on the amount at the credit of such account. Interest.

12. (1) The owner of land within a district shall not subdivide any land situate therein unless application in respect of the land to be subdivided shall first be made to the board. Insurance of improvements in a subdivision.

(2) The application shall be made in the manner and accompanied by such fee as may be prescribed. Mode of application.

10 (3) The board shall notify the applicant whether the land is such that the right to insure the improvements thereon will be granted either unconditionally or conditionally, and if conditionally shall indicate the conditions upon which the right to insure improvements will be granted or that insurance will not be granted as the case may be. Conditions of insurance.

(4) The decision of the board upon such application shall be a matter to be disclosed by the applicant to any purchaser, intending purchaser, or tenant of the land. Disclosure of decision to purchaser.

(5) Any person who alienates land regarding which a decision of the board under this section has been made without disclosing such decision shall be liable to a penalty not exceeding one hundred pounds but a contravention of this section shall not invalidate any instrument intended to affect or evidence the title to the land. Penalty.

(6) Before any Crown lands within a district are alienated the Secretary for Lands may give notice of such intended alienation to the board and may apply to the board for a decision as though he were a subdividing owner of land. Crown lands.

13. (1) Where it appears to the board that in the national interest it is expedient that restriction should be imposed either on the quantity or the position of the minerals to be worked or on the method of working or packing to secure adequate support to any improvements, or to prevent or minimise damage thereto, an agreement may be entered into by the board with the Restrictions on working minerals required for support.

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owner of the minerals with regard to the restrictions which should be imposed and the compensation to be paid.

Such agreement shall provide that the board shall have the right to enforce the observance of the conditions thereof.

Upon registration of the agreement in the office of the Registrar-General the board may lodge a caveat in respect thereof upon any Crown grant, certificate of title, or lease under the Real Property Act, 1900.

Any such caveat shall not be affected by section seventy-three of that Act.

(2) In determining whether restrictions should be imposed the board shall have regard to the value of the improvements, and the cost of repairing damage likely to be caused thereto by subsidence and to the value of the minerals.

Value of improvements compared with value of minerals.

(3) Should the owner of the minerals and the board fail to come to an agreement a public inquiry may be held by the board at which inquiry the board shall investigate the matter and shall have power to inspect all books and vouchers of the owner of the minerals, and if necessary to employ competent assistance for such purpose.

Public inquiry.

(4) The board shall notify, under its seal, to the owner of the minerals the extent to which it is proposed to restrict the workings and the method of working or packing which is to be adopted, and the compensation (if any) which the board is prepared to pay.

Owner of minerals to be notified of proposed restrictions.

(5) Should the owner of the minerals be dissatisfied with the determination of the board he may within the prescribed time appeal therefrom to the Land and Valuation Court in manner prescribed by rules of that court.

Appeal by owner of minerals.

That court may make such determination as shall appear just, and the determination of that court shall be given effect.

(6) Any determination of the board under this section or of the said court on appeal therefrom shall be enforceable

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enforceable at the suit of the board or the owner of the minerals by the Supreme Court in its equitable jurisdiction.

(7) Upon registration of any determination of the board under this section, or of the court, made on appeal therefrom in the Registry of Causes, writs and orders affecting land in the office of the Registrar-General, the rights and powers of the owner of the minerals with regard to the portion thereof affected by the determination shall be modified or abrogated to the extent expressed in the determination, and the Registrar-General may, on the application of the board, make upon any instrument in the register book under the Real Property Act, 1900, such entries as may be necessary to evidence such modification or abrogation.

(8) Where the owner of the minerals is the holder of the right to mine minerals not reserved to the Crown, upon payment of a royalty, rent or fine to the person in whom the minerals are vested, the compensation payable in respect of the imposition of restrictions shall be separately assessed.

Amount due to royalty ; owner separately assessed.

(9) Where restrictions are imposed, any compensation agreed upon or determined shall be paid out of the fund.

Payment to be made from fund.

The board may recover the amount so paid from the authority at whose instance the restrictions were imposed, and whose consent to the payment to the owner of the minerals has been obtained.

14. Penalties under this Act or the regulations thereunder may be recovered by a stipendiary or police magistrate, or any two justices in petty sessions.

Penalties may be recovered.

15. (1) The board may make regulations not inconsistent with this Act, prescribing all matters, forms, and fees which by this Act are required or authorised to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act.

Regulations.

Any regulation may prescribe a penalty not exceeding fifty pounds for any breach thereof.

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- (2) The regulations shall—
- (a) be submitted to the Governor for approval, and after such approval be published in the Gazette; and
 - 5 (b) shall take effect from the date of publication thereof, or from a later date to be specified in the regulations; and
 - 10 (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen
15 sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, the regulation or part shall thereupon cease to have effect.