

*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.*

H. ROBBINS,  
*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, 11 December, 1951.*

## New South Wales.



ANNO SEXTO DECIMO

# GEORGII VI REGIS.

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Act No. , 1951.

An Act to amend the Coal Industry Act, 1946, in certain respects; and for purposes connected therewith.

**B**E 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 "Coal Industry (Amendment) Act, 1951." Short title and citation.

(2) The Coal Industry Act, 1946, as amended by this Act, may be cited as the Coal Industry Act, 1946-10 1951.

*Coal Industry (Amendment).*

2. This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. Commence-  
ment.

3. (1) In this section, "the National Security (Coal Mining Industry Employment) Regulations" means the regulations having that title in force, or purporting to be or to have been in force, by virtue of the National Security Act 1939-1940 (or of that Act as amended), the Defence (Transitional Provisions) Act 1946 (or of that Act as amended) or the Defence (Transitional Provisions) Act 1950-1951 of the Parliament of the Commonwealth. Continu-  
ance of  
awards,  
etc., under  
the  
National  
Security  
(Coal  
Mining  
Industry  
Employ-  
ment)  
Regulations.

(2) An award, order or determination made or given, or purporting to have been made or given, under the National Security (Coal Mining Industry Employment) Regulations or otherwise in operation or purporting to be in operation, by virtue of those Regulations, and an agreement in writing filed in the Commonwealth Court of Conciliation and Arbitration under those Regulations, being an award, order, determination or agreement in force, or purporting to be in force, immediately before the commencement of this section, shall continue in force until revoked by competent authority, and, if varied by competent authority, as so varied.

(3) While an award, order, determination or agreement continues in force by virtue of subsection two of this section, the provisions of the Industrial Arbitration Act, 1940-1951, under which awards and orders of the Industrial Commission of New South Wales may be enforced shall apply in relation to the award, order, determination or agreement as if it were an award or order of the Industrial Commission of New South Wales.

(4) This section shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that where any provision of this section,

*Coal Industry (Amendment).*

section, or the application thereof to any person or circumstance is held invalid, the remainder of this section, and the application of such provision to other persons or circumstances shall not be affected.

5 4. The Coal Industry Act, 1946, is amended—

Amendment  
of Act No.  
44, 1946.  
Sec. 4.  
(Defini-  
tions.)

(a) by omitting from subsection one of section four the definitions of "industrial dispute" and "industrial matter" and by inserting in lieu thereof the following definitions:—

10 "industrial dispute" means—

(a) a dispute (including a threatened, impending or probable dispute) as to industrial matters; and

15 (b) a situation which is likely to give rise to a dispute as to industrial matters;

20 "industrial matters" means all matters pertaining to the relations of employers and employees in the coal mining industry, and, without limiting the generality of the foregoing, includes, in respect of that industry—

(a) all matters or things affecting or relating to work done or to be done;

25 (b) the privileges, rights and duties of employers and employees;

(c) the wages, allowances and remuneration of persons employed or to be employed;

30 (d) the piece-work, contract or other reward paid or to be paid in respect of employment;

35 (e) the question whether piece-work or contract work or any other system of payment by results shall be allowed, forbidden or exclusively prescribed;

(f)

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*Coal Industry (Amendment).*

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- 5 (f) the question whether monetary allowances shall be made by employers in respect of time when an employee is not actually working;
- (g) the hours of employment, sex, age, qualifications and status of employees;
- 10 (h) the mode, terms and conditions of employment;
- (i) the employment of young persons or of any persons or class of persons;
- 15 (j) the preferential employment or the non-employment of a particular person or class of persons being or not being members of an organisation;
- 20 (k) the right to dismiss or to refuse to employ, or the duty to reinstate in employment, a particular person or class of persons;
- (l) a custom or usage, whether general or in a particular locality;
- 25 (m) a shop factory or industry dispute, including any matter which may be a contributory cause of such a dispute;
- 30 (n) a question arising between two or more organisations or within an organisation as to the rights, status or functions of the members of those organisations or of that organisation or otherwise, in relation to the employment of those members;
- 35 (o)

*Coal Industry (Amendment).*

5 (o) a claim that the same wage shall be paid to persons of either sex performing the same work or producing the same return of profit or value to their employer; and

0 (p) a question as to the demarcation of functions of employees or classes of employees, whether as between employers and employees or between members of different organisations,

15 and includes all questions of what is right and fair in relation to an industrial matter having regard to the interests of the persons immediately concerned and of society as a whole;

20 "organisation" means an association or body, whether corporate or unincorporate, the objects of which include the protection of the interests of its members in industrial matters, whether in the coal mining industry only or in that industry and other industries (and in particular their representation before industrial tribunals and authorities) and which, in the case of  
25 an association or body of employees, is registered under a law of the Commonwealth or of a State or Territory of the Commonwealth;

30 (b) by omitting from subsection three of section thirty-six the words "that person" and by inserting in lieu thereof the words "the person appointed"; Sec. 36.  
(Coal Industry Tribunal.)

35 (c) by inserting next after section thirty-eight the following new section:— New sec.  
38A.

38A. In this Part—

40 (a) references to the coal mining industry include references to the shale mining industry; and

Interpretation.

(b)

*Coal Industry (Amendment).*

5 (b) in the application of the definition of "industrial matters" to this Part, the reference to the coal mining industry shall be read as including a reference to the shale mining industry.

(d) by omitting section thirty-nine and by inserting in lieu thereof the following section:— Subst. sec. 39.

10 39. The Tribunal is to have authority to exercise any of its powers, duties and functions— Exercise of powers of Tribunal.

(a) of its own motion;

(b) on the application of—

15 (i) a party to an industrial dispute;

(ii) an organisation or person affected by an industrial matter;

(iii) the Board; or

20 (iv) an organisation or person bound by an award or order of the Court relating to the coal mining industry or of the Tribunal or bound by an award, order, determination or agreement continued in force by section three of the Coal Industry (Amendment) Act, 1951; or

25 (c) on reference to it by a Local Coal Authority of an industrial dispute or industrial matter.

30 (e)(i) by omitting subsection one of section forty and by inserting in lieu thereof the following subsections:— Sec. 40. (Powers of Coal Industry Tribunal.)

(1) Subject to this section the Tribunal is to have power to consider and determine—

35 (a) an industrial dispute extending beyond the limits of any one State;

(b) an industrial dispute in the State;

(c)

*Coal Industry (Amendment).*

- 5 (c) an industrial matter arising under an award or order of the Court or of the Tribunal relating to the coal mining industry in the State;
- 10 (d) an industrial matter arising under an award, order, determination or agreement continued in force by section three of the Coal Industry (Amendment) Act, 1951, and relating to the coal mining industry in the State;
- 15 (e) an industrial dispute or matter referred to the Tribunal by a Local Coal Authority; and
- 20 (f) any other matter affecting industrial relations in the coal mining industry in the State which the Board declares to be, in the public interest, proper to be dealt with under this Act.
- 25 (1A) For the purpose of the exercise of the power referred to in subsection one of this section, the Tribunal is, subject to this section, to have (in addition to all other powers conferred on it by this Act or the Commonwealth Act) all powers which are given to the Court in relation to an industrial dispute of which the Court has jurisdiction.
- 30 (1B) The Board is to have power to make an order excluding (subject to such exceptions, if any, as are specified in the order) from the powers of the Tribunal the power to make an award or order removing, or having the effect of removing, from the operation of a subsisting award, order or determination (whether of the Tribunal or otherwise)
- 35

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*Coal Industry (Amendment).*

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5 otherwise) a class of work or classification  
described or specified in the order, or  
inserting or having the effect of inserting  
in an award, order or determination  
(whether of the Tribunal or otherwise)  
binding upon an organisation of employees  
a class of work or classification for the time  
being described or specified in another  
10 award, order or determination (whether of  
the Tribunal or otherwise) which is  
subsisting and binding upon another  
organisation of employees.

15 (1c) While an order under subsection  
(1B) of this section remains in force, the  
Tribunal shall not exercise the power  
excluded by the order except in accordance  
with the terms of the order.

20 (ii) by omitting from subsection three of the  
same section the words "any industrial  
dispute or matter or part thereof within  
the cognizance of the Tribunal" and by  
inserting in lieu thereof the words "an  
industrial dispute or industrial matter, or  
part of an industrial dispute or industrial  
25 matter";

30 (iii) by omitting from subsection four of the  
same section the words "any such industrial  
dispute or matter or part thereof" and by  
inserting in lieu thereof the words "an  
industrial dispute or industrial matter, or  
part of an industrial dispute or industrial  
matter";

(iv) by omitting subsection five of the same  
section;

35 (f) (i) by omitting from subsection two of section  
forty-one the words "the Federation" and  
by inserting in lieu thereof the words "such  
of  
Sec. 41.  
(Power to  
appoint  
assessors.)



