

NATIONAL EMERGENCY (COAL STRIKE).

No. 20 of 1949.

An Act to prohibit, during the period of National Emergency caused by the present General Strike in the Coal-mining Industry, the Contribution, Receipt or Use of Funds by Organizations registered under the *Commonwealth Conciliation and Arbitration Act 1904-1948* for the purpose of assisting or encouraging the Continuance of that Strike, and for other purposes.

[Assented to 29th June, 1949.]

WHEREAS there arose out of certain demands by organizations of employees in the coal-mining industry certain industrial disputes existing in the State of New South Wales and extending beyond the limits of that State : Preamble

AND WHEREAS, in order to enforce compliance with those demands, and in contravention of the principles of conciliation and arbitration for which provision is made in the Constitution and in the laws of the Commonwealth, a general strike in the coal-mining industry was decided upon on the sixteenth day of June, and commenced on the twenty-seventh day of June, One thousand nine hundred and forty-nine :

AND WHEREAS that strike is prejudicing or interfering with the maintenance of supplies and services essential to the life of the community and has caused a grave national emergency :

AND WHEREAS it is desirable that the disputes referred to in this preamble should be settled by means of conciliation or arbitration by the tribunals established by law for the purpose :

AND WHEREAS it is desirable that measures should be taken to make unlawful the contribution, receipt or use of funds by organizations for the purpose of assisting or encouraging the continuance of that strike :

BE it therefore enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1. This Act may be cited as the *National Emergency (Coal Strike) Act 1949.* Short title.

Commencement. 2. This Act shall come into operation on the day on which it receives the Royal Assent.

Definitions. 3.—(1.) In this Act, unless the contrary intention appears—

“branch”, in relation to an organization, includes a section, district or lodge of the organization or of a branch of the organization ;

“officer”, in relation to an organization or branch of an organization, includes a trustee or agent of that organization or branch ;

“organization” means an organization registered under the *Commonwealth Conciliation and Arbitration Act 1904–1948* ;

“participating organization” means an organization which, by some or all of its members, is taking part in the strike ;

“prescribed authority” means the Chief Judge of the Court or the Coal Industry Tribunal, and includes a Judge of the Court or an industrial authority or industrial tribunal (whether of the Commonwealth or of a State) appointed by the Chief Judge to be a prescribed authority for the purposes of this Act ;

“the Court” means the Commonwealth Court of Conciliation and Arbitration ;

“the Registrar” means the Industrial Registrar or a Deputy Industrial Registrar holding office under the *Commonwealth Conciliation and Arbitration Act 1904–1948* ;

“the strike” means the general strike in the coal-mining industry which began on the twenty-seventh day of June, One thousand nine hundred and forty-nine.

(2.) For the purposes of this Act, a payment or receipt, or a promise to make a payment, by a branch of an organization shall be deemed to be a payment or receipt, or a promise to make a payment, by that organization.

Prohibition of certain payments by participating organizations.

4. Subject to this Act, a participating organization shall not make, or promise to make, any payment for the purpose of assisting or encouraging, directly or indirectly, the continuance of the strike.

Penalty : One thousand pounds.

Prohibition of certain receipts by or on behalf of participating organizations.

5. Subject to this Act, any of the following organizations or persons, that is to say—

- (a) a participating organization ;
- (b) a member of the committee of management of a participating organization or of a branch of a participating organization ;
- (c) a member, officer or employee of a participating organization or of a branch of a participating organization ; or
- (d) a person acting on behalf of, or in the interests of, a participating organization or of a branch of a participating organization,

shall not receive a payment or benefit from any person for the purpose of assisting or encouraging, directly or indirectly, the continuance of the strike.

Penalty : Where the offence is committed by an organization or other body corporate, One thousand pounds ; in any other case, One hundred pounds or imprisonment for six months, or both.

6. Subject to this Act, an organization (not being a participating organization) shall not make, or promise to make, a payment to or for the benefit of—

Prohibition of certain payments by non-participating organizations.

- (a) a participating organization ;
- (b) a member of the committee of management of a participating organization or a branch of a participating organization ;
- (c) a member, officer or employee of a participating organization or of a branch of a participating organization ; or
- (d) a person acting on behalf of, or in the interests of, a participating organization or of a branch of a participating organization,

for the purpose of assisting or encouraging, directly or indirectly, the continuance of the strike.

