

COMPLEX ORES FURTHER AMEND- MENT ACT, 1917.

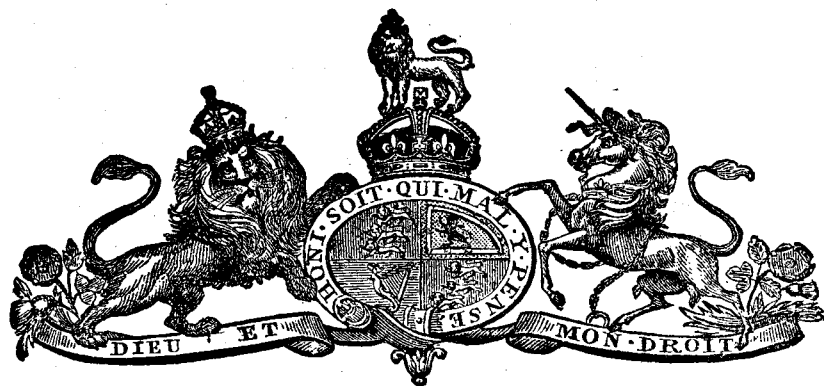
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8d.]



TASMANIA.



1917.

ANNO OCTAVO

GEORGI V. REGIS.

No. 24.



AN ACT to further Amend "The Complex Ores Act, 1909," and for other purposes. A.E.
1917.
[23 November, 1917.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as "The Complex Ores Further Amendment Act, 1917," and shall be read and incorporated with "The Complex Ores Act, 1909" (in this Act referred to as "the Principal Act"), and all Acts amending the same.

Short title and incorporation with "The Complex Ores Act, 1909."

2 The following parts and sections of the Principal Act are hereby repealed, namely:—Parts X. and XI. and Sections Eight, Twenty-four, Forty-three, Fifty-four, Seventy-three, Seventy-four, and Seventy-five.

Repeal of certain provisions of Principal Act.

3 The Principal Act is hereby amended as follows:—

1. As to Section Seven, by omitting therefrom all the words thereof immediately following the words "dam or weir" occurring in the Seventh line thereof:

Amendment of Principal Act as to Sections 7, 9, 23, 42f., and 69.

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- ii. As to Section Nine, by omitting therefrom the words "quantity of water flowing" occurring in the Twenty-first and Twenty-second lines thereof, and substituting therefor the words "mid-summer flow of water":
- iii. As to Section Twenty-three, by omitting therefrom all the words thereof immediately following the word "promoter" occurring in the Tenth line thereof, and substituting therefor the words "to any persons occupying Crown land who are injuriously affected by the exercise of the powers conferred by this section":
- iv. As to Section **42f** by omitting therefrom the words "the last preceding section." occurring at the end of Subsection One thereof, and substituting therefor the words "Section **42d** of this Act":
- v. As to Section Sixty-nine by omitting the word "shall." occurring in the First line thereof, and substituting therefor the word "may."

Amendment of
Section 27 of
Principal Act.

4 Section Twenty-seven of the Principal Act is hereby amended by omitting therefrom all the words commencing with "Notwithstanding," occurring in the Sixth line thereof and ending with "damage," being the last word of the said section.

5 After Section Twenty-seven of the Principal Act the following section is inserted:—

Cf. s. 77 of 62
and 63 Vict.
Ch. 19 (Imp.)
s. 34 of 6 Geo. V.
No. 2645 (Vict.)
Promoters
responsible for
damages, &c.

27a—“(1) The promoters shall be answerable for all accidents, damages, and injuries happening through the act or default of the promoters, or of any person in their employment, by reason of or in consequence of any of the promoters' works, and shall save harmless all authorities, bodies, and persons by whom any street is repairable, and all other authorities, companies, and bodies collectively and individually, and their officers and servants, from all damages and costs in respect of those accidents, damages, and injuries.

Conditions on
which action
maintainable.

“(2) Any action for the recovery, under the immediately preceding section, of damages in respect of any accident or of any injury to the person or to property shall not be maintainable unless—

Notice.
Cf. 6 Ed. VII.
No. 31, s 231 (2),
(3), (4), (5), Tas.
Local Gov. Act.

- i. Notice in writing that injury has been sustained shall be given to the promoters within Three months, and the action shall be commenced within Six months, from the date on which the injury was sustained, or, in case of the death of the person injured, within Twelve months from the date of death:

Examination of
injured person,
or injured
property.