*Coal Industry (Amendment).*

of the parties to the dispute as, in the opinion of the Tribunal, have interests in common with the employees”;

5 (ii) by inserting at the end of the same section the following new subsection:—

10 (3) If default is made in nominating either or both of the assessors or if the parties consent, the Tribunal may appoint an assessor or assessors without nomination;

(g) by inserting next after section forty-three the following new section:— New sec. 43A.

15 43A. (1) When exercising its powers under section forty-three of this Act in relation to a dispute or matter not affecting members of the Federation (other than members excepted by the Board by order), the Local Coal Authority is to consist of a person appointed to be a Local Coal Authority, as Chairman, and of two or 20 three other members representative of employers and the same number of other members representative of employees, respectively, selected by the Chairman, according to the subject-matter to be dealt with, from among persons appointed 25 by the Tribunal for the purposes of this section.

(2) A person so selected is to receive such remuneration and allowances (if any) as the Tribunal, with the concurrence of the Board, determines.

30 (3) The Chairman and half the other members of a Local Coal Authority constituted in accordance with this section are to form a quorum.

35 (4) Unless a question arising before a Local Coal Authority constituted in accordance with this section is decided by a unanimous vote, the question is to be decided in accordance with the opinion of the Chairman.

Constitu-  
tion of  
Local Coal  
Authorities  
when  
dealing  
with  
disputes,  
etc. not  
affecting  
the Federa-  
tion.

*Coal Industry (Amendment).*

- (h) (i) by omitting from paragraph (a) of subsection one of section forty-four the words "who are members of the Federation";
- 5 (ii) by omitting from paragraph (e) of the same subsection the words "affecting members of the Federation (other than members excepted by the Board by order)";
- 10 (iii) by omitting from subsection three of the same section the words "not being a matter, or an industrial dispute with respect to a matter, determined by the Tribunal to be a local matter";
- 15 (i) by inserting in section forty-five immediately before the word "forty" the word "thirty-nine";
- (j) by omitting section forty-seven and by inserting in lieu thereof the following section:—
- 20 47. (1) A party to a decision given by a Local Coal Authority is to have the right, within seven days after the giving of the decision, or within such extended time as the Tribunal allows, to apply to the Tribunal for leave to apply to the Tribunal for review of the decision.
- 25 (2) The Tribunal is to have power, if it is of opinion that reasons exist why, in the public interest the decision should be reviewed (including the likelihood of the decision leading to industrial unrest) to grant leave and is to have power to fix a time within which the
- 30 application for review shall be made.
- (3) On the application for review, the Tribunal is to have power to rehear the whole or a part of the industrial dispute or matter in respect of which the decision was given and is to have power either to determine the dispute
- 35 or matter or to remit it to the Local Coal Authority for determination in accordance with such directions as the Tribunal gives.

Sec. 44.  
(Cognizance of disputes.)

Sec. 45.  
(Powers of Local Coal Authorities.)

Subst. sec. 47.

Review of decision, etc. of Local Coal Authorities.

(4)

*Coal Industry (Amendment).*

- 5 (4) The operation of the decision is not to be stayed pending the determination of an application under this section unless the Tribunal, when granting leave to apply for review, directs a stay of the decision or settlement.
- (5) The Tribunal is to have power to make its own rules of procedure for hearing and determining applications under this section.
- 10 (k) (i) by omitting from subsection one of section forty-eight the words "a Mine Conciliation Committee" and by inserting in lieu thereof the words "one or more Mine Conciliation Committees"; Sec. 48. (Mine Conciliation Committees.)
- 15 (ii) by omitting from the same subsection the words "the Federation" and by inserting in lieu thereof the words "the members of one or more organisations engaged in the working of the coal mine";
- 20 (l) by omitting from paragraph (c) of section forty-nine the words "affecting members of the Federation (other than members excepted by the Board by order)"; Sec. 49. (Functions of Mine Conciliation Committees.)
- 25 (m) by omitting from section fifty-four the words "of which any authority established under this Part could have cognizance" and by inserting in lieu thereof the words "in respect of which an authority established under this Part could have jurisdiction"; Sec. 54. (Reporting officers.)
- 30 (n) by inserting next after section fifty-four the following new section:— New sec. 54A.
- 35 54A (1) A person shall not—
- (a) wilfully insult or disturb the Tribunal or a Local Coal Authority when exercising powers or functions under this Act; Protection of Tribunal.
- (b)

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*Coal Industry (Amendment).*

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- 5 (b) interrupt the proceedings of the Tribunal or a Local Coal Authority when exercising powers or functions under this Act;
- 10 (c) use insulting language towards the Tribunal or a Local Coal Authority;
- (d) by writing or speech use words calculated to influence improperly the Tribunal or a Local Coal Authority when exercising powers or functions under this Act or to bring the Tribunal or a Local Coal Authority into disrepute; or
- 15 (e) by writing or speech use words calculated to influence improperly a witness before the Tribunal or a Local Coal Authority when exercising powers or functions under this Act.
- 20 (2) Any person contravening any of the provisions of subsection one of this section shall be liable to a penalty not exceeding one hundred pounds.

No. , 1951.

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## A BILL

To amend the Coal Industry Act, 1946,  
in certain respects; and for purposes con-  
nected therewith.

[MR. ARTHUR;—5 December, 1951.]

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**B**E it enacted by the King's Most Excellent Majesty,  
by and with the advice and consent of the Legis-  
lative Council and Legislative Assembly of New South  
Wales in Parliament assembled, and by the authority of  
5 the same, as follows :—

1. (1) This Act may be cited as the "Coal Industry  
(Amendment) Act, 1951."

Short title  
and  
citation,

(2) The Coal Industry Act, 1946, as amended by  
this Act, may be cited as the Coal Industry Act, 1946-  
10 1951.

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*Coal Industry (Amendment).*

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2. This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. Commencement.

3. (1) In this section, "the National Security (Coal Mining Industry Employment) Regulations" means the regulations having that title in force, or purporting to be or to have been in force, by virtue of the National Security Act 1939-1940 (or of that Act as amended), the Defence (Transitional Provisions) Act 1946 (or of that Act as amended) or the Defence (Transitional Provisions) Act 1950-1951 of the Parliament of the Commonwealth. Continuance of awards, etc., under the National Security (Coal Mining Industry Employment) Regulations.

(2) An award, order or determination made or given, or purporting to have been made or given, under the National Security (Coal Mining Industry Employment) Regulations or otherwise in operation or purporting to be in operation, by virtue of those Regulations, and an agreement in writing filed in the Commonwealth Court of Conciliation and Arbitration under those Regulations, being an award, order, determination or agreement in force, or purporting to be in force, immediately before the commencement of this section, shall continue in force until revoked by competent authority, and, if varied by competent authority, as so varied.

(3) While an award, order, determination or agreement continues in force by virtue of subsection two of this section, the provisions of the Industrial Arbitration Act, 1940-1951, under which awards and orders of the Industrial Commission of New South Wales may be enforced shall apply in relation to the award, order, determination or agreement as if it were an award or order of the Industrial Commission of New South Wales.

(4) This section shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that where any provision of this section,

*Coal Industry (Amendment).*

section, or the application thereof to any person or circumstance is held invalid, the remainder of this section, and the application of such provision to other persons or circumstances shall not be affected.

- 5 4. The Coal Industry Act, 1946, is amended—
- (a) by omitting from subsection one of section four the definitions of "industrial dispute" and "industrial matter" and by inserting in lieu thereof the following definitions:—
- 10 "industrial dispute" means—
- (a) a dispute (including a threatened, impending or probable dispute) as to industrial matters; and
- (b) a situation which is likely to give rise to a dispute as to industrial matters;
- 15 "industrial matters" means all matters pertaining to the relations of employers and employees in the coal mining industry, and, without limiting the generality of the foregoing, includes, in respect of that industry—
- 20 (a) all matters or things affecting or relating to work done or to be done;
- (b) the privileges, rights and duties of employers and employees;
- (c) the wages, allowances and remuneration of persons employed or to be employed;
- 30 (d) the piece-work, contract or other reward paid or to be paid in respect of employment;
- (e) the question whether piece-work or contract work or any other system of payment by results shall be allowed, forbidden or exclusively prescribed;
- 35 (f)

Amendment  
of Act No.  
44, 1946.  
Sec. 4.  
(Defini-  
tions.)

