

MINER'S PHTHISIS.

13° GEO. V., No. XXXIX.

No. 16 of 1923.

AN ACT relating to Miner's Phthisis.

[Assented to 22nd February, 1923.]

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 Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the *Miner's Phthisis Act*, 1922, and shall come into operation on a date to be fixed by proclamation.

Interpretation.

2. In this Act "employer" means any person (including a body corporate) by whom or on whose behalf any other person is employed to work on, in, or about a mine, and the term includes an agent or manager of an employer.

"Mine" and "mining" have the same meaning as in the Mining Act, 1904.

"Minister" means the Minister for Mines, or other responsible Minister of the Crown charged for the time being with the administration of this Act.

3. The Minister may employ such Government medical officers and medical practitioners as he may think fit for the purposes of this Act, and shall issue to every such officer or practitioner so appointed a certificate in writing of his appointment.

Appointment of officers.

4. (1.) It shall be the duty of every person occupied or employed in mining operations on, in, or about any mine to submit himself, from time to time, to a medical officer or medical practitioner so appointed, for examination for symptoms of miner's phthisis or tuberculosis, whenever required so to do by any such medical officer or practitioner.

Medical Examination.

(2.) Any person occupied or employed on, in, or about a mine who fails, when required as aforesaid, to submit himself to any medical examination for the purposes of this Act, at the time and place stated in the requisition, shall be guilty of an offence.

Penalty: Fifty pounds.

(3.) After every medical examination or re-examination of any person under this section, if such person is found not to be suffering from tuberculosis, he shall be supplied with a certificate in the prescribed form, which, until revoked, shall entitle him either to continue working or to commence work in mining operations on, in, or about any mine.

5. Every employer of persons engaged in mining operations shall—

Duty of employers.

(a) furnish to a medical officer or medical practitioner appointed as aforesaid, or to the Under Secretary for Mines, a list of all persons employed on, in, or about the mine of the employer whenever required in writing so to do; and

(b) afford to all persons so employed by him all reasonable facilities for such persons to submit themselves, without loss of pay, to medical examination under this Act; and

(c) permit any medical officer or medical practitioner appointed as aforesaid, to have access to the mine of the employer for the purposes of and in the execution of his duties under this Act.

Penalty: Fifty pounds.

6. Any employer, and any person employed on, in, or about a mine, who resists, hinders, or obstructs a medical officer or

Penalty for obstruction of officers.

medical practitioner in the exercise and performance of his powers and duties under this Act, or does any act or thing to prevent or discourage any person from submitting himself to any medical examination under this Act, shall be guilty of an offence.

Penalty: Fifty pounds.

Reports.

7. (1.) It shall be the duty of every medical officer and medical practitioner appointed under this Act from time to time to report in writing to the Minister as prescribed.

(2.) In any report under this Act which may be published or open to public inspection, the names of the persons who may have submitted themselves to medical examination shall not be disclosed.

**Employment of
miners suffering
from tuberculosis
may be
prohibited.**

8. (1.) If a medical officer or practitioner appointed under this Act reports in writing to the Minister that a person therein-named is suffering from tuberculosis and engaged in mining operations, the Minister may, by notice in the prescribed form served on such person and his employer, prohibit the employment of such person on, in, or about a mine, or part of the mine to which this section applies.

(2.) If, after service of such notice, the person to whom the notice relates is employed on, in, or about a mine, or part of the mine to which this section applies, such person and his employer shall be guilty of an offence.

Penalty: Fifty pounds:

Provided that the person on whom such notice has been served may, within fourteen days after the service of the notice, appeal therefrom by notice in writing given to the Minister, such notice having annexed thereto a certificate in writing signed by a practitioner registered under the Medical Act, 1893, that in the opinion of such practitioner the appellant is not suffering from tuberculosis.

(3.) The appeal shall be heard and determined by a Board consisting of the Principal Medical Officer, or a deputy appointed by him, and two practitioners registered under the Medical Act, 1893, one to be nominated by the appellant and the other by the Minister.

(4.) If the Board, or two of its members, certify in writing that in their opinion the appellant is not suffering from tuberculosis, the notice served on the appellant under subsection (1) of this section shall be annulled, but otherwise

shall continue to have effect. The decision of the Board upon any question of fact shall be final, and shall not be subject to appeal to or review by any court of law.

(5.) The certificate of the Board shall be filed in the Department of Mines, and a copy thereof shall be issued to the appellant by whom the original may be inspected.

(6.) It shall not be a disqualification for appointment as a member of the Board that the practitioner nominated by the appellant gave the certificate annexed to the appellant's notice of appeal.

(7.) Whenever a medical officer or practitioner appointed under this Act reports in writing to the Minister that a person named in such report and engaged in mining operations has so developed symptoms of miner's phthisis, uncomplicated by tuberculosis, as to indicate that further employment on, in, or about a mine or part of a mine to which this section applies may be detrimental to his future health, the Minister shall, by notice in the prescribed form, notify such person accordingly.

(8.) This section shall apply only within such districts, and to such mines, or parts of mines, as are declared from time to time by the Governor by Order in Council published in the *Gazette*.

9. (1.) It shall be the duty of the Mine Workers' Relief Fund, Incorporated, to keep a register, and on application by any person employed on, in, or about a mine at the commencement of this Act, and whose employment is prohibited under section eight of this Act, to insert the name of such person in such register. Compensation.

(2.) Any person whose employment is prohibited as aforesaid, and whose name is registered in the register to be kept by the Mine Workers' Relief Fund, Incorporated, shall have the right to receive from the Department of Mines compensation, equal to the ruling rate of pay in the district in which he was employed at the time of such prohibition for the class of work in which he was engaged, until other suitable employment is found for and offered to him by the Department of Mines.

(3.) If suitable work is found for, and offered to any person entitled to compensation under this section, and is re-

fused by him, the right of such person to receive compensation under this section shall thereupon cease, and his name shall be removed from the register.

(4.) If any question shall arise touching the right of any person to have his name placed or retained on the register, or his right to receive compensation hereunder, the question shall be referred by the Minister to a warden, whose decision shall be final.

(5.) For the purposes of this section "suitable employment" shall mean such work as the Principal Medical Officer or such deputy as he shall appoint or the Principal Medical Officer of the Wooroloo Sanatorium certifies to be suitable employment for the person to whom it is offered, and being either work on, in, or about a mine or part of a mine not declared under section eight to be a mine or part of a mine to which such section applies, or elsewhere, or of some other kind.

Interpretation.

10. For the purposes of this Act, a person working under a tribute agreement or other contract shall be deemed to be engaged in mining operations within the meaning of this Act, and any mine owner who is party to any such tribute agreement or contract shall be deemed an employer of such person.

Regulations.

11. The Governor may make regulations prescribing all matters which it may be necessary or convenient to prescribe for giving effect to this Act, and may impose a penalty not exceeding Twenty-five pounds for the breach of any regulation.