- ii. In the case of injury to the person, the Chief Health Officer, or some medical practitioner appointed by him, shall, on the demand of the promoters, be permitted to examine the person injured, and all facilities and information shall be given to him necessary to enable him to fully ascertain the nature and extent of the injury:

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III. In case of injury to property, a person appointed by the promoters shall, on demand of the promoters, be permitted to inspect the property injured, and all facilities and information shall be given to him necessary to enable him to fully ascertain the value of the property injured, the nature and extent of the injury, and the amount of money (if any) expended in repairing the same.

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(3) Non-compliance with all or any of the conditions imposed by the preceding subsection shall be no bar to the maintenance of the action if the Court or the Judge before whom the action is tried is of opinion that there was reasonable excuse for such non-compliance.

Judge may waive compliance.

(4) In estimating the damages due regard shall be had to the extent (if any) to which the person killed or injured, or whose property was injured, contributed by his own negligence to the death or injury.

Contributory negligence.

(5) A notice in respect of any injury under this section shall give the name and address of the person injured, or of the owner of the property injured, and shall state in ordinary language the cause of the injury, and the date and place at which it was sustained, and shall not be deemed invalid by reason of any defect or inaccuracy therein, unless the Court or Judge who tries the action is of opinion that the defendant is prejudiced in the defence by such defect or inaccuracy, and that the defect or inaccuracy was intentional and for the purpose of misleading."

Contents of notice.

Only substantial defects to affect validity of notice

6 Part VI. of the Principal Act is hereby repealed, and the following substituted therefor:—

Repeal and re-enactment of Part VI. of Principal Act.

"PART VI.

"POWER TO ACQUIRE PRIVATE LAND.

"**21** The State Hydro-Electric Works and every branch of every business which now is or hereafter may be carried on in connection therewith are hereby declared to be public works, and every purpose the Minister may deem desirable to carry out in relation thereto is hereby declared to be a public purpose.

General power acquire private land.

"Any land within the meaning of the word 'land' as defined by 'The Lands Resumption Act, 1910,' which the Minister may consider to be necessary, may be purchased, acquired, or taken by the Minister for the purposes of any such public work or for any such public purpose under the provisions of lastmentioned Act."

State Hydro-Electric Works, &c., declared public works. Land may be acquired for purposes of works, &c.

"**22** 'The Lands Resumption Act, 1910,' shall be incorporated with this Act, subject to the following exceptions and modifications:—

Incorporation of Lands Resumption Act.

1. In construing and applying the provisions of Section Twenty-four —

(a) Paragraph 1. thereof shall be deemed to be omitted :

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(b) The words 'Two hundred yards' occurring in paragraph III. thereof shall be deemed to be omitted, and the words 'One hundred yards' shall be deemed to be substituted therefor."

Moneys owing by consumers to be preferential claims in bankruptcy.
Cf. 34 Vict. No 32, s. 31 (see Vol. V. Stops, p. 3710.)

7 Section Forty-two of the Principal Act, is hereby amended by inserting the following subsection at the end thereof:—

"(3) In any proceedings under 'The Bankruptcy Act, 1870,' or any other Act regulating the distribution of the estate or assets of any bankrupt or insolvent debtor, any sum of money owing to the Crown or the Minister for electrical energy supplied shall rank as rates and taxes within the meaning of the Thirty-first Section of 'The Bankruptcy Act, 1870,' and shall have the like priority in the order of payment of the debts of the bankrupt or insolvent debtor."

Interpretation.

8 After Section **42f** of the Principal Act, the following Section **42g** is inserted:—

"**42g**—(1) In this section if not inconsistent with the context or subject-matter—

"Returned soldier."

'Returned soldier' means any person who (whether before or after the commencement of this Act)

- i. Has enlisted with any expeditionary force raised in Tasmania for naval or military service with His Majesty's navy or army during the war in which His Majesty is at present engaged: and
- ii. Has left Tasmania on duty with such force: and
- iii. Has been on active service: and
- iv. Has returned to this State, and who has received his discharge from service, or whose appointment to any such force has been terminated, either before or after his return to the State.

Provided that the foregoing definition shall not include any person whose discharge from service was due to misconduct or incapacity resulting from his own default.

Priority of returned soldiers for appointment to or employment in service of Hydro-Electric Department, &c.