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*Coal Industry (Amendment).*

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- 5 (f) the question whether monetary allowances shall be made by employers in respect of time when an employee is not actually working;
- (g) the hours of employment, sex, age, qualifications and status of employees;
- 10 (h) the mode, terms and conditions of employment;
- (i) the employment of young persons or of any persons or class of persons;
- 15 (j) the preferential employment or the non-employment of a particular person or class of persons being or not being members of an organisation;
- 20 (k) the right to dismiss or to refuse to employ, or the duty to reinstate in employment, a particular person or class of persons;
- (l) a custom or usage, whether general or in a particular locality;
- 25 (m) a shop factory or industry dispute, including any matter which may be a contributory cause of such a dispute;
- 30 (n) a question arising between two or more organisations or within an organisation as to the rights, status or functions of the members of those organisations or of that organisation or otherwise, in relation to the employment of those members;
- 35

(o)



*Coal Industry (Amendment).*

5 (o) a claim that the same wage shall be paid to persons of either sex performing the same work or producing the same return of profit or value to their employer; and

0 (p) a question as to the demarcation of functions of employees or classes of employees, whether as between employers and employees or between members of different organisations,

15 and includes all questions of what is right and fair in relation to an industrial matter having regard to the interests of the persons immediately concerned and of society as a whole;

20 "organisation" means an association or body, whether corporate or unincorporate, the objects of which include the protection of the interests of its members in industrial matters, whether in the coal mining industry only or in that industry and other industries (and in particular their representation before industrial tribunals and authorities) and which, in the case of  
25 an association or body of employees, is registered under a law of the Commonwealth or of a State or Territory of the Commonwealth;

30 (b) by omitting from subsection three of section thirty-six the words "that person" and by inserting in lieu thereof the words "the person appointed"; Sec. 36.  
(Coal Industry Tribunal.)

35 (c) by inserting next after section thirty-eight the following new section:— New sec. 38A.

38A. In this Part—

40 (a) references to the coal mining industry include references to the shale mining industry; and

Interpretation.

(b)

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*Coal Industry (Amendment).*

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- 5 (b) in the application of the definition of  
"industrial matters" to this Part, the  
reference to the coal mining industry  
shall be read as including a reference  
to the shale mining industry.
- (d) by omitting section thirty-nine and by inserting Subst.  
sec. 39.  
in lieu thereof the following section:—
39. The Tribunal is to have authority to Exercise of  
powers of  
Tribunal.  
exercise any of its powers, duties and  
10 functions—
- (a) of its own motion;
- (b) on the application of—
- 15 (i) a party to an industrial dispute;
- (ii) an organisation or person  
affected by an industrial matter;
- (iii) the Board; or
- (iv) an organisation or person bound  
20 by an award or order of the  
Court relating to the coal mining  
industry or of the Tribunal or  
bound by an award, order,  
determination or agreement  
continued in force by section  
three of the Coal Industry  
25 (Amendment) Act, 1951; or
- (c) on reference to it by a Local Coal  
Authority of an industrial dispute or  
industrial matter.
- 30 (e)(i) by omitting subsection one of section forty  
and by inserting in lieu thereof the follow-  
ing subsections:— Sec. 40.  
(Powers  
of Coal  
Industry  
Tribunal.)
- (1) Subject to this section the Tribunal  
is to have power to consider and  
determine—
- 35 (a) an industrial dispute extending  
beyond the limits of any one State;
- (b) an industrial dispute in the State;
- (c)

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*Coal Industry (Amendment).*

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- (c) an industrial matter arising under an award or order of the Court or of the Tribunal relating to the coal mining industry in the State;
- 5 (d) an industrial matter arising under an award, order, determination or agreement continued in force by section three of the Coal Industry (Amendment) Act, 1951, and  
10 relating to the coal mining industry in the State;
- (e) an industrial dispute or matter referred to the Tribunal by a Local Coal Authority; and
- 15 (f) any other matter affecting industrial relations in the coal mining industry in the State which the Board declares to be, in the  
20 public interest, proper to be dealt with under this Act.

(1A) For the purpose of the exercise of the power referred to in subsection one of this section, the Tribunal is, subject to this section, to have (in addition to all other powers conferred on it by this Act or the Commonwealth Act) all powers which are given to the Court in relation to an industrial dispute of which the Court has jurisdiction.

(1B) The Board is to have power to make an order excluding (subject to such exceptions, if any, as are specified in the order) from the powers of the Tribunal the power to make an award or order removing, or having the effect of removing, from the operation of a subsisting award, order or determination (whether of the Tribunal or otherwise)

*Coal Industry (Amendment).*

5 otherwise) a class of work or classification described or specified in the order, or inserting or having the effect of inserting in an award, order or determination (whether of the Tribunal or otherwise) binding upon an organisation of employees a class of work or classification for the time being described or specified in another award, order or determination (whether of the Tribunal or otherwise) which is 10 subsisting and binding upon another organisation of employees.

15 (1c) While an order under subsection (1B) of this section remains in force, the Tribunal shall not exercise the power excluded by the order except in accordance with the terms of the order.

20 (ii) by omitting from subsection three of the same section the words "any industrial dispute or matter or part thereof within the cognizance of the Tribunal" and by inserting in lieu thereof the words "an industrial dispute or industrial matter, or part of an industrial dispute or industrial matter"; 25

30 (iii) by omitting from subsection four of the same section the words "any such industrial dispute or matter or part thereof" and by inserting in lieu thereof the words "an industrial dispute or industrial matter, or part of an industrial dispute or industrial matter";

(iv) by omitting subsection five of the same section;

35 (f) (i) by omitting from subsection two of section forty-one the words "the Federation" and by inserting in lieu thereof the words "such of  
 Sec. 41.  
 (Power to  
 appoint  
 assessors.)

*Coal Industry (Amendment).*

of the parties to the dispute as, in the opinion of the Tribunal, have interests in common with the employees'';

5 (ii) by inserting at the end of the same section the following new subsection:—

(3) If default is made in nominating either or both of the assessors or if the parties consent, the Tribunal may appoint an assessor or assessors without nomination;

10 (g) by inserting next after section forty-three the following new section:— New sec. 43A.

15 43A. (1) When exercising its powers under section forty-three of this Act in relation to a dispute or matter not affecting members of the Federation (other than members excepted by the Board by order), the Local Coal Authority is to consist of a person appointed to be a Local Coal Authority, as Chairman, and of two or three other members representative of employers and the same number of other members representative of employees, respectively, selected by the Chairman, according to the subject-matter to be dealt with, from among persons appointed by the Tribunal for the purposes of this section. Constitution of Local Coal Authorities when dealing with disputes, etc. not affecting the Federation.

20 (2) A person so selected is to receive such remuneration and allowances (if any) as the Tribunal, with the concurrence of the Board, determines.

30 (3) The Chairman and half the other members of a Local Coal Authority constituted in accordance with this section are to form a quorum.

35 (4) Unless a question arising before a Local Coal Authority constituted in accordance with this section is decided by a unanimous vote, the question is to be decided in accordance with the opinion of the Chairman.

*Coal Industry (Amendment).*

- (h) (i) by omitting from paragraph (a) of subsection one of section forty-four the words "who are members of the Federation"; Sec. 44. (Cognizance of disputes.)
- 5 (ii) by omitting from paragraph (e) of the same subsection the words "affecting members of the Federation (other than members excepted by the Board by order)";
- 10 (iii) by omitting from subsection three of the same section the words "not being a matter, or an industrial dispute with respect to a matter, determined by the Tribunal to be a local matter";
- (i) by inserting in section forty-five immediately before the word "forty" the word "thirty-nine"; Sec. 45. (Powers of Local Coal Authorities.)
- 15 (j) by omitting section forty-seven and by inserting in lieu thereof the following section:—
- 20 47. (1) A party to a decision given by a Local Coal Authority is to have the right, within seven days after the giving of the decision, or within such extended time as the Tribunal allows, to apply to the Tribunal for leave to apply to the Tribunal for review of the decision. Review of decision, etc. of Local Coal Authorities.
- 25 (2) The Tribunal is to have power, if it is of opinion that reasons exist why, in the public interest the decision should be reviewed (including the likelihood of the decision leading to industrial unrest) to grant leave and is to have power to fix a time within which the application for review shall be made.
- 30 (3) On the application for review, the Tribunal is to have power to rehear the whole or a part of the industrial dispute or matter in respect of which the decision was given and is to have power either to determine the dispute or matter or to remit it to the Local Coal Authority for determination in accordance with such directions as the Tribunal gives.
- 35 (4)

*Coal Industry (Amendment).*

5 (4) The operation of the decision is not to be stayed pending the determination of an application under this section unless the Tribunal, when granting leave to apply for review, directs a stay of the decision or settlement.

(5) The Tribunal is to have power to make its own rules of procedure for hearing and determining applications under this section.

10 (k) (i) by omitting from subsection one of section forty-eight the words "a Mine Conciliation Committee" and by inserting in lieu thereof the words "one or more Mine Conciliation Committees"; Sec. 48. (Mine Conciliation Committees.)

15 (ii) by omitting from the same subsection the words "the Federation" and by inserting in lieu thereof the words "the members of one or more organisations engaged in the working of the coal mine";

20 (l) by omitting from paragraph (c) of section forty-nine the words "affecting members of the Federation (other than members excepted by the Board by order)"; Sec. 49. (Functions of Mine Conciliation Committees.)