Penalty : One thousand pounds.

7. Where a prescribed authority is satisfied that a payment or receipt, or class of payments or receipts, is not for the purpose of assisting or encouraging, directly or indirectly, the continuance of the strike, the authority may authorize that payment or receipt, or class of payments or receipts, and a payment or receipt so authorized, or included in a class so authorized, shall be deemed not to be prohibited by any provision of this Act.

Authorized payments and receipts.

8.—(1.) Where the Court is satisfied, upon the application of the Registrar—

Court may order repayment of certain payments.

- (a) that, at any time on or after the sixteenth day of June, One thousand nine hundred and forty-nine, and before the commencement of this Act, money has been received or paid, and the receipt or payment of that money would, if this Act had been in force at the time when the money was received or paid, have been in contravention of section five or six of this Act ; or
- (b) that, at any time after the commencement of this Act, money has been received or paid in contravention of either of those sections,

the Court may order the repayment of that money by the person to whom, or the organization to which, the money was paid to the person from whom, or the organization from which, it was received.

(2.) An order under this section may be enforced in the manner provided by section sixty-one of the *Commonwealth Conciliation and Arbitration Act 1904–1948* and for that purpose the Registrar may do any act which could be done by the person or organization to whom or to which the money has been ordered to be repaid, in the name of and on behalf of that person or organization.

(3.) The jurisdiction of the Court under this section may be exercised by a single Judge.

Injunctions.

9.—(1.) The Court shall have jurisdiction to make such orders for injunctions as it thinks necessary for the purpose of ensuring compliance with the provisions of this Act.

(2.) The jurisdiction of the Court under this section may be exercised by a single Judge.

Inspection of books of organizations.

10.—(1.) The Registrar, or a person authorized by the Registrar to act under this section, may, for the purpose of ascertaining whether there has been a non-compliance with any of the provisions of this Act—

(a) inspect any books, documents or other papers of an organization or branch of an organization ;

(b) for the purpose of any such inspection, enter, with such assistance as he considers necessary, any premises used or occupied by the organization or branch of the organization in which he believes any such books, documents or papers to be ;

(c) require a person to produce or deliver to him, in accordance with the requirement, any such books, documents or papers in the possession or under the control of that person ;

(d) take possession of any such books, documents or papers ;

(e) retain any such books, documents or papers ; and

(f) require a person to furnish to him such information as he specifies in relation to any matter to which this Act applies.

(2.) A person shall not—

(a) refuse or fail to comply with a requirement under this section ; or

(b) obstruct or hinder the Registrar or any other person in the exercise of his powers under this section.

Penalty : One hundred pounds or imprisonment for six months or both.

Liability of officers for offences of organizations.

11. Where an organization has committed an offence against this Act, every person who, at the time of the commission of the offence, was a member of the committee of management, or an officer, of the organization or of a branch of the organization shall be deemed to be guilty of the offence, unless he proves that the offence was committed without his knowledge or that he used all due diligence to prevent the commission of the offence, and shall, upon conviction, be punishable by a fine not exceeding One hundred pounds or imprisonment for a term not exceeding six months, or both.

Proof of purpose of payments and receipts.

12. In any prosecution for an offence against this Act, a payment or receipt, or a promise to make a payment, shall, unless the contrary is proved, be deemed to have been a payment or receipt, or a promise to make a payment, for the purpose of assisting or encouraging directly or indirectly, the continuance of the strike.

13.—(1.) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for prescribing penalties for offences against the regulations not exceeding—

Regulations.

(a) in the case of an offence by an organization or other body corporate—a fine of One thousand pounds ; and

(b) in any other case—a fine of One hundred pounds or imprisonment for a term of six months, or both.

(2.) The regulations may provide that the operation of any of the provisions of this Act which apply to or in relation to an organization shall extend to or in relation to any other body which is a participant in the strike and the operation of those provisions shall extend accordingly.

14. Immediately after the termination of the strike, the Governor-General shall make a Proclamation that the strike has terminated and thereupon this Act shall be deemed to have been repealed.

**Termination
of Act.**