(2) Notwithstanding anything in any Act—

- i. Any returned soldier, if competent and physically fit to fulfil the duties of the office or employment, shall on his return to Tasmania be entitled, in priority to all persons whomsoever (except any persons employed in the Hydro-Electric Department or in connection with the State Hydro-Electric Works, or in any business connected with such works who are not single men eligible for military service having no relatives dependent upon their earnings, and not compelled to remain in the State for military service within the State)—

(a) To be appointed to any vacancy in any permanent office in the Hydro-Electric Department or in connection with the State Hydro-Electric Works, or in any business connected with such works;

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(b) To be temporarily employed in the said department or in connection with such works or business : A.D. 1917.

- ii. Except as provided in Paragraph i. of this subsection no male person other than a returned soldier shall be eligible to be appointed by the Minister or the Chief Engineer and General Manager of the State Hydro-Electric Works to any permanent office in, nor (unless already engaged) to be temporarily employed in the said department or in connection with such works or business unless the said Chief Engineer and General Manager certifies in writing to the Returned Soldiers' Employment Board appointed under 'The Public Service Amendment Act, 1917,' and (in every case where a certificate is otherwise required as a condition for such appointment or employment) also certifies in the certificate so required that no returned soldier competent and physically fit to fulfil the duties of the office or employment has applied for such appointment or employment.

(3) Every returned soldier desirous of being appointed or employed as aforesaid shall forward to the said Returned Soldiers' Employment Board an application in his own handwriting, stating his full name and address, the date of his birth, his military rank, a copy of his military discharge, a description of the work to which he was accustomed before enlisting, and of the class of work or employment for which he is an applicant, and, if possible, copies of testimonials from former employers. Application for appointment or employment.

(4) The Returned Soldiers' Employment Board shall cause to be enrolled in a register to be kept for that purpose by the Board the full name and address, age, military rank, date of discharge, and the endorsement thereon as to the soldier's conduct, of every returned soldier applying to be appointed or employed as aforesaid, and the said Board shall without delay from time to time furnish the said Chief Engineer and General Manager with a copy of the particulars so recorded in the case of each returned soldier, together with a statement of the class of work or employment applied for. Register.

9 After Section Forty-four of the Principal Act the following section is inserted :—

"44a All electric lines, conduits, fittings, apparatus, and appliances let on hire by the promoters or by or on behalf of the Crown or belonging to the Crown (whether before or since the Twenty-fourth day of July, One thousand nine hundred and fourteen), but being in or upon premises not in the possession of the Crown, shall, whether they be or be not fixed or fastened to any part of any premises in or upon which they may be situate, or to the soil under any such premises, at all times continue to be the property of the Crown, and be removable by the Minister, or any person duly authorised by him thereto, and Section Fifty-three of this Act shall, *mutatis mutandis*, extend and apply to all such electric lines, conduits, fittings, apparatus, and appliances. Electric lines, &c., let on hire, though fixed to premises, to be the property of the Crown. Cf. 9 Edw. VII. c. 34, s. 16 (Eng.)."

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For the purpose of this section, electric lines, conduits, fittings, apparatus and appliances disposed of by the promoters or by or on behalf of the Crown on terms of payment by instalments shall, until the whole of the instalments have been paid, be deemed to be electric lines, conduits, fittings, apparatus, and appliances let on hire by the Crown."

Amendment of
Principal Act as
to title of Chief
Engineer.

10 The expression "Chief Engineer and Manager of the State Hydro-Electric Works," or "Chief Engineer and Manager," wherever occurring in the Principal Act or any amendment thereof, shall be deemed to refer to and be read as "Chief Engineer and General Manager of the State Hydro-Electric Works."

Governor may
apply provisions
of this Act to
other works
authorised by
Parliament.

11 After Section Eighty-two of the Principal Act the following section is inserted :—

"**83** The Governor may from time to time by proclamation extend or apply all or any of the provisions of this Act, with such modifications (if any) as he may think proper to or for the purposes of any works from time to time authorised by Parliament to be constructed or carried out by way of extensions of or additions or improvements to, or otherwise connected with or for the purposes of the State Hydro-Electric Works or any business carried on in connection therewith; and any such proclamation shall take effect upon the publication thereof, or upon such later date (if any) as may be specified therein for the purpose, and the Governor may from time to time by proclamation rescind or alter the provisions of any proclamation made by him under this section."