25 (m) by omitting from section fifty-four the words "of which any authority established under this Part could have cognizance" and by inserting in lieu thereof the words "in respect of which an authority established under this Part could have jurisdiction"; Sec. 54. (Reporting officers.)

30 (n) by inserting next after section fifty-four the following new section:— New sec. 54A.

54A (1) A person shall not—

35 (a) wilfully insult or disturb the Tribunal or a Local Coal Authority when exercising powers or functions under this Act; Protection of Tribunal.

(b)

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*Coal Industry (Amendment).*

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- 5 (b) interrupt the proceedings of the Tribunal or a Local Coal Authority when exercising powers or functions under this Act;
- 5 (c) use insulting language towards the Tribunal or a Local Coal Authority;
- 10 (d) by writing or speech use words calculated to influence improperly the Tribunal or a Local Coal Authority when exercising powers or functions under this Act or to bring the Tribunal or a Local Coal Authority into disrepute; or
- 15 (e) by writing or speech use words calculated to influence improperly a witness before the Tribunal or a Local Coal Authority when exercising powers or functions under this Act.
- 20 (2) Any person contravening any of the provisions of subsection one of this section shall be liable to a penalty not exceeding one hundred pounds.



# COAL INDUSTRY (AMENDMENT) BILL, 1951.

## EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to continue in operation, subject to variation or revocation, by competent authority the existing awards, orders, determinations and agreements made or given under the National Security (Coal Mining Industry Employment) Regulations;
- (b) to vest in the Coal Industry Tribunal the like jurisdiction in respect of industrial disputes and industrial matters affecting craft unions in the coal mining industry as it exercises in respect of industrial disputes and industrial matters affecting the Australian Coal and Shale Employees Federation;
- (c) to make further provisions in respect of the constitution of Local Coal Authorities and to extend their powers, duties and functions in relation to industrial disputes;
- (d) to effect amendments to the Coal Industry Act, 1946, ancillary to and supplemental to the foregoing objects.

ments to the foregoing objects:

- (d) to effect amendments to the Coal Industry Act, 1940, ancillary to and supplementary to the objects of that Act and to extend the powers, duties and functions in relation to industrial disputes:
- (e) to make further provisions in respect of the constitution of Local Coal Committees and to extend their powers, duties and functions in relation to matters affecting the Australian Coal and Shale Employees Federation:
- (f) to make further provisions in respect of the constitution of the Coal Mining Industry as it exercises in respect of industrial disputes and industrial matters affecting craft unions in the coal industry:
- (g) to vest in the Coal Industry Tribunal the like jurisdiction in respect of industrial disputes and industrial matters affecting craft unions in the coal industry as it exercises in respect of industrial disputes and industrial matters affecting craft unions in the coal industry:
- (h) to give under the National Security (Coal Mining Industry Employment) Act, 1940, the existing awards, orders, determinations and agreements made in respect of the coal mining industry:
- (i) to continue in operation, subject to variation or revocation, by competent authority the existing awards, orders, determinations and agreements made in respect of the coal mining industry:

THE objects of this Bill are—

#### EXPLANATORY NOTE

COAL INDUSTRY (AMENDMENT) BILL, 1951.

No. , 1951.

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## A BILL

To amend the Coal Industry Act, 1946, in certain respects; and for purposes connected therewith.

[MR. ARTHUR;—5 *December*, 1951.]

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**B**E 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  
5 the same, as follows:—

**1.** (1) This Act may be cited as the "Coal Industry (Amendment) Act, 1951." Short title and citation.

(2) The Coal Industry Act, 1946, as amended by this Act, may be cited as the Coal Industry Act, 1946-  
10 1951.

*Coal Industry (Amendment).*

2. This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. Commence-  
ment.

3. (1) In this section, "the National Security (Coal Mining Industry Employment) Regulations" means the regulations having that title in force, or purporting to be or to have been in force, by virtue of the National Security Act 1939-1940 (or of that Act as amended), the Defence (Transitional Provisions) Act 1946 (or of that Act as amended) or the Defence (Transitional Provisions) Act 1950-1951 of the Parliament of the Commonwealth. Continu-  
ance of  
awards,  
etc., under  
the  
National  
Security  
(Coal  
Mining  
Industry  
Employ-  
ment)  
Regulations.

(2) An award, order or determination made or given, or purporting to have been made or given, under the National Security (Coal Mining Industry Employment) Regulations or otherwise in operation or purporting to be in operation, by virtue of those Regulations, and an agreement in writing filed in the Commonwealth Court of Conciliation and Arbitration under those Regulations, being an award, order, determination or agreement in force, or purporting to be in force, immediately before the commencement of this section, shall continue in force until revoked by competent authority, and, if varied by competent authority, as so varied.

(3) While an award, order, determination or agreement continues in force by virtue of subsection two of this section, the provisions of the Industrial Arbitration Act, 1940-1951, under which awards and orders of the Industrial Commission of New South Wales may be enforced shall apply in relation to the award, order, determination or agreement as if it were an award or order of the Industrial Commission of New South Wales.

(4) This section shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that where any provision of this section,

*Coal Industry (Amendment).*

section, or the application thereof to any person or circumstance is held invalid, the remainder of this section, and the application of such provision to other persons or circumstances shall not be affected.

5 4. The Coal Industry Act, 1946, is amended—

(a) by omitting from subsection one of section four the definitions of "industrial dispute" and "industrial matter" and by inserting in lieu thereof the following definitions—

Amendment  
of Act No.  
44, 1946.  
Sec. 4.  
(Defini-  
tions.)

10 "industrial dispute" means—

(a) a dispute (including a threatened, impending or probable dispute) as to industrial matters; and

15 (b) a situation which is likely to give rise to a dispute as to industrial matters;

20 "industrial matters" means all matters pertaining to the relations of employers and employees in the coal mining industry, and, without limiting the generality of the foregoing, includes, in respect of that industry—

(a) all matters or things affecting or relating to work done or to be done;

25 (b) the privileges, rights and duties of employers and employees;

(c) the wages, allowances and remuneration of persons employed or to be employed;

30 (d) the piece-work, contract or other reward paid or to be paid in respect of employment;

35 (e) the question whether piece-work or contract work or any other system of payment by results shall be allowed, forbidden or exclusively prescribed;

(f)

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*Coal Industry (Amendment).*

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- 5 (f) the question whether monetary allowances shall be made by employers in respect of time when an employee is not actually working;
- (g) the hours of employment, sex, age, qualifications and status of employees;
- 10 (h) the mode, terms and conditions of employment;
- (i) the employment of young persons or of any persons or class of persons;
- 15 (j) the preferential employment or the non-employment of a particular person or class of persons being or not being members of an organisation;
- 20 (k) the right to dismiss or to refuse to employ, or the duty to reinstate in employment, a particular person or class of persons;
- (l) a custom or usage, whether general or in a particular locality;
- 25 (m) a shop factory or industry dispute, including any matter which may be a contributory cause of such a dispute;
- 30 (n) a question arising between two or more organisations or within an organisation as to the rights, status or functions of the members of those organisations or of that organisation or otherwise, in relation to the employment of those members;
- 35 (o)

*Coal Industry (Amendment).*

5

(o) a claim that the same wage shall be paid to persons of either sex performing the same work or producing the same return of profit or value to their employer; and

10

(p) a question as to the demarcation of functions of employees or classes of employees, whether as between employers and employees or between members of different organisations,

15

and includes all questions of what is right and fair in relation to an industrial matter having regard to the interests of the persons immediately concerned and of society as a whole;

20

“organisation” means an association or body, whether corporate or unincorporate, the objects of which include the protection of the interests of its members in industrial matters, whether in the coal mining industry only or in that industry and other industries (and in particular their representation before industrial tribunals and authorities) and which, in the case of an association or body of employees, is registered under a law of the Commonwealth or of a State or Territory of the Commonwealth;

25

30

(b) by omitting from subsection three of section thirty-six the words “that person” and by inserting in lieu thereof the words “the person appointed”; Sec. 36. (Coal Industry Tribunal.)

35

(c) by inserting next after section thirty-eight the following new section:— New sec. 38A.

38A. In this Part—

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(a) references to the coal mining industry include references to the shale mining industry; and Interpretation.

(b)

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*Coal Industry (Amendment).*

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5 (b) in the application of the definition of "industrial matters" to this Part, the reference to the coal mining industry shall be read as including a reference to the shale mining industry.

(d) by omitting section thirty-nine and by inserting in lieu thereof the following section:— Subst. sec. 39.

10 39. The Tribunal is to have authority to exercise any of its powers, duties and functions— Exercise of powers of Tribunal.

(a) of its own motion;

(b) on the application of—

15 (i) a party to an industrial dispute;

(ii) an organisation or person affected by an industrial matter;

20 (iii) the Board; or

(iv) an organisation or person bound by an award or order of the Court relating to the coal mining industry or of the Tribunal or bound by an award, order, determination or agreement continued in force by section three of the Coal Industry (Amendment) Act, 1951; or

25 (c) on reference to it by a Local Coal Authority of an industrial dispute or industrial matter.

30 (e)(i) by omitting subsection one of section forty and by inserting in lieu thereof the following subsections:— Sec. 40. (Powers of Coal Industry Tribunal.)

(1) Subject to this section the Tribunal is to have power to consider and determine—

35 (a) an industrial dispute extending beyond the limits of any one State;

(b) an industrial dispute in the State;

(c)



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*Coal Industry (Amendment).*

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- (c) an industrial matter arising under an award or order of the Court or of the Tribunal relating to the coal mining industry in the State;
- 5 (d) an industrial matter arising under an award, order, determination or agreement continued in force by section three of the Coal Industry (Amendment) Act, 1951, and  
10 relating to the coal mining industry in the State;
- (e) an industrial dispute or matter referred to the Tribunal by a Local Coal Authority; and
- 15 (f) any other matter affecting industrial relations in the coal mining industry in the State which the Board declares to be, in the  
20 public interest, proper to be dealt with under this Act.

(1A) For the purpose of the exercise of the power referred to in subsection one of this section, the Tribunal is, subject to this section, to have (in addition to all other powers conferred on it by this Act or the Commonwealth Act) all powers which are  
25 given to the Court in relation to an industrial dispute of which the Court has jurisdiction.

30 (1B) The Board is to have power to make an order excluding (subject to such exceptions, if any, as are specified in the order) from the powers of the Tribunal the power to make an award or order removing,  
35 or having the effect of removing, from the operation of a subsisting award, order or determination (whether of the Tribunal or otherwise)

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*Coal Industry (Amendment).*

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5 otherwise) a class of work or classification  
described or specified in the order, or  
inserting or having the effect of inserting  
in an award, order or determination  
(whether of the Tribunal or otherwise)  
binding upon an organisation of employees  
a class of work or classification for the time  
being described or specified in another  
award, order or determination (whether of  
10 the Tribunal or otherwise) which is  
subsisting and binding upon another  
organisation of employees.

15 (1c) While an order under subsection  
(1B) of this section remains in force, the  
Tribunal shall not exercise the power  
excluded by the order except in accordance  
with the terms of the order.

20 (ii) by omitting from subsection three of the  
same section the words "any industrial  
dispute or matter or part thereof within  
the cognizance of the Tribunal" and by  
inserting in lieu thereof the words "an  
industrial dispute or industrial matter, or  
part of an industrial dispute or industrial  
25 matter";

30 (iii) by omitting from subsection four of the  
same section the words "any such industrial  
dispute or matter or part thereof" and by  
inserting in lieu thereof the words "an  
industrial dispute or industrial matter, or  
part of an industrial dispute or industrial  
matter";

(iv) by omitting subsection five of the same  
section;

35 (f) (i) by omitting from subsection two of section  
forty-one the words "the Federation" and  
by inserting in lieu thereof the words "such  
of  
Sec. 41.  
(Power to  
appoint  
assessors.)

*Coal Industry (Amendment).*

of the parties to the dispute as, in the opinion of the Tribunal, have interests in common with the employees”;

5 (ii) by inserting at the end of the same section the following new subsection:—

(3) If default is made in nominating either or both of the assessors or if the parties consent, the Tribunal may appoint an assessor or assessors without nomination;

10

(g) by inserting next after section forty-three the following new section:—

15 43A. (1) When exercising its powers under section forty-three of this Act in relation to a dispute or matter not affecting members of the Federation (other than members excepted by the Board by order), the Local Coal Authority is to consist of a person appointed to be a Local Coal Authority, as Chairman, and of two or three other members representative of employers and the same number of other members representative of employees, respectively, selected by the Chairman, according to the subject-matter to be dealt with, from among persons appointed by the Tribunal for the purposes of this section.

20

25

New sec.  
43A.

Constitu-  
tion of  
Local Coal  
Authorities  
when  
dealing  
with  
disputes,  
etc. not  
affecting  
the Federa-  
tion.

(2) A person so selected is to receive such remuneration and allowances (if any) as the Tribunal, with the concurrence of the Board, determines.

30 (3) The Chairman and half the other members of a Local Coal Authority constituted in accordance with this section are to form a quorum.

35 (4) Unless a question arising before a Local Coal Authority constituted in accordance with this section is decided by a unanimous vote, the question is to be decided in accordance with the opinion of the Chairman.

*Coal Industry (Amendment).*

- (h) (i) by omitting from paragraph (a) of subsection one of section forty-four the words "who are members of the Federation"; Sec. 44. (Cognizance of disputes.)
- 5 (ii) by omitting from paragraph (e) of the same subsection the words "affecting members of the Federation (other than members excepted by the Board by order)";
- 10 (iii) by omitting from subsection three of the same section the words "not being a matter, or an industrial dispute with respect to a matter, determined by the Tribunal to be a local matter";
- (i) by inserting in section forty-five immediately before the word "forty" the word "thirty-nine"; Sec. 45. (Powers of Local Coal Authorities.)
- 15 (j) by omitting section forty-seven and by inserting in lieu thereof the following section:—  
Subst. sec. 47.
- 20 47. (1) A party to a decision given by a Local Coal Authority is to have the right, within seven days after the giving of the decision, or within such extended time as the Tribunal allows, to apply to the Tribunal for leave to apply to the Tribunal for review of the decision. Review of decision, etc. of Local Coal Authorities.
- 25 (2) The Tribunal is to have power, if it is of opinion that reasons exist why, in the public interest the decision should be reviewed (including the likelihood of the decision leading to industrial unrest) to grant leave and is to have power to fix a time within which the application for review shall be made.
- 30 (3) On the application for review, the Tribunal is to have power to rehear the whole or a part of the industrial dispute or matter in respect of which the decision was given and is to have power either to determine the dispute or matter or to remit it to the Local Coal Authority for determination in accordance with such directions as the Tribunal gives.
- 35 (4)

*Coal Industry (Amendment).*

- 5 (4) The operation of the decision is not to be stayed pending the determination of an application under this section unless the Tribunal, when granting leave to apply for review, directs a stay of the decision or settlement.
- (5) The Tribunal is to have power to make its own rules of procedure for hearing and determining applications under this section.
- 10 (k) (i) by omitting from subsection one of section forty-eight the words "a Mine Conciliation Committee" and by inserting in lieu thereof the words "one or more Mine Conciliation Committees"; Sec. 48. (Mine Conciliation Committees.)
- 15 (ii) by omitting from the same subsection the words "the Federation" and by inserting in lieu thereof the words "the members of one or more organisations engaged in the working of the coal mine";
- 20 (l) by omitting from paragraph (c) of section forty-nine the words "affecting members of the Federation (other than members excepted by the Board by order)"; Sec. 49. (Functions of Mine Conciliation Committees.)
- 25 (m) by omitting from section fifty-four the words "of which any authority established under this Part could have cognizance" and by inserting in lieu thereof the words "in respect of which an authority established under this Part could have jurisdiction"; Sec. 54. (Reporting officers.)
- 30 (n) by inserting next after section fifty-four the following new section:— New sec. 54A.
- 54A (1) A person shall not—
- 35 (a) wilfully insult or disturb the Tribunal or a Local Coal Authority when exercising powers or functions under this Act; Protection of Tribunal.
- (b)

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*Coal Industry (Amendment).*

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- (b) interrupt the proceedings of the Tribunal or a Local Coal Authority when exercising powers or functions under this Act;
- 5 (c) use insulting language towards the Tribunal or a Local Coal Authority;
- (d) by writing or speech use words calculated to influence improperly the Tribunal or a Local Coal Authority when exercising powers or functions under this Act or to bring the Tribunal or a Local Coal Authority into disrepute; or
- 10
- (e) by writing or speech use words calculated to influence improperly a witness before the Tribunal or a Local Coal Authority when exercising powers or functions under this Act.
- 15
- (2) Any person contravening any of the provisions of subsection one of this section shall be liable to a penalty not exceeding one hundred pounds.
- 20

New South Wales.



ANNO SEXTO DECIMO

GEORGI VI REGIS.

\*\*\*\*\*

Act No. 47, 1951.

An Act to amend the Coal Industry Act, 1946, in certain respects; and for purposes connected therewith. [Assented to, 11th December, 1951.]

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 "Coal Industry (Amendment) Act, 1951."

Short title and citation.

(2) The Coal Industry Act, 1946, as amended by this Act, may be cited as the Coal Industry Act, 1946-1951.

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*Coal Industry (Amendment).*

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Commence-  
ment.

**2.** This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Continu-  
ance of  
awards,  
etc., under  
the  
National  
Security  
(Coal  
Mining  
Industry  
Employ-  
ment)  
Regulations.

**3.** (1) In this section, "the National Security (Coal Mining Industry Employment) Regulations" means the regulations having that title in force, or purporting to be or to have been in force, by virtue of the National Security Act 1939-1940 (or of that Act as amended), the Defence (Transitional Provisions) Act 1946 (or of that Act as amended) or the Defence (Transitional Provisions) Act 1950-1951 of the Parliament of the Commonwealth.

(2) An award, order or determination made or given, or purporting to have been made or given, under the National Security (Coal Mining Industry Employment) Regulations or otherwise in operation or purporting to be in operation, by virtue of those Regulations, and an agreement in writing filed in the Commonwealth Court of Conciliation and Arbitration under those Regulations, being an award, order, determination or agreement in force, or purporting to be in force, immediately before the commencement of this section, shall continue in force until revoked by competent authority, and, if varied by competent authority, as so varied.

(3) While an award, order, determination or agreement continues in force by virtue of subsection two of this section, the provisions of the Industrial Arbitration Act, 1940-1951, under which awards and orders of the Industrial Commission of New South Wales may be enforced shall apply in relation to the award, order, determination or agreement as if it were an award or order of the Industrial Commission of New South Wales.

(4) This section shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that where any provision of this  
section



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*Coal Industry (Amendment).*


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section, or the application thereof to any person or circumstance is held invalid, the remainder of this section, and the application of such provision to other persons or circumstances shall not be affected.

4. The Coal Industry Act, 1946, is amended—

- (a) by omitting from subsection one of section four the definitions of “industrial dispute” and “industrial matter” and by inserting in lieu thereof the following definitions:—

Amendment  
of Act No.  
44, 1946.  
Sec. 4.  
(Defini-  
tions.)

“industrial dispute” means—

- (a) a dispute (including a threatened, impending or probable dispute) as to industrial matters; and
- (b) a situation which is likely to give rise to a dispute as to industrial matters;

“industrial matters” means all matters pertaining to the relations of employers and employees in the coal mining industry, and, without limiting the generality of the foregoing, includes, in respect of that industry—

- (a) all matters or things affecting or relating to work done or to be done;
- (b) the privileges, rights and duties of employers and employees;
- (c) the wages, allowances and remuneration of persons employed or to be employed;
- (d) the piece-work, contract or other reward paid or to be paid in respect of employment;
- (e) the question whether piece-work or contract work or any other system of payment by results shall be allowed, forbidden or exclusively prescribed;

(f)

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*Coal Industry (Amendment).*

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- (f) the question whether monetary allowances shall be made by employers in respect of time when an employee is not actually working;
- (g) the hours of employment, sex, age, qualifications and status of employees;
- (h) the mode, terms and conditions of employment;
- (i) the employment of young persons or of any persons or class of persons;
- (j) the preferential employment or the non-employment of a particular person or class of persons being or not being members of an organisation;
- (k) the right to dismiss or to refuse to employ, or the duty to reinstate in employment, a particular person or class of persons;
- (l) a custom or usage, whether general or in a particular locality;
- (m) a shop factory or industry dispute, including any matter which may be a contributory cause of such a dispute;
- (n) a question arising between two or more organisations or within an organisation as to the rights, status or functions of the members of those organisations or of that organisation or otherwise, in relation to the employment of those members;

(o)

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*Coal Industry (Amendment).*

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(o) a claim that the same wage shall be paid to persons of either sex performing the same work or producing the same return of profit or value to their employer; and

(p) a question as to the demarcation of functions of employees or classes of employees, whether as between employers and employees or between members of different organisations,

and includes all questions of what is right and fair in relation to an industrial matter having regard to the interests of the persons immediately concerned and of society as a whole;

“organisation” means an association or body, whether corporate or unincorporate, the objects of which include the protection of the interests of its members in industrial matters, whether in the coal mining industry only or in that industry and other industries (and in particular their representation before industrial tribunals and authorities) and which, in the case of an association or body of employees, is registered under a law of the Commonwealth or of a State or Territory of the Commonwealth;

(b) by omitting from subsection three of section thirty-six the words “that person” and by inserting in lieu thereof the words “the person appointed”;

Sec. 36.  
(Coal Industry Tribunal.)

(c) by inserting next after section thirty-eight the following new section:—

New sec. 38A.

38A. In this Part—

(a) references to the coal mining industry include references to the shale mining industry; and

Interpretation.

(b).

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*Coal Industry (Amendment).*


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(b) in the application of the definition of "industrial matters" to this Part, the reference to the coal mining industry shall be read as including a reference to the shale mining industry.

Subst.  
sec. 39.

(d) by omitting section thirty-nine and by inserting in lieu thereof the following section:—

Exercise of  
powers of  
Tribunal.

39. The Tribunal is to have authority to exercise any of its powers, duties and functions—

(a) of its own motion;

(b) on the application of—

(i) a party to an industrial dispute;

(ii) an organisation or person affected by an industrial matter;

(iii) the Board; or

(iv) an organisation or person bound by an award or order of the Court relating to the coal mining industry or of the Tribunal or bound by an award, order, determination or agreement continued in force by section three of the Coal Industry (Amendment) Act, 1951; or

(c) on reference to it by a Local Coal Authority of an industrial dispute or industrial matter.

Sec. 40.

(Powers  
of Coal  
Industry  
Tribunal.)

(e)(i) by omitting subsection one of section forty and by inserting in lieu thereof the following subsections:—

(1) Subject to this section the Tribunal is to have power to consider and determine—

(a) an industrial dispute extending beyond the limits of any one State;

(b) an industrial dispute in the State;

(c)

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*Coal Industry (Amendment).*

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- (c) an industrial matter arising under an award or order of the Court or of the Tribunal relating to the coal mining industry in the State;
- (d) an industrial matter arising under an award, order, determination or agreement continued in force by section three of the Coal Industry (Amendment) Act, 1951, and relating to the coal mining industry in the State;
- (e) an industrial dispute or matter referred to the Tribunal by a Local Coal Authority; and
- (f) any other matter affecting industrial relations in the coal mining industry in the State which the Board declares to be, in the public interest, proper to be dealt with under this Act.

(1A) For the purpose of the exercise of the power referred to in subsection one of this section, the Tribunal is, subject to this section, to have (in addition to all other powers conferred on it by this Act or the Commonwealth Act) all powers which are given to the Court in relation to an industrial dispute of which the Court has jurisdiction.

(1B) The Board is to have power to make an order excluding (subject to such exceptions, if any, as are specified in the order) from the powers of the Tribunal the power to make an award or order removing, or having the effect of removing, from the operation of a subsisting award, order or determination (whether of the Tribunal or otherwise)

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*Coal Industry (Amendment).*

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otherwise) a class of work or classification described or specified in the order, or inserting or having the effect of inserting in an award, order or determination (whether of the Tribunal or otherwise) binding upon an organisation of employees a class of work or classification for the time being described or specified in another award, order or determination (whether of the Tribunal or otherwise) which is subsisting and binding upon another organisation of employees.

(1c) While an order under subsection (1B) of this section remains in force, the Tribunal shall not exercise the power excluded by the order except in accordance with the terms of the order.

(ii) by omitting from subsection three of the same section the words "any industrial dispute or matter or part thereof within the cognizance of the Tribunal" and by inserting in lieu thereof the words "an industrial dispute or industrial matter, or part of an industrial dispute or industrial matter";

(iii) by omitting from subsection four of the same section the words "any such industrial dispute or matter or part thereof" and by inserting in lieu thereof the words "an industrial dispute or industrial matter, or part of an industrial dispute or industrial matter";

(iv) by omitting subsection five of the same section;

(f) (i) by omitting from subsection two of section forty-one the words "the Federation" and by inserting in lieu thereof the words "such  
of

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*Coal Industry (Amendment).*


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of the parties to the dispute as, in the opinion of the Tribunal, have interests in common with the employees”;

(ii) by inserting at the end of the same section the following new subsection:—

(3) If default is made in nominating either or both of the assessors or if the parties consent, the Tribunal may appoint an assessor or assessors without nomination;

(g) by inserting next after section forty-three the following new section:— New sec.  
43A.

43A. (1) When exercising its powers under section forty-three of this Act in relation to a dispute or matter not affecting members of the Federation (other than members excepted by the Board by order), the Local Coal Authority is to consist of a person appointed to be a Local Coal Authority, as Chairman, and of two or three other members representative of employers and the same number of other members representative of employees, respectively, selected by the Chairman, according to the subject-matter to be dealt with, from among persons appointed by the Tribunal for the purposes of this section. Constitu-  
tion of  
Local Coal  
Authorities  
when  
dealing  
with  
disputes,  
etc. not  
affecting  
the Federa-  
tion.

(2) A person so selected is to receive such remuneration and allowances (if any) as the Tribunal, with the concurrence of the Board, determines.

(3) The Chairman and half the other members of a Local Coal Authority constituted in accordance with this section are to form a quorum.

(4) Unless a question arising before a Local Coal Authority constituted in accordance with this section is decided by a unanimous vote, the question is to be decided in accordance with the opinion of the Chairman.

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*Coal Industry (Amendment).*


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Sec. 44.  
(Cognizance of disputes.)

- (h) (i) by omitting from paragraph (a) of subsection one of section forty-four the words "who are members of the Federation";
- (ii) by omitting from paragraph (e) of the same subsection the words "affecting members of the Federation (other than members excepted by the Board by order)";
- (iii) by omitting from subsection three of the same section the words "not being a matter, or an industrial dispute with respect to a matter, determined by the Tribunal to be a local matter";

Sec. 45.  
(Powers of Local Coal Authorities.)

Subst. sec. 47.

Review of decision, etc. of Local Coal Authorities.

- (i) by inserting in section forty-five immediately before the word "forty" the word "thirty-nine";
- (j) by omitting section forty-seven and by inserting in lieu thereof the following section:—

47. (1) A party to a decision given by a Local Coal Authority is to have the right, within seven days after the giving of the decision, or within such extended time as the Tribunal allows, to apply to the Tribunal for leave to apply to the Tribunal for review of the decision.

(2) The Tribunal is to have power, if it is of opinion that reasons exist why, in the public interest the decision should be reviewed (including the likelihood of the decision leading to industrial unrest) to grant leave and is to have power to fix a time within which the application for review shall be made.

(3) On the application for review, the Tribunal is to have power to rehear the whole or a part of the industrial dispute or matter in respect of which the decision was given and is to have power either to determine the dispute or matter or to remit it to the Local Coal Authority for determination in accordance with such directions as the Tribunal gives.



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*Coal Industry (Amendment).*


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(4) The operation of the decision is not to be stayed pending the determination of an application under this section unless the Tribunal, when granting leave to apply for review, directs a stay of the decision or settlement.

(5) The Tribunal is to have power to make its own rules of procedure for hearing and determining applications under this section.

- (k) (i) by omitting from subsection one of section forty-eight the words "a Mine Conciliation Committee" and by inserting in lieu thereof the words "one or more Mine Conciliation Committees"; Sec. 48.  
(Mine Conciliation Committees.)
- (ii) by omitting from the same subsection the words "the Federation" and by inserting in lieu thereof the words "the members of one or more organisations engaged in the working of the coal mine";
- (l) by omitting from paragraph (c) of section forty-nine the words "affecting members of the Federation (other than members excepted by the Board by order)"; Sec. 49.  
(Functions of Mine Conciliation Committees.)
- (m) by omitting from section fifty-four the words "of which any authority established under this Part could have cognizance" and by inserting in lieu thereof the words "in respect of which an authority established under this Part could have jurisdiction"; Sec. 54.  
(Reporting officers.)
- (n) by inserting next after section fifty-four the following new section:— New sec.  
54A.
- 54A (1) A person shall not—
- (a) wilfully insult or disturb the Tribunal or a Local Coal Authority when exercising powers or functions under this Act; Protection of Tribunal.

(b)

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*Coal Industry (Amendment).*

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- (b) interrupt the proceedings of the Tribunal or a Local Coal Authority when exercising powers or functions under this Act;
- (c) use insulting language towards the Tribunal or a Local Coal Authority;
- (d) by writing or speech use words calculated to influence improperly the Tribunal or a Local Coal Authority when exercising powers or functions under this Act or to bring the Tribunal or a Local Coal Authority into disrepute; or
- (e) by writing or speech use words calculated to influence improperly a witness before the Tribunal or a Local Coal Authority when exercising powers or functions under this Act.

(2) Any person contravening any of the provisions of subsection one of this section shall be liable to a penalty not exceeding one hundred pounds.

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By Authority:

A. H. PETTIFER, Government Printer, Sydney, 1952.

[8d.]

*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

H. ROBBINS,

*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 11 December, 1951.*

## New South Wales.



ANNO SEXTO DECIMO

GEORGII VI REGIS.

\*\*\*\*\*

**Act No. 47, 1951.**

An Act to amend the Coal Industry Act, 1946, in certain respects; and for purposes connected therewith. [Assented to, 11th December, 1951.]

**B**E 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 "Coal Industry (Amendment) Act, 1951." Short title and citation.

(2) The Coal Industry Act, 1946, as amended by this Act, may be cited as the Coal Industry Act, 1946-1951.

**2.**

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

G. BOOTH,

*Chairman of Committees of the Legislative Assembly.*

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*Coal Industry (Amendment).*

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Commence-  
ment.

**2.** This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Continu-  
ance of  
awards,  
etc., under  
the  
National  
Security  
(Coal  
Mining  
Industry  
Employ-  
ment)  
Regulations.

**3.** (1) In this section, "the National Security (Coal Mining Industry Employment) Regulations" means the regulations having that title in force, or purporting to be or to have been in force, by virtue of the National Security Act 1939-1940 (or of that Act as amended), the Defence (Transitional Provisions) Act 1946 (or of that Act as amended) or the Defence (Transitional Provisions) Act 1950-1951 of the Parliament of the Commonwealth.

(2) An award, order or determination made or given, or purporting to have been made or given, under the National Security (Coal Mining Industry Employment) Regulations or otherwise in operation or purporting to be in operation, by virtue of those Regulations, and an agreement in writing filed in the Commonwealth Court of Conciliation and Arbitration under those Regulations, being an award, order, determination or agreement in force, or purporting to be in force, immediately before the commencement of this section, shall continue in force until revoked by competent authority, and, if varied by competent authority, as so varied.

(3) While an award, order, determination or agreement continues in force by virtue of subsection two of this section, the provisions of the Industrial Arbitration Act, 1940-1951, under which awards and orders of the Industrial Commission of New South Wales may be enforced shall apply in relation to the award, order, determination or agreement as if it were an award or order of the Industrial Commission of New South Wales.

(4) This section shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that where any provision of this section

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*Coal Industry (Amendment).*


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section, or the application thereof to any person or circumstance is held invalid, the remainder of this section, and the application of such provision to other persons or circumstances shall not be affected.

4. The Coal Industry Act, 1946, is amended—

- (a) by omitting from subsection one of section four the definitions of “industrial dispute” and “industrial matter” and by inserting in lieu thereof the following definitions:—

Amendment  
of Act No.  
44, 1946.  
Sec. 4.  
(Defini-  
tions.)

“industrial dispute” means—

- (a) a dispute (including a threatened, impending or probable dispute) as to industrial matters; and
- (b) a situation which is likely to give rise to a dispute as to industrial matters;

“industrial matters” means all matters pertaining to the relations of employers and employees in the coal mining industry, and, without limiting the generality of the foregoing, includes, in respect of that industry—

- (a) all matters or things affecting or relating to work done or to be done;
- (b) the privileges, rights and duties of employers and employees;
- (c) the wages, allowances and remuneration of persons employed or to be employed;
- (d) the piece-work, contract or other reward paid or to be paid in respect of employment;
- (e) the question whether piece-work or contract work or any other system of payment by results shall be allowed, forbidden or exclusively prescribed;

(f)

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*Coal Industry (Amendment).*

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- (f) the question whether monetary allowances shall be made by employers in respect of time when an employee is not actually working;
- (g) the hours of employment, sex, age, qualifications and status of employees;
- (h) the mode, terms and conditions of employment;
- (i) the employment of young persons or of any persons or class of persons;
- (j) the preferential employment or the non-employment of a particular person or class of persons being or not being members of an organisation;
- (k) the right to dismiss or to refuse to employ, or the duty to reinstate in employment, a particular person or class of persons;
- (l) a custom or usage, whether general or in a particular locality;
- (m) a shop factory or industry dispute, including any matter which may be a contributory cause of such a dispute;
- (n) a question arising between two or more organisations or within an organisation as to the rights, status or functions of the members of those organisations or of that organisation or otherwise, in relation to the employment of those members;
- (o)

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*Coal Industry (Amendment).*

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(o) a claim that the same wage shall be paid to persons of either sex performing the same work or producing the same return of profit or value to their employer; and

(p) a question as to the demarcation of functions of employees or classes of employees, whether as between employers and employees or between members of different organisations,

and includes all questions of what is right and fair in relation to an industrial matter having regard to the interests of the persons immediately concerned and of society as a whole;

“organisation” means an association or body, whether corporate or unincorporate, the objects of which include the protection of the interests of its members in industrial matters, whether in the coal mining industry only or in that industry and other industries (and in particular their representation before industrial tribunals and authorities) and which, in the case of an association or body of employees, is registered under a law of the Commonwealth or of a State or Territory of the Commonwealth;

(b) by omitting from subsection three of section thirty-six the words “that person” and by inserting in lieu thereof the words “the person appointed”;

Sec. 36.  
(Coal  
Industry  
Tribunal.)

(c) by inserting next after section thirty-eight the following new section:—

New sec.  
38A.

38A. In this Part—

Interpreta-  
tion.

(a) references to the coal mining industry include references to the shale mining industry; and

(b)

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*Coal Industry (Amendment).*


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(b) in the application of the definition of "industrial matters" to this Part, the reference to the coal mining industry shall be read as including a reference to the shale mining industry.

Subst.  
sec. 39.

(d) by omitting section thirty-nine and by inserting in lieu thereof the following section:—

Exercise of  
powers of  
Tribunal.

39. The Tribunal is to have authority to exercise any of its powers, duties and functions—

(a) of its own motion;

(b) on the application of—

(i) a party to an industrial dispute;

(ii) an organisation or person affected by an industrial matter;

(iii) the Board; or

(iv) an organisation or person bound by an award or order of the Court relating to the coal mining industry or of the Tribunal or bound by an award, order, determination or agreement continued in force by section three of the Coal Industry (Amendment) Act, 1951; or

(c) on reference to it by a Local Coal Authority of an industrial dispute or industrial matter.

Sec. 40.  
(Powers  
of Coal  
Industry  
Tribunal.)

(e)(i) by omitting subsection one of section forty and by inserting in lieu thereof the following subsections:—

(1) Subject to this section the Tribunal is to have power to consider and determine—

(a) an industrial dispute extending beyond the limits of any one State;

(b) an industrial dispute in the State;

(c).



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*Coal Industry (Amendment).*

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- (c) an industrial matter arising under an award or order of the Court or of the Tribunal relating to the coal mining industry in the State;
- (d) an industrial matter arising under an award, order, determination or agreement continued in force by section three of the Coal Industry (Amendment) Act, 1951, and relating to the coal mining industry in the State;
- (e) an industrial dispute or matter referred to the Tribunal by a Local Coal Authority; and
- (f) any other matter affecting industrial relations in the coal mining industry in the State which the Board declares to be, in the public interest, proper to be dealt with under this Act.

(1A) For the purpose of the exercise of the power referred to in subsection one of this section, the Tribunal is, subject to this section, to have (in addition to all other powers conferred on it by this Act or the Commonwealth Act) all powers which are given to the Court in relation to an industrial dispute of which the Court has jurisdiction.

(1B) The Board is to have power to make an order excluding (subject to such exceptions, if any, as are specified in the order) from the powers of the Tribunal the power to make an award or order removing, or having the effect of removing, from the operation of a subsisting award, order or determination (whether of the Tribunal or otherwise)

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*Coal Industry (Amendment).*

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otherwise) a class of work or classification described or specified in the order, or inserting or having the effect of inserting in an award, order or determination (whether of the Tribunal or otherwise) binding upon an organisation of employees a class of work or classification for the time being described or specified in another award, order or determination (whether of the Tribunal or otherwise) which is subsisting and binding upon another organisation of employees.

(1c) While an order under subsection (1B) of this section remains in force, the Tribunal shall not exercise the power excluded by the order except in accordance with the terms of the order.

- (ii) by omitting from subsection three of the same section the words "any industrial dispute or matter or part thereof within the cognizance of the Tribunal" and by inserting in lieu thereof the words "an industrial dispute or industrial matter, or part of an industrial dispute or industrial matter";
- (iii) by omitting from subsection four of the same section the words "any such industrial dispute or matter or part thereof" and by inserting in lieu thereof the words "an industrial dispute or industrial matter, or part of an industrial dispute or industrial matter";
- (iv) by omitting subsection five of the same section;

Sec. 41.  
(Power to  
appoint  
assessors.)

- (f) (i) by omitting from subsection two of section forty-one the words "the Federation" and by inserting in lieu thereof the words "such  
of

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*Coal Industry (Amendment).*

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of the parties to the dispute as, in the opinion of the Tribunal, have interests in common with the employees”;

(ii) by inserting at the end of the same section the following new subsection:—

(3) If default is made in nominating either or both of the assessors or if the parties consent, the Tribunal may appoint an assessor or assessors without nomination;

(g) by inserting next after section forty-three the following new section:—

New sec.  
43A.

43A. (1) When exercising its powers under section forty-three of this Act in relation to a dispute or matter not affecting members of the Federation (other than members excepted by the Board by order), the Local Coal Authority is to consist of a person appointed to be a Local Coal Authority, as Chairman, and of two or three other members representative of employers and the same number of other members representative of employees, respectively, selected by the Chairman, according to the subject-matter to be dealt with, from among persons appointed by the Tribunal for the purposes of this section.

Constitu-  
tion of  
Local Coal  
Authorities  
when  
dealing  
with  
disputes,  
etc. not  
affecting  
the Federa-  
tion.

(2) A person so selected is to receive such remuneration and allowances (if any) as the Tribunal, with the concurrence of the Board, determines.

(3) The Chairman and half the other members of a Local Coal Authority constituted in accordance with this section are to form a quorum.

(4) Unless a question arising before a Local Coal Authority constituted in accordance with this section is decided by a unanimous vote, the question is to be decided in accordance with the opinion of the Chairman.

(3)

(h)

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*Coal Industry (Amendment).*


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Sec. 44.  
(Cognizance of disputes.)

- (h) (i) by omitting from paragraph (a) of subsection one of section forty-four the words "who are members of the Federation";
- (ii) by omitting from paragraph (e) of the same subsection the words "affecting members of the Federation (other than members excepted by the Board by order)";
- (iii) by omitting from subsection three of the same section the words "not being a matter, or an industrial dispute with respect to a matter, determined by the Tribunal to be a local matter";

Sec. 45.  
(Powers of Local Coal Authorities.)

Subst.  
sec. 47.

Review of decision, etc. of Local Coal Authorities.

- (i) by inserting in section forty-five immediately before the word "forty" the word "thirty-nine";
- (j) by omitting section forty-seven and by inserting in lieu thereof the following section:—

47. (1) A party to a decision given by a Local Coal Authority is to have the right, within seven days after the giving of the decision, or within such extended time as the Tribunal allows, to apply to the Tribunal for leave to apply to the Tribunal for review of the decision.

(2) The Tribunal is to have power, if it is of opinion that reasons exist why, in the public interest the decision should be reviewed (including the likelihood of the decision leading to industrial unrest) to grant leave and is to have power to fix a time within which the application for review shall be made.

(3) On the application for review, the Tribunal is to have power to rehear the whole or a part of the industrial dispute or matter in respect of which the decision was given and is to have power either to determine the dispute or matter or to remit it to the Local Coal Authority for determination in accordance with such directions as the Tribunal gives.

(4)

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*Coal Industry (Amendment).*


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(4) The operation of the decision is not to be stayed pending the determination of an application under this section unless the Tribunal, when granting leave to apply for review, directs a stay of the decision or settlement.

(5) The Tribunal is to have power to make its own rules of procedure for hearing and determining applications under this section.

- (k) (i) by omitting from subsection one of section forty-eight the words "a Mine Conciliation Committee" and by inserting in lieu thereof the words "one or more Mine Conciliation Committees"; Sec. 48.  
(Mine Conciliation Committees.)
- (ii) by omitting from the same subsection the words "the Federation" and by inserting in lieu thereof the words "the members of one or more organisations engaged in the working of the coal mine";
- (l) by omitting from paragraph (c) of section forty-nine the words "affecting members of the Federation (other than members excepted by the Board by order)"; Sec. 49.  
(Functions of Mine Conciliation Committees.)
- (m) by omitting from section fifty-four the words "of which any authority established under this Part could have cognizance" and by inserting in lieu thereof the words "in respect of which an authority established under this Part could have jurisdiction"; Sec. 54.  
(Reporting officers.)
- (n) by inserting next after section fifty-four the following new section:— New sec.  
54A.
- 54A (1) A person shall not—
- (a) wilfully insult or disturb the Tribunal or a Local Coal Authority when exercising powers or functions under this Act; Protection of Tribunal.
- (b)

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*Coal Industry (Amendment).*

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- (b) interrupt the proceedings of the Tribunal or a Local Coal Authority when exercising powers or functions under this Act;
- (c) use insulting language towards the Tribunal or a Local Coal Authority;
- (d) by writing or speech use words calculated to influence improperly the Tribunal or a Local Coal Authority when exercising powers or functions under this Act or to bring the Tribunal or a Local Coal Authority into disrepute; or
- (e) by writing or speech use words calculated to influence improperly a witness before the Tribunal or a Local Coal Authority when exercising powers or functions under this Act.

(2) Any person contravening any of the provisions of subsection one of this section shall be liable to a penalty not exceeding one hundred pounds.

*In the name and on behalf of His Majesty I assent to this Act.*

K. W. STREET,  
*Lieutenant-Governor.*

*Government House,  
Sydney, 11th December, 1951.*